Enclosure no 1

Procedures for Consultations between State Authorities and The Sami Parliament [Norway]

As an indigenous people, the Sami have the right to be consulted in matters that may affect them directly. In order to ensure that work on matters that may directly affect the Sami is carried out in a satisfactory manner, the Government and the Sami Parliament agree that consultations between State authorities and the Sami Parliament shall be conducted in accordance to the annexed procedural guidelines.

Oslo, 11 May 2005

Erna Solberg
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and Regional Development

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President of the Sami Parliament

1. The Objective

The objective of the procedures for consultations is to:

- contribute to the implementation in practise of the State's obligations to consult indigenous peoples under international law.
- seek to achieve agreement between State authorities and the Sami Parliament whenever consideration is being given to legislative or administrative measures that may directly affect Sami interests.
- facilitate the development of a partnership perspective between State authorities and the Sami Parliament that contributes to the strengthening of Sami culture and society.
- develop a common understanding of the situation and developmental needs of the Sami society.

2. The Scope

The consultation procedures apply to the Government and its ministries, directorates and other subordinate State agencies or activities.

The consultation procedures apply in matters that may affect Sami interests directly. The substantive scope of consultations may include various issues, such as legislation, regulations, specific or individual administrative decisions, guidelines, measures and decisions (e.g. in governmental reports to the Norwegian Parliament, the Storting).

The obligation to consult the Sami Parliament may include all material and immaterial forms of Sami culture, including music, theatre, literature, art, media, language, religion, cultural heritage, immaterial property rights and traditional knowledge, place names, health and social welfare, day care facilities for children, education, research, land ownership rights and rights to use lands, matters concerning land administration and competing land utilization, business development, reindeer husbandry, fisheries, agriculture, mineral exploration and extraction activities, wind power, hydroelectric power, sustainable development, preservation of cultural heritage, biodiversity and nature conservation.

In matters concerning the material basis for the Sami culture, including land administration, competing land utilization, and land rights, the obligation to consult the Sami Parliament is applicable to traditional Sami areas; this includes the counties of Finnmark, Troms, Nordland and Nord-Trøndelag, and the municipalities of Osen, Roan, Åfjord, Bjugn, Rissa, Selbu, Meldal, Rennebu, Oppdal, Midtre Gauldal, Tydal, Holtålen and Røros in the county of Sør-Trøndelag, and Engerdal and Rendalen, Os, Tolga, Tynset and Folldal municipalities in Hedmark county, and Surnadal and Rindal municipalities in the county of Møre- og Romsdal.

Matters which are of a general nature, and are assumed to affect the society as a whole shall in principle not be subject to consultations.

3. Information

State authorities shall fully inform the Sami Parliament about all matters that may directly affect the Sami, as well as about all relevant concerns and queries at all stages of the process.

4. Public disclosure

Information exchanged between State authorities and the Sami Parliament in connection with consultations may be exempted from public disclosure provided it is authorised by law. The principle of expanded public disclosure shall be practised. The final positions of the parties in individual matters shall be made public.

5. Regular meetings

Regular half-yearly meetings shall be held between the Minister responsible for Sami affairs and the President of the Sami Parliament. Other governmental ministers may attend these meetings when required. At these meetings, the situation and developmental needs of the Sami society, issues of fundamental and principle importance, and ongoing processes, shall be discussed.

Regular half-yearly meetings shall also be held between the Sami Parliament and the Interministerial Coordination Committee for Sami affairs. Among other things, information about relevant current Sami policy matters shall be provided at these meetings.

6. General provisions concerning the consultation procedures

The consultations carried out with the Sami Parliament, in application of the agreement on consultation procedures, shall be undertaken in good faith, with the objective of achieving agreement to the proposed measures.

State authorities shall as early as possible inform the Sami Parliament about the commencement of relevant matters that may directly affect the Sami, and identify those Sami interests and conditions that may be affected.

After the Sami Parliament has been informed on relevant matters, it shall inform the relevant State authority as soon as possible whether further consultations are required.

The Sami Parliament can also independently identify matters which in its view should be subject to consultations.

If State authorities and the Sami Parliament agree that further consultations shall be held on a specific matter, they shall then seek to agree on a plan for such consultations, including the dates and venues for further contact (e.g. meetings, video-conferences, telephone contact, exchange of written material), deadlines for responses, whether consultations at the political level are required and the type of political proceedings. Sufficient time shall be allocated to enable the parties to carry out genuine and effective consultations and political consideration of all relevant proposals. In case it is necessary for the Sami Parliament to consider and debate the matter concerned in a plenary session, such debate and consideration must be conducted as early as possible in the process.

When necessary, provisions shall be made for further consultations. Consultations shall not be discontinued as long as the Sami Parliament and State authorities consider that it is possible to achieve an agreement.

When a matter is submitted for consideration to the Government (Cabinet), the ministerial submission document shall clearly inform other governmental ministries about the concluded agreement with the Sami Parliament and, if necessary, also to include information about matters where agreement has not been reached. In governmental propositions and reports to the national parliament, the Storting, on matters where the governmental position differs from that of the Sami Parliament, the views and positions of the Sami Parliament shall be reflected in the documents submitted.

7. Minutes

Minutes shall be kept of all consultation meetings between State authorities and the Sami Parliament. The minutes shall include a brief account of the subject matter, the views and positions of the parties, and the conclusions made at the meeting.

8. The need for studies/knowledge base

The Royal Ministry of Local Government and Regional Development and the Sami Parliament shall jointly appoint a specialized analysis group which, inter alia, shall submit an annual report concerning the situation and developmental trends of the Sami society on the basis of Sami statistics. The report shall be used as the basis for consultations on specific matters and for consultations concerning the developmental needs of the Sami society at one of the half-yearly meetings between the Minister responsible for Sami affairs and the President of the Sami Parliament.

When State authorities or the Sami Parliament consider there to be a need for background studies to strengthen the factual or formal basis for assessments and decisions, this shall be raised as early as possible, and both parties shall include questions concerning the terms of reference for such studies into the consultation process. The Central Government and the Sami Parliament shall seek to reach an agreement on the terms of reference for such a study, and who shall carry out the study. The Central Government and the Sami Parliament are obliged to assist in providing information and materials necessary for carrying out the study.

9. Consultations with other affected Sami entities

In matters where State authorities plan to consult local Sami communities and/or specific Sami entities or interests that may be directly affected by legislation or administrative

measures, State authorities shall as early as possible notify which Sami entities or organizations it regards as affected by the matter, and discuss the coordination of such consultation processes with the Sami Parliament.

ENCLOSURE 5

Lága *ohcan- ja merren*skihkáldagain evttoha lávdegoddi ahte áššemeannudanskihkáldagat §§ 22 a ja 39 b viiddiduvvojit vástideaddji geografalaš doaibmaguovllu § 7 a:s. Mearrádusaid sisdoallu evttohuvvo muđui eanaš jotkkojuvvot, muhto nu ahte sámi ja eará vuoigatvuođalaččaid deasta čalmmustahttojuvvo eanet go dálá mearrádusain.

Lávdegoddi lea vel evttohan dihto nuppástuhttimiid § 42:s eanaoamastandivadiid hárrái, earret eará nu ahte Gonagas sáhttá addit láhkaásahusa ahte ruvkeoamasteaddji galgá árbevirolaš sámi guovlluin máksit divada maiddái geavahanvuoigatvuođalaččaide, vrd. ahte ILO-konvenšuvdna nr. 169 15 (2) artihkkal nanne ahte eamiálbmogat «jus vejolaš» galget oažžut oasi ruvkedoaimma fitnegis.

2.4.7 Riddo- ja vuotnaguolásteapmi mearrasámi guovlluin

Mánggalágan gažaldagat mat gusket riddo- ja vuotnaguolásteapmái mearrasámi guovlluin leat meannuduvvon čielggadeami *22 kapihttalis*. Dásge bidjet álbmotrievttálaš geatnegasvuođat vuođu lávdegotti válddahallamii. Danne lea ON konvenšuvdna siviilla ja politihkalaš vuoigatvuođaid (SP) 27 artihkal, vrd. 1 artihkkala, ja ILO-konvenšuvdna nr. 169 (erenomážit dán 15 artihkal) bures árvvoštallon mearrasámi riddo- ja vuotnaguolásteami ektui.

