

**DECISION****ILLUSTRATIVE LIST OF OBJECTIVE INDICATORS TO FACILITATE THE EXECUTIVE COUNCIL IN ADDRESSING ANY CONCERN, IN ACCORDANCE WITH PARAGRAPH 22 OF ARTICLE IX, WHETHER THE RIGHT TO REQUEST A CHALLENGE INSPECTION HAS BEEN ABUSED****The Conference**

**Recalling** that the Commission, in its PC-XIII/18, paragraph 7.4, adopted the illustrative list of objective indicators to facilitate the Executive Council in addressing any concern, in accordance with paragraph 22 of Article IX, whether the right to request a challenge inspection has been abused,

**Bearing in mind** that the Commission recommended in paragraph 51.3 of its Final Report that the Conference adopt the above mentioned understanding,

**Hereby:**

1. **Adopts** the illustrative list of objective indicators to facilitate the Executive Council in addressing any concern, in accordance with paragraph 22 of Article IX, whether the right to request a challenge inspection has been abused.

Annex

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**ILLUSTRATIVE LIST OF OBJECTIVE INDICATORS<sup>1</sup> TO FACILITATE THE EXECUTIVE COUNCIL IN ADDRESSING ANY CONCERN, IN ACCORDANCE WITH PARAGRAPH 22 OF ARTICLE IX, WHETHER THE RIGHT TO REQUEST A CHALLENGE INSPECTION HAS BEEN ABUSED<sup>2</sup>**

Paragraph 22 of Article IX authorises the Executive Council, as part of its review of the final report of the inspection team, to address any concerns as to "whether the right to request a Challenge Inspection had been abused." Such concerns would not arise in the event of an Executive Council conclusion in accordance with paragraph 23 of Article IX that concerns about possible non-compliance necessitated further action to redress the situation and to ensure compliance with the Convention. In addressing any such concerns, one or more of the following objective indicators are for the Executive Council to take into consideration when relevant. This list is not intended to be comprehensive or prescriptive.

- (a) The result, if any, of the Executive Council having addressed, in accordance with paragraph 22 (b) of Article IX, any concerns as to whether the request had been within the scope of the Convention.
- (b) Information relating to the inspected site available prior to the inspection request (the authenticity and reliability of any information would need to be carefully assessed).
- (c) Whether any of the information submitted as part of the inspection request, was shown to be false.
- (d) The results, if available, of any efforts by the requesting State Party to seek to clarify or resolve any doubts concerning compliance, if that State Party elected to exercise its options in accordance with paragraphs 1 through 7 of Article IX.
- (e) Whether the conduct of the observer, if any, named by the requesting State Party in accordance with the provisions of paragraph 12 of Article IX, was cause for concern, including on matters relating to confidentiality (e.g. as reflected or assessed in any comments in the preliminary or final inspection report).
- (f) Whether challenge inspection requests, not resulting in Executive Council conclusions in accordance with paragraph 23 of Article IX on a need for further action to redress a compliance concern, had previously been made by the same requesting State Party vis-à-vis the same inspected site, and if so, their number and frequency.

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<sup>1</sup> It is understood that these indicators may also, where relevant, facilitate any decision-making by the Executive Council under paragraph 17 of Article IX.

<sup>2</sup> As contained in the Annex to PC-XIII/B/WP.4.