Dás loahppaárvvoštallo ahte álbmotriekti vuosttažettiin suodjala dán guolásteami dakkár doaimmain mat sáhttet áitit joatki kulturdoaimmaheami vuoigatvuođa, ja ahte dát suodjaleapmi ii leat massojuvvon vaikke guolásteapmi lea dál oddaáigásaččabut bivdosiiguin go ovdal. Nuppádassii lea stáhtas dihto geatnegasvuođat láhčit dilálašvuođa ekonomalaš doaibmi mearrasámi riddo- ja vuotnaguolásteapmái. Danne čuovvu sihke SP 27 artihkkalis ja ILO-konvenšuvnna 15 artihkkalis, vrd. 13 (2) artihkkala, ahte stáhta lea geatnegas čađahit ráđđádallamiid ja sámi oassálastima dakkár mearridanproseassain mat sáhttet leat njuolga mearkkašahttin vejolašvuođaide doaimmahit mearrasámi guolásteami.

Vihkkedallamiid 22 kapihttalis ferte geahččat oktan lávdegotti mánga eará evttohusa, mat sihke ovttaskasat ja čoahkis sáhttet váikkuhit buori guvlui mearrasámi báikegottiide ja guolásteapmái mii vuolggahuvvo dáid servodagain. Dás sáhttá čujuhit Kártenkommišuvnna ja meahcceduopmostuolu meara doaibmaguovllu evttohussii, ráđđádallamiid evttohusaide ja eará áššemeannudanskihkáldagaide ja evttohussii viiddidit plána- ja huksenlága doaibmaguovllu mearas. Sámi vuoigatvuođalávdegoddi ii leat 22 kapihttalis evttohan láhkanuppástuhttima, mii earret eará lea lávdegotti mánggabealat bargguid geažil ja go lávdegottis ii leat dakkár čoakkádus mii heive dán ulbmilii. Diehtit vel ahte mánga daid gažaldagain maid lávdegoddi lea digaštallan, árvvoštallojit vuđolaččat ja govdadit Finnmárkku Riddoguolástanlávdegotti árvvoštallamis. Dát lávdegoddi lea erenomážit nammaduvvon čielggadit sámiid ja earáid vuoigatvuođagažaldagaid guolástit sáltečázis, ja das lea dakkár čoakkádus mii dán govvida.

Sámi vuoigatvuođalávdegoddi lea datte válljen ovdanbuktit daid gažaldagaid maid leat árvvoštallan barggu botta. Daid fáttáid gaskkas maid leat digaštallan lea ahte berrešii go álggahit buohkaid várás guolástanortnega uhcit fatnasiidda passiivva bivdosiiguin, ja ahte berrešii go láhčit nu ahte erenomážit gáhtte daid čáziid main lea mearrasámi riddo- ja vuotnaguolásteapmi. Lávdegoddi čujuha vel vejolašvuhtii ásahit hálddašanráđđenvugiid mat sáhttet doalahit stuorát osiid guolleeriin riddo- ja vuotnaguolásteaddjiide, ja mat sáhttet eanet váikkuhit guolastanhálddašeami daid guolástanberoštumiin mat gullet mearrasámi guovlluide, ja ahte berrešii go álggahit báikkálaččabut vuođđuduvvon hálddašanortnegiid.

Sámedikki sajádat nationála guolástushálddašeamis guoskkahuvvo. Lávdegoddi namuha earret eará vejolašvuohtan ahte ceggejuvvo bissovaš ovttasbargoorgána gaskal Sámedikki ja Guolástus- ja riddodepartemeantta vai sámi guolástanberoštumit fuolahuvvojit.

2.5 Summary [engelsk sammendrag][4]

2.5.1 In general

The Sami Rights Committee was reappointed by Royal Decree of 1st June 2001 according to a recommendation by the Ministry of Justice and the Police. When it delivered its report, the Committee was headed by Senior Advisor Jon Gauslaa and comprised 15 members.

Its task was to report in general on the questions relating to the Sami population's legal position as regards the right to and disposition and use of land and water in traditional Sami areas from and including the county of Troms and southwards. In practice, this includes the Troms, Nordland and Nord-Trøndelag counties, parts of the Fosen peninsula and the inner areas along the Swedish border in Sør-Trøndelag county, the North-Eas-

4. Oversatt til engelsk av statsautorisert translatør og advokat Gunnar Talén.

tern parts of Hedmark county and some areas in Trollheimen and its surroundings.

According to its mandate, the Committee was to partly give an account of historic relationships and of the current law as regards the use of land and water in these areas and partly a reasoned assessment of desired changes to the prevailing law.

The Sami Rights Committee's main report comprises an introductory Part I (chapters 1 to 4), a Part II with descriptive presentations of the prevailing law in some areas of importance for the Committee's draft legislation (chapters 5 to 11) and the Committee's considerations and draft legislation in Part III (chapters 12 to 24). The historical background reports, in which, *inter alia*, an account is given of the Sami population, the use of the nature, and rights in the traditional Sami areas from and including the county of Troms and southwards, will be published in NOU 2007: 14.

2.5.2 Introductory chapters and background presentations of the prevailing law

The Committee's proposals for new legislation and changes to the existing legislation are gathered in *chapter 1* above. The individual provisions are for the sake of clarity also included in chapter 24 in which special comments to each individual provision are given.

In *chapter 3* the Committee's appointment, mandate and work are presented. Accounts are given of, *inter alia*, inspection visits and open information meetings in the mandate area, which have constituted a key part of the Committee's meeting and contact activities. The Committee's detailed interpretation of its mandate, including the geographical area for the Committee's evaluations, and the choice of main solutions within the framework of the mandate are presented in *chapter 4*.

Chapter 5 comprises international law presentations of general significance for the Committee's considerations and proposed legislation. The United Nation's Covenant on Civil and Political Rights (CCPR) is one of the most important instruments as regards indigenous peoples' rights pursuant to international law. CCPR is incorporated into Norwegian law through the Human Rights Act 21 May 1999 no 30. Article 1 of the Covenant relating to the right of self-determination is discussed, and based on the practice of the UN Human Rights Committee a review is made of the protection of the Samis' right to enjoy their own culture according to Article 27 of the Covenant.

The ILO Convention no 169 on indigenous and tribal peoples in independent states is the other convention which is of particular importance to the Sami Rights Committee's work. Main features are identified and various convention provisions that are relevant, but not obvious to be dealt with in immediate relation to the Committee's proposed legislation, are presented.

The systematics of the Committee's presentation of international law are, moreover, that provisions of particular significance for the Committee's proposed legislation are primarily presented and analysed in the respective chapters in the proposals part. As an example, Articles 14 (2) and (3) of the ILO Convention no. 169 – on procedures for identifying and recognising rights – is studied in chapter 12, which deals with this subject. Articles 6, 7 and 15 on consultations and participation in the decision-making processes are dealt with in chapter 17, and these provisions have been important pointers for the Committee's considerations and proposals.

Chapter 5 draws up the boundaries against international instruments and cooperation arrangements that do not create legal obligations, or where obligations do not go beyond the CCPR and ILO Convention no. 169.

Internal indigenous peoples' law in some other states is presented in *chapter 6*. Due to their Sami population, and as Nordic countries neighbours, Sweden and Finland are of particular interest. Development trends in Sami law in the two countries are illuminated and some selected subjects and recent studies of Sami law questions are discussed in more detail. Conditions in Greenland are touched upon, whereas there is a broader treatment of internal indigenous peoples' rights in New Zealand and of the Maoris' situation.

EEA law problems of relevance to the Committee's considerations and draft legislation are discussed in *chapter 7, inter alia* the non-discrimination rules and Article 125 of the EEA Agreement (stating that the EEA Agreement shall not affect the member states' rules relating to the right of ownership). The so-called Sami Protocol is, moreover, of special relevance, and the Committee proposes a Norwegian initiative to include it in the EEA Agreement. The Committee also considers various conditions in relevant provisions, including the requirement of Norwegian residence and the requirement of local association, in light of EEA law barriers. This is particularly connected to the provisions relating to the right to hunt, catch and fish in the proposal in chapter 14 for a new adminis-

trative arrangement for the remaining state land in Nordland and Troms.

Chapter 8 describes property law subjects that form the backdrop for several of the proposal chapters of the report. The acquisition of legal rights based on long-term use is a key part of the Sami law picture, cf. for example the Supreme Court's decision in the Selbu case (Rt. 2001 p. 769) and the Svartskog case (Rt. 2002 p. 1229), and will correspondingly be in the core area of the activity of the Identification of Rights Commission and the Uncultivated Land Tribunal which the Committee proposes in chapter 12 and 13.

The general contents of various rights of use – such as the right to cattle pasture, right to freshwater fishing and right to hunt and catch – are discussed in some more detail. Also this must be seen in the context of the identification and recognition system in chapters 12 and 13, while also rights of use are included in the proposal in chapter 14 on a new administrative arrangement for the remaining state lands in Nordland and Troms. Chapter 8 also discusses in some more detail the right of common and the public right, as these also form part of the backdrop for the Committee's considerations and proposals in chapter 14, cf. also chapter 15 in which some changes in the Uplands Act[5] are proposed.

Chapter 9 presents the legal protection against expropriation and expropriation-like encroachments on ownership rights and other protected rights. This chapter is a platform both for parts of the considerations in chapters 12 and 13 and for the expropriation-law considerations in chapter 16 on changes in the Reindeer Husbandry Act.

Chapter 10 provides an account of reindeer husbandry in the Sami Rights Committee's mandate area and an overview of the main features of the prevailing reindeer husbandry law. There are also presentations of the legal regulation of the cross-border reindeer husbandry between Norway and Sweden and the reindeer husbandry in Trollheimen. Chapter 10 should be seen in the context of the proposals in chapter 16 of the report.

The right to coast and fiord fishing is dealt with in *chapter 11*. An overview is given of legal developments in the area, restrictions on the right to fish by regulation measures are pointed out, and aspects related to the legal protection against encroachment on the saltwater fisheries are illuminated, including the Kåfjord decision by the Supreme Court (Rt. 1985 p. 247) as one of the topics. Chapter 11 forms part of the background for the considerations in chapter 22of the report relating to coast and fiord fisheries in Coast Sami areas.

2.5.3 Identification and recognition of existing rights to land and natural resources

2.5.3.1 General considerations

Whether separate arrangements for complying with the state's international law obligations to identify and recognise rights in the traditional Sami areas from and including Troms county and southwards should be established, is dealt with in chapters 12 and 13. The general considerations in *chapter 12* conclude by a proposal for the creation of a reporting commission (hereinafter: The Identification of Rights Commission) and an uncultivated land tribunal for traditional Sami areas from and including Troms county and southwards modelled on the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark. The entire Sami Rights Committee back this proposal.

Article 14 (2) and 14 (3) of the ILO Convention no 169 represent a major basis for this proposal. In this connection, the Committee has studied the practice of ILO's enforcement bodies and gives a detailed account of this in paragraph 12.2. The conclusion is, in brief that, through a separate reporting model, the areas in which the Samis have a claim to have recognised use and ownership rights, cf. Article 14 (2), should be identified. A commission corresponding to the Finnmark Commission would in the Committee's opinion meet the requirements for a thorough mapping of these rights issues.

A requirement to establish a special tribunal can hardly be derived from Article 14 (3) of the ILO Convention. The tribunal procedure must be thorough and provide Samis with a real possibility to have their claims tried, however. A tribunal to deal with such disputes should be responsible for the illumination of the case, and Sami parties must have necessary expenses paid such that the costs related to a tribunal procedure do not form a barrier for legal recognition of the rights. The Sami Rights Committee's conclusion is that a special tribunal like the Uncultivated Land Tribunal is in line with the expressed Norwegian goal of loyal compliance with the ILO Convention's provisions and objects.

It is emphasised that the consultation obligation in Article 6 of the Convention is essential in the evaluation of which procedure(s) should be intro-

5. [Lov 6. juni 1975 nr. 31 om utnytting av rettar og lunnende m.m. i statsallmenningane (fjellova).]

duced to comply with the requirements of Articles 14 (2) and 14 (3).

Particularly on the background of the conclusions following the review of the ILO practice, the Committee makes a broad evaluation of whether a special tribunal should be proposed. In the Committee's opinion there are weighty reasons for vesting the judicial power in a special tribunal in this case.

It has in particular been decisive for the choice of a separate commission and a separate special tribunal – instead of vesting the tasks in the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark – that the Committee's mandate area must be made subject to an equal identification process implying that also these areas will be identified within a reasonable period of time.

The relationship to final and conclusive decisions is studied separately in paragraph 12.5. The decisions by the Uncultivated Land Commission for Nordland and Troms in particular, but also other court decisions in the mandate area, make this problem area relevant. The barriers in, *inter alia,* section 105 of the Constitution are illuminated, and the Committee discusses further the basis for a legal authority for expropriation. In the paragraph on conclusive final judgements a special account of the relationship between the Sami Rights Committee and the Uncultivated Land Commission for Nordland and Troms is given.

The chapter otherwise focuses on, *inter alia,* the differences between Finnmark and the Committee's mandate area, and a possible role for the Land Consolidation Courts is considered. Key considerations and alternatives to a Commission for complying with the obligation pursuant to Article 14 (2) of the ILO Convention are presented, including a brief review of former committees and commissions that have been working with similar subjects in the mandate area.

2.5.3.2 *The Identification and Recognition Act*

In *chapter 13* the Committee discusses the individual provisions which are to apply to the Identification of Rights Commission and the Uncultivated Land Tribunal. The considerations conclude by a proposal for an act relating to the identification and recognition of existing rights in the traditional Sami areas from and including Troms county and southwards (the Identification and Recognition Act).

Committee members *Fjellheim* and *Kappfjell* are of the opinion that only Samis shall have access to the special instrument which the Identification of Rights Commission and the Uncultivated Land Tribunal will represent. The majority (the other members) have not found any international law support for, or considered it to be expedient and practicable, to make such an ethnic demarcation. With this exception – and a provision associated to the proposal in chapter 14 – the draft legislation in chapter 13 is submitted by a unanimous committee.

The Sami Rights Committee has sought to achieve the highest level possible of equality between the provisions relating to the traditional Sami areas from and including Troms and southwards and the corresponding provisions in the Finnmark Act on this point. The main features in the Identification and Recognition Act – and also many of the individual sections – are concurrent with chapter 5 of the Finnmark Act. Among the proposals submitted by the Committee in chapter 13 that depart from the Finnmark Act model, reference may first be made to the fact that the scope of application of the two bodies is to comprise Sami coast and fiord areas, where rights to fish and other marine resources can be examined if requests for this are made. The wish for a local representation in the Identification of Rights Commission is taken care of by a detailed division on counties etc. as regards two of the Commission members, while the Commission as a starting point becomes operative by claims for studies of areas being submitted.

A time limit of ten years as from the entry into force of the provision has been set for presenting claims, but the Identification of Rights Commission may also implement studies of its own accord, and an exception provision provides the opportunity to deal with claims submitted after the expiry of this time limit. The provision on how the Identification of Rights Commission becomes operative must be seen in connection with the extended notification provision proposed by the Committee.

As opposed to what is the case in the Finnmark Act, a special provision relating to the Identification of Rights Commission's relationship to the ordinary courts and the land consolidation courts is also proposed to be included. The reason is to avoid overlapping procedures.

Dismissal provisions are proposed both for the Identification of Rights Commission and the Uncultivated Land Tribunal. The Sami dimension must be given considerable – and often decisive – importance when the bodies are assessing whether claims are to be processed, such that claims with Sami aspects as an obvious starting point are to be studied and decided. This is connected to the reason in international law for identification and the

fact that there has not previously been any overall identification and recognition of Sami rights in the Sami Rights Committee's mandate area. At the same time, it is underlined that the purpose of the identification system indicates that claims the purpose of which is to phase out previously recognised Sami rights in an area as the general rule will have to be dismissed.

The Committee proposes the creation of a broadly composed reference group which is to follow the Commission's work. The underlying discussion of res judicata issues and expropriation in paragraph 12.5 have led to a proposal that where special reason exist there is an opportunity for new proceedings (before the Uncultivated Land Tribunal) relating to claims that are conclusively and finally decided. Also here, the Sami aspects will be key. A legal authority for expropriation follows in the extension of the provision on the opportunity for new proceedings relating to claims that have been conclusively and finally decided. Lastly are mentioned special provisions relating to mediation in the Uncultivated Land Tribunal, publication of the Identification of Rights Commission's reports and the findings of the Uncultivated Land Tribunal, and a possibility for a broader coverage of expenses in cases before the Uncultivated Land Tribunal that are proposed here.

2.5.4 New administrative arrangements for the remaining state lands in traditional Sami areas

2.5.4.1 Nordland and Troms – background and overview of alternative proposals

The question of whether one should introduce a new administrative arrangement or make changes to the existing administrative arrangement for state lands in Nordland and Troms which represent a little more than 44 % of the land of the two counties (almost 30 000 out of more than 65 000 km^2), is a main item in the Committee's mandate. This subject is dealt with separately in *chapter 14* of the report.

As part of the background for the Committee's considerations, an overview is presented of the main features of the prevailing administrative arrangement for this land. It is also pointed out that a new and amended administrative arrangement will be applicable to state land in the two counties where it is found, after the identification of rights has been carried through, that nobody has acquired ownership rights to such land (remaining state land). Internal law and international law pointers are presented in which, *inter alia,* the creation of the Finnmark Estate and Article 15 of the ILO Convention no 169 on Sami contribution to the administration of traditional Sami areas are key.

Due to the fact that the mandate explicitly imposes on the Committee to consider whether the Uplands Act should form the basis for the administration, it has presented the discussion that has been held on whether this Act should be made applicable to state land in Nordland and Troms, and made a specific assessment of the question. Also because the Uplands Act is not adapted to the husbandry conditions in Nordland and Troms and hardly will provide an obviously appropriate delimitation of the Uncultivated Land administration, and in its present form does not take sufficient account of Sami rights either, the Committee has concluded that a special administration model should be established for the remaining state land in the two counties.

The administration system which is regulated in the Finnmark Act has not been considered to be a system which should be transferred unchanged to the relevant parts of Nordland and Troms either. Instead, one has seen it as more obvious to propose a special administration arrangement for the remaining state land in this area. In the specific design of such an arrangement, however, one may gather elements both from the Uplands Act and the Finnmark Act.

The majority of the Sami Rights Committee comprising members *Gauslaa, Broderstad, Strøm Bull, Eggen, Eira, Eriksen, Kappfjell, Larsen, Lund, Pedersen, Røssvoll and Westerfjeld,* have proposed a new administrative arrangement implying that the ownership to the remaining state land in Nordland and Troms is transferred to a *new owner body.* This majority, whose proposal is presented in *paragraphs 14.7 and 14.8,* are basically in agreement on the regulation of the new body's legal character and organisation, and on which statutory limitations should apply to the owner body's ownership rights.

However, *Eira, Kappfjell and Westerfjeld* have submitted alternative proposals as regards geographical scope, composition of the owner body's board and the regulation of rights to uncultivated land resources and the administration of these rights.

A minority consisting of the member *Reiersen* proposes in paragraph 14.9 that Statskog SF shall keep its landowner position, but that certain measures be taken with a view, *inter alia,* to reinforce the Sami and community influence on the uncultivated land administration.

The member *Parmann* is of the principal opinion that Statskog SF should remain the owner of state land in Nordland and Troms to which no-one else will have recognised ownership rights. She therefore mainly supports the proposal from Reiersen, but has otherwise given her alternative consent to the proposal for the Hålogaland Common Land in the form given to this proposal by the majority, with the exception of *Eira, Kappfjell and Westerfjeld.*

The Committee member *Fjeldheim* has not concurred in any of the proposed alternatives.

2.5.4.2 The Hålogaland Common Land

Members *Gauslaa, Broderstad, Strøm Bull, Eggen, Eriksen, Larsen, Lund, Pedersen and Røssvoll* have, with alternative concurrence by *Parmann*, proposed that *the geographical scope* of the new regime be restricted to the (remaining) state land in Nordland and Troms. This majority proposes a more detailed regulation of the regime in the Act relating to Legal Matters and Disposal over Land and Natural Resources on the Hålogaland Common Land in Nordland and Troms (the Hålogaland Act).

The draft law (sections 1 to 4) contains various general provisions on the purpose of the act, its geographical scope, relationship to international law and relationship to existing rights. The purpose section is formulated on the pattern of the Finnmark Act's purpose section, but such that not only inhabitants in the area and considerations for Sami culture, but also the general public is mentioned. The latter is decisive for Parmann's alternative consent to the proposal. The Act will, moreover, in the same way as the Finnmark Act, apply with the restrictions following from the ILO Convention no 169, and is to be applied in accordance with the rules in international law on indigenous peoples and minorities, while it is at the same time expressly emphasised that the act will neither encroach on rights that are based on special legal relationships nor on the Reindeer Husbandry Act.

Chapter 2 of the draft law contains the detailed rules on the Hålogaland Common Land and its legal position, organisation, composition of the board and ownership rights.

The Hålogaland Common Land will, in the same way as the Finnmark Estate, be an independent legal subject. The draft law's provisions relating to the board representing the Hålogaland Common Land externally, on the opportunity to mortgaging and debts collection, accounts, auditing and registration, control with the activity, criminal liability and liability in damages and the relationship to the Public Administration Act, the Freedom of Information Act and future legislation are also based on the corresponding provisions in the Finnmark Act.

On the other hand a different solution than the one contained in the Finnmark Act for the owner body's income and location has been proposed. Patterned on section 12 third sub-section of the Uplands Act, a provision has been proposed on this point which obligates the Hålogaland Common Land, after having allocated funds to its own operations, to return lease income and other landowner revenues to the local environments where these revenues were generated.

The members *Gauslaa, Broderstad, Strøm Bull, Eggen, Larsen, Lund and Røssvoll* propose, with alternative concurrence by *Parmann*, that the *Hålogaland Common Land Board* is to be comprised of six members, of which two members with personal alternate members are appointed by the Sami Parliament, two by Nordland County Council and two by Troms County Council. Due to the fact that the land that the Hålogaland Common Land will be the owner of after the proposed rights identification has been completed, is land that others have not worked up any ownership rights to, and which therefore as the starting point will be owned by the state, such a Board composition in the opinion of these members implies without doubt that the requirement in international law for Sami participation in the ownership management is complied with.

The members *Eriksen and Pedersen* have a deviating view on the composition of the board. They propose, based on a view that two board members appointed by the Sami Parliament will not provide a sufficient Sami influence, that the Sami Parliament shall appoint three members with alternate members, while the two county councils jointly appoint the three other members.

Otherwise, as regards requirements as to reindeer husbandry representation, gender representation and the residence of the board members – and the general rules on the board's duties and procedures etc. – this majority has with the exception of a certain softening up of the residence requirements, proposed rules that correspond to the rules in the Finnmark Act. However, a different solution has been proposed for the chairperson position, in that this will automatically alternate between the Sami Parliament (in years ending on even numbers) and the county councils (in odd number years).

Another solution is also proposed as regards limitations to the Hålogaland Common Land's *ownership rights* by no particular voting rules and

majority requirements but various substantive limitations to the right of disposal having been proposed.

These limitations, which have their counterparts in sections 12 and 13 of the Uplands Act, have been proposed to ensure that the Hålogaland Common Land will not by land disposition acts or by alienating land or rights, dispose over its ownership rights in a manner that encroaches unreasonably or unnecessary on rights on this land which are founded on special legal relationships or in legislation. Certain detailed administrative procedure rules for the Hålogaland Common Land's dispositions over land and alienations have also been proposed, along with a rule that further limits its ownership rights during the period the rights identification is carried on.

Also as regards the *rights relationships on the land of the Hålogland Common Land* (chapter 3 of the draft law) other solutions have been chosen than in the Finnmark Act.

The administration of the rights to uncultivated land on the Hålogaland Common Land is proposed vested in «up to six» *regional uncultivated land boards*. These are to be appointed by the municipal councils in the relevant region.

Hence, the uncultivated land boards will have an inter-municipal character, but because they derive their authority from a special Act, they will not be inter-municipal in the sense of the Local Authorities Act. In the same way as the uplands boards on the state common land, they will on the contrary be independent bodies which are not subject to either the Hålogaland Common Land as landowners or the municipalities that appoint the uncultivated land boards. It is anticipated that the detailed delimitation of the regions will be set out by regulations, and such that in connection with the delimitation, a procedure will be implemented with the contribution by right-holders and interests involved, the Sami Parliament and the relevant municipalities.

Each municipality in each region is to have at least one board member, and such that the board altogether shall have at least seven members. The number of board members will thus be able to differ from region to region, depending on how many municipalities the individual region is comprised of. However, the board shall always have at least two representatives of the reindeer husbandry and two of agriculture. If the board comprises more than seven members, the number of reindeer husbandry and agriculture representatives will be extended in order that these groups of right-holders always form a majority on the board. In the event that there are holders of rights of use entitled to other exploitation of uncultivated land in the region, these are also to be represented on the uncultivated land board, on which the general hunting, fishing and open air interests are also to be represented.

Rules are, moreover, proposed for when there is a quorum in the uncultivated land boards and the boards' rules of procedure, income allocation (which presupposes that the income generated by the exploitation of the uncultivated land shall remain in the region in which it was generated) and bylaws.

As regards the *rights relationships* on the Hålogaland Common Land, firstly, a provision is proposed which clarifies that the reindeer husbandry also on this land enjoys a special legal foundation and is regulated in more detail in the Reindeer Husbandry Act.

Secondly, a provision is proposed that rights to cattle pasture, assignation of wood for domestic use and assignation of a summer farm and supplementary farm land shall lie to a farm property if this is necessary for the farming. Like the rights that are regulated in sections 15 to 23 of the Uplands Act, these rights will be subject to various limitations, among other things as regards the number of cattle that may be let out to graze and in relation to the reindeer husbandry and other right-holders in the area.

Thirdly is proposed a regulation of the right to hunt, catch and fish which in all essentials continues the current set of rules for such activities on state land. This is based on the consideration that changes to the rights relationships to these manners of use should come as the result of the identification of rights, and not through amendments of the legislation.

Fourthly is proposed a provision that people on the Hålogaland Common Land in their own municipality are entitled to apply for assignment of deciduous timber for firewood. Performers of Sami and other handicraft are granted the right to take timber for handicraft.

The resource exploitation which according to the prevailing law lies to the landowner unless otherwise decided by law, and which is not specifically regulated in the draft law (including salmon fishing with fixed equipment in the sea, eggs and down, and exploitation of non-claimable minerals) will lie to the Hålogaland Common Land as landowner.

This majority has furthermore proposed certain detailed rules about the *uncultivated land boards' authority* to administer the rights to use

that are regulated in the Hålogaland Act. A provision has been included that clarifies that the administration of the use and exploitation of the rights that are regulated in the Act, shall be exercised in accordance with the purpose of the Act, within the framework of other legislation and taking into consideration the rights of others on the Hålogaland Common Land. It is also proposed that the uncultivated land boards among other things shall be able to lay down detailed rules on the arrangement of the use of the pasture and within the framework of the Act to take care of the assignment of timber for domestic purposes to summer farms and additional farmland. A provision has been proposed for the administration of the other uncultivated land rights regulated by the draft law that *inter alia* opens for the uncultivated land boards being able within a general framework to regulate the exploitation of the right to hunt, catch and fish.

Furthermore is proposed some special administrative procedure rules for, among other things, the assignment of summer farms and additional farmland for the agriculture, and for decisions on restrictions on hunting, catching and fishing, setting forth, among other things, that a particular consultation round, and, as the case may be, specific consultations, are to be carried through prior to the decisions being made.

The monitoring of the exploitation of the cultivated land on the Hålogaland Common Land is proposed to be vested in the uncultivated land boards corresponding to the system pursuant to section 36 of the Uplands Act.

The draft law also contains various concluding provisions. They comprise a proposal that persons who at the entry into force of the rules in the Act's chapter on the Hålogaland Common Land are employed by Statskog with their workplaces in Nordland or Troms, are to be offered work in the new ownership body with corresponding conditions as with Statskog. As a consequence of the draft law, it is also proposed that the exception for the right to redeem a site for a holiday home in section 34 second sub-section of the Act relating to ground lease be extended to also apply on the Hålogaland Common Land.

2.5.4.3 *The Hålogaland Common Land – also outside Nordland and Troms*

The members *Eira, Kappfjell and Westerfjeld* concur in the majority proposal that a new ownership body should be created for the state's land in Nordland and Troms. However, these members propose to make the law relating to the Hålogaland Common Land applicable also to state owned areas in the traditional Sami areas in the counties of Nord-Trøndelag, Sør-Trøndelag and Hedmark. Accordingly, they have proposed that the Act be given another title and that the provision on the Act's geographical scope be formulated accordingly. Otherwise, these members concur in the remaining majority's proposal as to provisions on purpose, the relationship to international law and existing rights.

They also concur in the proposals on a regulation of the Hålogaland Common Land's legal status and organisation and to the statutory limitations to the Hålogaland Common Land's ownership rights. However, they propose that the Sami Parliament should appoint three members to the board, while the three other members should be appointed jointly by the county councils in the county in which the Hålogaland Common Land will be a landowner. They also propose that two out of the six board members are to represent the reindeer husbandry, and such that one of these members should be appointed by the Sami Parliament and the other member by the county councils.

Nor do these members concur in the remaining majority's proposal that the administration of the uncultivated land rights should be vested in regional uncultivated land boards, but instead propose that these functions shall lie to the Hålogaland Common Land's board. As a consequence of this, they have also proposed that the uncultivated land inspection should lie under the Hålogaland Common Land. Nor have they agreed with the proposal that a detailed statutory regulation of rights that lie to the agriculture, and consequently not proposed any provisions on the administration of these rights either.

Otherwise, they concur in the rest of the majority's proposal for a regulation of the rights on the Hålogaland Common Land and in which decisions may be made as part of the administration of these rights, but then such that this authority is not vested in regional uncultivated land boards, but in the Hålogaland Common Land as landowner. On the whole, they are also in agreement with the majority's proposal for concluding provisions.

2.5.4.4 *Revised Statskog*

The member *Reiersen* has submitted a draft law that continues Statskog SF's position as the owner of the remaining state land in Nordland and Troms, based on a consideration that also such a solution would lie within the framework of international law. Because this draft law does not presup-

pose the creation of a new legal subject as landowner, and mainly continues the prevailing rights on the state's land in the two counties, this proposal obviously has a far simpler formulation than that proposed by the majority. Chapter 1 *(general provisions)* contains sections on purpose, geographical scope and on the relationship to other legislation and international law, and to the prevailing rights. In the presentation of the alternative draft law, it is also emphasised that the aim is to amend Statskog's bylaws such that the Sami Parliament and the reindeer husbandry are granted the opportunity to propose representatives to the board of Statskog – in order thereby to ensure Sami representation in the governing bodies of the company, but without specifying this in more detail.

Chapter 2 of the draft law *(bodies, authority and allocation of income)* is anticipating a stronger regional say in the management of the uncultivated land through regional uncultivated land boards that are to have an independent role in respect of Statskog and which are given a certain authority within a detailed framework. The rules on income allocation opens for revenues from land dispositions and use of uncultivated land being returned to regions and local societies, but are not as binding as the proposal by the Majority.

Chapter 3 of the draft law *(management and development of land and resources)* anticipates the introduction of a system of regional plans for the management and development of the various areas under which the regional uncultivated land boards prepare proposals for plans which are to be approved by Statskog SF's board. It is also proposed that a consultation round be held before the company makes decisions on land dispositions and any disposal of land and rights. As in the proposal by the majority, it is also the intention that the landowner body shall show considerable reserve as regards making such dispositions during the period when the identification of rights goes on (section 4 second sub-section of the draft law).

Section 4 of the draft law has rules on rights of use and access to renewable resources for different groups. In addition to a provision on rights for those who carry on Sami reindeer husbandry and other rights based on use since time immemorial, there are rules on assignment of pasture, summer farms and additional farmland for farming properties, on the taking of timber and on hunting, catching and fishing. These provisions do not entail any substantive changes in relation to the prevailing law, however.

The member *Parmann* has as her main reasoning for supporting Reiersens's proposal, pointed at Statskog SF's good qalifications for safeguarding national and regional/local aspects when it comes to land utilisation and management of renewable resources, and the aspect of Statskog's role as property owner in other state owned areas. Her opinion is, however, that the proposal should be strengthened, so that municipal authorities appoint the regional uncultivated land boards, and so that agricultural rights are protected in a similar way as in the Hålogaland Common Land alternative.

2.5.4.5 Southern Norway – in particular on changes to the Uplands Act

In *chapter 15* of the report the Sami Rights Committee considered, in respect of the state-owned traditional Sami areas in southern Norway, whether one should propose changes to the rights and management system which is regulated in the Uplands Act. A majority comprising the members *Gauslaa, Broderstad, Strøm Bull, Eggen, Eriksen, Larsen, Lund, Parmann, Pedersen, Reiersen and Røsstoll* are of the opinion that the state's international law obligations associated with the protection of Sami rights and Sami participation in the management system for land and natural resources on state-owned land in the southern Sami areas, can be taken care of by a revision of the Uplands Act.

The minority, consisting of the members *Eira, Kappfjeld and Westerfjeld*, believe that their formulation of the proposal for an act relating to the Hålogaland Common Land, cf. 2.5.4.3 above, should comprise also the state-owned traditional Sami areas in Southern Norway. However, they concur alternatively with the majority's proposal for changes in the Uplands Act.

The Committee member *Fjeldheim* does not concur in any of the stated alternatives.

The changes that are proposed in the Uplands Act are geographically limited to state common land in Nord-Trøndelag, Sør-Trøndelag and Hedmark where there is Sami reindeer husbandry and where the identification of rights does not provide any basis for changing the landowner relationships. It is partly a question of various clarifications in order to reveal reindeer husbandry as an independent right of use on the state's common land, and partly to reinforce the participation in the Uplands' boards of those entitled to reindeer husbandry.

Section 1 last sub-section of the Uplands Act is proposed to contain a provision of principle which determines that the right to Sami reindeer husbandry where such reindeer husbandry is old-established, is an independent right of use on the state

common land, in line with other rights of use based on use since time immemorial. Various changes in sections 12 and 13 of the Uplands Act are also proposed, relating to the state's opportunity to implement land dispositions and alienate land on the state common land, and in sections 15, 18, 19 and 21 relating to the Uplands boards' dispositions as regards cattle pasture and assignment of summer farms and additional farming land etc. to agricultural properties. The purpose of these changes is that it should appear clearly from the wording of the Act that one must also consider the reindeer herders' rights when considering whether to implement measures or grant permission to measures that are regulated in these provisions. In order to clear the ground for the Uplands boards to be able to strengthen its knowledge basis about reindeer husbandry, a provision is also proposed about contact meetings between the uplands boards and the area manager of the reindeer husbandry (new section 10 a).

Section 3 sixth sub-section of the Uplands Act about the appointment and composition of the Upland boards is proposed to be amended, such that the prevailing provision that the reindeer husbandry may be given representation on uplands boards that have a management responsibility for areas in which Sami reindeer husbandry is carried on, is replaced by a provision that makes the arrangement mandatory. It is also proposed that the reindeer husbandry's representation shall not replace the representation of the agriculture like the present situation, but that both groups are to have two board members each. In order to realise this, it is proposed that the number of board members in the relevant uplands boards be extended from five to seven.

The Committee majority *(Gauslaa, Broderstad, Strøm Bull, Eriksen, Larsen, Pedersen and Reiersen*, with alternative acceptance by *Eira, Fjellheim, Kappfjell and Westerfjeld)* propose that section 5 of the Uplands Act be supplemented by a legal authority for the King to amalgamate two or more Uplands boards should considerations for the exercise of Sami reindeer husbandry in the uplands boards' management area so indicate. The minority *(Eggen, Lund, Parmann and Røssvoll)* have not agreed to this proposal, but underline that where relevant one should implement a cooperation arrangement between the Uplands boards to protect the rights of the reindeer husbandry.

In order to safeguard Sami influence on the state's landowner dispositions on the state common land, and on other relevant state land in southern Norway, in the opinion of the Sami Rights Committee one of the members of Statskog SF's board should be appointed according to a nomination by the Sami Parliament. Thus one has on this point recommended that an amendment be made to the company's articles of association.

Furthermore, a unanimous committee proposes a provision in the Outdoor Recreation Act (new section 10 a) on a right to take wood for handicraft purposes within the traditional Sami areas in Southern Norway, as well as on the state common land as on other state land.

2.5.5 Changes to the Reindeer Husbandry Act

In chapter 16, the Sami Rights Committee considers the need for changes in the Reindeer Husbandry Act. The provisions on reindeer husbandry management and various internal relationships in the industry are not considered, as this would fall outside the Committee's mandate. On the other hand, one has dealt with some provisions in the Act which regulate the contents of the reindeer husbandry rights and the relationship between reindeer husbandry and the outside world. The proposals that followed from these considerations, were with one exception, cf. below, submitted by a unanimous committee.

In section 3 of the Reindeer Husbandry Act about the relationship to international law it is proposed to add that the Act applies with the limitations that follow from ILO Convention no 169. Since it is now stated in section 4 of the Reindeer Husbandry Act that the right to Sami reindeer husbandry where such reindeer husbandry is old-established is an independent right of use in uncultivated areas that are protected in the law of damages equally with other rights of use on uncultivated land, these more fundamental relationships have not been discussed in more detail. However, the Committee proposes that certain aspects of section 4 should be adjusted such that the principles it expresses appear more clearly.

One has also proposed certain amplifications and clarifications in sections 19 to 26 of the Reindeer Husbandry Act that regulate the rights of the Sami reindeer herders on uncultivated land. The special authority in section 9 second sub-section for the preservation of reindeer pasture is proposed to be repealed, based on the view that the considerations behind this provision will better be served by the application of other provisions in the Act, *inter alia*, section 63. Otherwise, it is in all essentials a matter of clarifications and not substantive changes.

As regards elk hunting on land owned by the state, the Finnmark Estate and the Hålogaland Common Land in the Sami reindeer pasture area, the majority of the Committee (everyone except *Eira, Fjellheim, Kappfjell an Westerfjeld*) have proposed to include a provision in section 26 of the Reindeer Husbandry Act that those who engage in Sami reindeer husbandry in the context of regulations of the access to participation in the hunting, shall be considered as locally resident, both in the municipality in which they reside, and in the municipality/municipalities in which they otherwise carry on lawful reindeer husbandry. The minority proposes a provision that those who engage in Sami reindeer husbandry on such land shall be entitled to participation in the elk hunting within their reindeer pasture areas.

The Committee has in particular considered the provisions in chapter 8 of the Reindeer Husbandry Act relating to *other people's rights to and use of the reindeer pasture areas*. Among other things one here proposes certain changes in chapter 63, which regulates the relationship between those entitled to reindeer husbandry and landowners/other right-holders. The purpose of the proposal is not to shift the balance between the different right-holder groups in relation to what follows from general principles of law, but that the provision shall more clearly signalise that it is a question of different groups of equal right-holders, cf. the principle in section 2 of the Easement Act.

Furthermore, some softening of the provisions relating to the reindeer herders' liability in damages in chapter 9 of the Reindeer Husbandry Act is proposed, aiming at as far as possible making the provisions on the reindeer owners' liability for damage caused by their reindeer concurrent with the provisions on liability in damages for the owners of other grazing animals. More specifically, it is proposed *inter alia* that the claims for damages as the main rule should be made against the owners of the animals causing damage. A clarification is also proposed in the Act that sections 5–1 and 5–2 of the Damages Act on contribution and mitigation shall apply also in the case of damage caused by reindeer, as well as certain detailed rules about the keeping of fences in connection with land reclamation, cf. the proposed changes in sections 67 to 69 of the Reindeer Husbandry Act.

The Committee has also discussed different issues relating to the protection of the pasture areas. However, one assumed that the provisions proposed in chapters 17–21 of the report may become of great importance to the protection of the reindeer husbandry areas. Therefore, no special provisions on protection of areas have been proposed in the Reindeer Husbandry Act. However, one has considered the contents in and scope of the provisions in section 7 on expropriation to secure reindeer pastures, and proposed a clarification of the geographical scope of this.

2.5.6 Consultations and procedures for measures that may influence the natural resources in traditional Sami areas

2.5.6.1 The background to the considerations

International indigenous law has traditionally had a particular focus on protection against encroachments on indigenous peoples' right to enjoy their culture, including their right to material cultural exercise and protection of the natural basis for this culture enjoyment. This is also currently the core of the provision on protection of culture in CCPR Article 27.

In recent times the law of indigenous peoples has also focused on rights to positive support measures and recognition of rights. It has also increasingly emphasised indigenous peoples' right to participation in decision-making processes in cases of particular importance to them. This procedural aspect of the law of indigenous peoples has in particular been expressed in ILO Convention no 169, cf. in particular Articles 6, 7 and 15, and in the practice by ILO's enforcement bodies. These have in different contexts stated that the principle of consultations and participation forms the corner stone of the Convention and are the basis for its individual provisions.

Furthermore, the UN's Human Rights Committee has construed a consultation and participation principle in CCPR Article 27. In several complaint cases, it has, *inter alia*, been an important factor in the Committee's assessment of whether the states have complied with their obligations related to the protection of culture, whether they have carried out real consultations with the indigenous people, or not.

Hence, in *chapter 17 to 21* of the report, the Sami Rights Committee has proposed a new act relating to administrative procedure and consultations in the case of measures that may have an influence on the natural resources in traditional Sami areas (the administrative procedure and consultation act). In these chapters are also proposed various changes to the existing legislation, such as the Planning and Building Act, the Nature Protection Act and the Mining Act.

Since, in these cases, it is a question of general legislation, the proposals will, in the same way as the proposed changes to the Reindeer Husbandry Act, apply to all traditional Sami areas in Norway, including also such areas in Finnmark.

These proposals are submitted, with one exception, cf. below in item 2.5.6.5, by a unanimous Committee.

2.5.6.2 Consultations

The considerations regarding whether statutory provisions on consultations between public authorities on the one part and representatives of Sami interests and right-holders on the other part, should be proposed, are included in *chapter 17*.

The Committee's review of ILO's practice shows that it is difficult to make any quality distinction between the different provisions on consultations in ILO Convention no 169. In summary, the obligation implies that a group of indigenous people for which a planned measure may be of importance, have a claim to active participation in the decision-making processes up to implementation of the measure, and such that the group is granted a real possibility to influence the process as well as the contents of the decision. There is no requirement that agreement must be achieved, or that the indigenous people must be given a decisive influence on the outcome of the case. However, the consultations must be carried out in good faith and be arranged such that they are a suitable tool to achieving agreement on the measure at issue.

The contents of the consultation obligation which can be derived from CCPR Article 27 are relatively concurrent with the above, but the UN Human Rights Committee has in recent observation statements expressed itself such that it seems clear that the states cannot «consult away from» the more absolute requirement as to culture protection contained in this provision.

The chapter also gives an overview of Norway's practising of the consultation obligation, with the conclusion that there is a need for a concrete implementation of this obligation in internal law in the form of special legislation. The detailed provisions formulated by the Committee on the background of these considerations are proposed to be included as chapter 3 in the administrative procedure and consultation act.

The scope of application for the provisions are proposed to be valid for legislation, regulations, individual decisions, regulation measures and other measures that may affect the natural resources in traditional Sami areas. In accordance with the relevant provisions in the ILO Convention, it will also be a prerequisite for the consultation rules being applicable that it is a matter of cases which may have a «direct importance» for Sami right-holders or use-of-area interests.

According to the draft law, the Sami Parliament together with other Sami right-holders and interests, for example reindeer herders and representatives of Sami communities, will have a right to be consulted to the extent they may be directly affected by the measure at issue. ILO's practice shows that the right to consultations is not only lying to the indigenous peoples' highest bodies, but also to right-holders and interests on a local level. It may in individual cases be particularly relevant to consult such right-holders and interests.

Bodies under a duty to consult will be governmental authorities, including the Government, the ministries and other underlying government agencies, but also municipalities and county municipalities, to the extent these are making decisions that may have a direct importance for the exploitation of land and resources in traditional Sami areas.

ILO's practice also shows that the duty to consult not only applies to the state as the exerciser of public authority, but also to bodies that on behalf of the state exercise landowner rights in traditional indigenous peoples' areas. The practice also shows that the duty to consult applies to the legislative assemblies dealing with legislation if it is considered to change draft legislation which have been subject to consultations on earlier stages of the legislative procedure, to the detriment of the indigenous peoples. The Committee's draft law contains special provisions aiming at covering these cases.

The draft law otherwise contains provisions stating that the *implementation* of the consultations shall be made in good faith and with the aim of achieving agreement on the measures at issue, on notification of interests that are entitled to be consulted, on deadlines etc to ensure progression in the consultations, on the keeping of minutes and public disclosure as well as provisions on the sectoral ministries and the Sami Parliament's special roles in the consultations – and a special rule on cases that are dealt with in the Cabinet.

A principal provision is proposed in chapter 17 that the Sami Parliament and, as the case may be, representatives of other Sami interests, unless otherwise decided, are entitled to representation in appointed bodies that deal with questions of use and exploitation of land and water in traditional Sami areas. As an example of bodies that will be comprised by this provision may be mentioned the

regional predatory animal boards, on which the Sami Parliament is currently represented, and committees that are assigned the task to prepare legislation that will be of particular importance to the reindeer husbandry.

While the other provisions proposed in chapter 17 aim at implementing and concretising Article 6 cf. Article 15, of the ILO Convention in Norwegian law, the provision on Sami representation has a special basis in Article 17 of the Convention, cf. also Article 17 in the draft Nordic Sami Convention.

2.5.6.3 *Other administrative procedure rules*

In addition to the rules on consultations, the Sami Rights Committee in the report's *chapter 18* has also proposed some other administrative procedure rules which will be applicable when one considers to implement measures that can affect the natural resources in the traditional Sami areas. Primarily, these provisions are proposed to be included in chapter 2 of the administrative procedure and consultation act.

In the same way as the consultation rules, the administrative procedure rules will apply along with the general administrative procedure rules in the Public Administration Act and the relevant sector Act. The rules are proposed based on a view that the general administrative procedure rules will probably not always ensure due emphasis on Sami considerations. At the same time, the implementation of consultations will not exempt the relevant decision-making bodies from the obligation they have to make an independent assessment of the effects of a planned measure on Sami culture etc.

Hence, the Sami Rights Committee has identified a need to further render concrete the international law obligations, in the form of a separate set of administrative procedure rules. These rules will not create new obligations for the various decision-making bodies, but will more specifically indicate the obligations that are incumbent on these as regards clarification of the consequences that an applied-for measure may have for Sami interests and to place emphasis on such interests.

For administrative *decisions that concern rights or obligations of one or more persons and other individual decisions* by public authorities to implement measures on behalf of the state (for instance development of communications) in traditional Sami areas, provisions are proposed for, *inter alia*, publication of measures applied for, consultation and duties to report on the consequences of a measure for Sami material culture enjoyment.

It is also proposed that the Sami Parliament be empowered to lay down guidelines for the deciding body's evaluation of Sami considerations, cf. the corresponding provision in section 4 first subsection of the Finnmark Act, and a provision which more generally imposes on the decision-making bodies to take Sami use and Sami communities duly into consideration. The committee also proposes a provision for a (particularly) qualified preponderance of interest in order that measures applied for may be allowed to be implemented in areas which must be considered to be particularly important for Sami use and where the measure may have a significant negative influence on the future use of these areas. This must be deemed to be a concretising of the core of the CCPR Article 27.

The possibility to lay down conditions in order to prevent the measures having unfortunate results for the reindeer husbandry and other Sami material culture enjoyment is a further component in the draft law.

The Committee also proposes a provision on *regulations* and general development decisions, for example the regulation of fisheries, which will be of importance for the use of land and resources in traditional Sami areas. Also here one is aiming at a case preparation which shall clarify the consequences of the regulations for Sami material culture enjoyment and that such culture enjoyment shall be taken into consideration when the decision is made and when the regulations are applied.

2.5.6.4 *Land use planning etc.*

In *chapter 19* the Sami Rights Committee discussed land use planning according to the Planning and Building Act in more detail. It is known that a proposition to the Odelsting for a new planning part of the Planning and Building Act is scheduled for submission in the autumn of 2007. Since the proposition did not exist when the Sami Rights Committee concluded its work, the Committee chose to submit its considerations and proposals in relation to the prevailing Planning and Building Act.

As regards the integration of Sami considerations and interests in the Act, the Sami Rights Committee has in all essentials concurred in the Planning Act Committee's proposal in NOU 2003:14. This concerns among other things the proposed extension of the Act's applicability to sea areas, which may be of factual importance to the Coast Samis' interests; reference to the natural basis for

Sami culture in the purpose section; rendering Sami area use interests more visible, including reindeer husbandry, in the provisions relating to planning in the municipalities and on the right to complain and raise objections before the Sami Parliament in matters of significant importance to Sami culture.

The Sami Rights Committee has on certain points submitted proposals that have no direct equivalent in the Planning Act Committee's proposal, including a proposal that Sami area use interests in the provisions on planning at national and county levels be rendered even more visible. The Committee also proposes to include references to the provisions on consultations in the Procedure and Consultation Act in the Act's provisions on processing of county plans, municipality plans and area development plans.

It is further proposed that the Sami Parliament be vested with a direct role in area planning in traditional Sami areas by a provision that the Sami Parliament may lay down planning guidelines for taking care of Sami area use interests. The planning guidelines will, according to their nature, be a kind of national political guidelines.

References to Sami area use interests and the relevant provisions in the Procedure and Consultation Act are also proposed to be included in the Planning and Building Act's provision on impact studies.

2.5.6.5 *Area preservation*

Various issues relating to area preservation in traditional Sami areas are considered in *chapter 20*. The Sami Rights Committee's considerations are primarily related to the contents and structure of the Nature Conservation Act since the planned proposition for a new Nature Diversity Act was not submitted to the Storting when the Committee concluded its work. However, one has taken into account that the Bio Diversity Act Committee's proposal for a Nature Diversity Act in NOU 2004:28 will be guiding for the future contents of the conservation legislation. This proposal has therefore been an important component in the Sami Rights Committee's considerations. The same applies to the concluding document from the National Committee for the Use and Preservation of Lule Sami Areas.

The question of Sami and local contribution in the conservation processes in the traditional Sami areas is of importance both in respect of decisions on conservation as such, at the formulation of the provisions that are to regulate the future use of a protected area, and at the revision of the current provisions on the use of existing protected areas.

At this point, the Sami Rights Committee has seen reason to formulate somewhat more detailed and specific provisions than those proposed by the Bio Diversity Act Committee with a view to implement and concretise the state's indigenous peoples law obligations in internal law.

Thus a provision is proposed in which also preservation of the Sami material cultural basis is stated as an object for protection. The Sami Rights Committee also proposes a separate provision on presentation, consultations and weighting of Sami interests in conservation processes. The Committee also proposes a provision relating to the more specific procedure in area preservation in traditional Sami areas which will supplement both the above provision and the other administrative procedure rules relating to area preservation.

In the event that the Hålogaland Common Land is established as a new owner of the remaining state land in the traditional Sami areas, a provision has been proposed that presupposes that such a change of ownership shall not be of consequence for the opportunity to establish national parks according to the preservation legislation.

A question dealt with separately by the Committee is whether one should implement a locking-up period for the possibility to decide area preservation while identification of rights is going on accordance with the proposals in chapters 12 and 13.

The majority of the Committee did not support this, but as an alternative proposed a provision that presupposes that if the identification discloses owner or user rights in the national parks, the preservation provisions for the relevant area will be changed accordingly. A minority consisting of *Eira, Kappfjell, Larsen and Westerfjeld* has on the other hand proposed such a locking-up period, but then limited to the possibility to establish new national parks.

In chapter 20, the Sami Rights Committee has also recommended that Sami aspects to a larger degree than what the Bio Diversity Act Committee intends to do, should be rendered visible in the provisions in this committee's draft law (sections 33, 38, 47 and 61).

2.5.6.6 *Claimable minerals etc.*

In *chapter 21* the Committee has assessed various questions concerning claimable minerals and other resources to which the state, independently of landowner relationships, retains the right in the traditional Sami areas. The reason for this subject

being dealt with in a separate chapter is partly that Article 15 (2) of the ILO Convention comprises a special rule for such resources and partly that when the Finnmark Act was enacted, certain special rules were included in the Mining Act to comply with the requirements in the provision.

As introduction to the chapter, the Committee refers to the legal contents in Article 15 (2) and discusses various delimitation issues. On this basis, the further considerations in chapter 21 are related to the need for changes in the set of rules for the extraction of claimable minerals, while the requirements regarding Sami participation in decision-making processes concerning the extraction of non-claimable minerals and oil and gas deposits, are supposed to be taken care of by the general rules in the proposal for an administrative procedure and consultation act.

The Sami Rights Committee knows that the Ministry of Trade and Industry plans to submit a proposition for a new Minerals Act towards the end of 2007 or in 2008. The Committee's considerations, however, are related to the current Mining Act, in which it has proposed a provision that the *administrative procedure and consultation act* shall apply in addition to the other administrative procedure rules at the processing of applications for claims in traditional Sami areas (new section 2 a).

The Committee also proposes a rule that *prospecting* in areas in which there are recognised Sami ownership rights in accordance with the state's international law obligations, and other areas of significant importance for Sami material cultural enjoyment, presupposes the consent of the owner/holder of rights of use (new section 3 no. 7). In addition are proposed changes in section 7 a such that this is extended to also apply to all traditional Sami areas, and not only to Finnmark, and such that the time for notification regulated here is extended from one week to one month.

As regards the Act's provisions on *claiming and claims*, the Committee proposes that the administrative procedure rules in sections 22 a and 39 b be extended so as to apply to the same geographical area as in section 7 a. The contents in these provisions are otherwise proposed to be mainly continued, but such that the consideration for Sami and other right-holders is rendered visible to a larger extent than in the current provisions.

The Committee has also proposed certain changes in section 42 relating to a landowner charge, among other things such that it is opened for the King being able to make regulations to the effect that mining companies are to pay a charge also to the holders of rights of use in traditional Sami areas, cf that the ILO Convention no 169 Article 15 (2) provides that the indigenous people «if possible» shall have a participation in the proceeds of the mining operation.

2.5.7 Coast and fiord fishing in Coast Sami areas

Various questions that concern the coast and fiord fisheries in Coast Sami areas are dealt with in *chapter 22* of the report. Also here the international law obligations form the basis for the Committee's presentation. Thus, a broad evaluation of the UN Covenant on civil and political rights (CCPR) Article 27, cf. Article 1, and the ILO Convention no 169 (in particular Article 15) is provided with a view to Coast Sami coast and fiord fisheries. .

The conclusion is that international law firstly grants these fisheries protection against measures that may endanger the right to continued cultural enjoyment, and that this protection has not ceased even if the fishing currently takes place with more modern equipment than earlier. Secondly, the state has certain obligations as regards arranging for economically functioning Coast Sami coast and fiord fisheries. It also follows from both Article 27 of CCPR and Article 15, cf. Article 13 (2) of the ILO Convention that the state is obligated to implement consultations and Sami participation in decision-making processes that may have a direct impact on the possibilities to perform Coast Sami fishing.

The considerations in *chapter 22* must be seen in conjunction with several of the other proposals by the Committee, which both individually and jointly may have positive effects for Coast Sami communities and the fisheries that take place based on these communities. One may here refer to the proposal for the scope of application in sea areas for the Identification of Rights Commission and the Uncultivated Land Tribunal, the proposals related to consultations and other administrative procedure rules and the proposal to extend the scope of application for the Planning and Building Act in sea areas.

The Sami Rights Committee has not submitted any proposals for changes in chapter 22, due among other things to the Committee's multiple tasks and that the Committee is not suitably composed for this purpose. The Committee also knows that many of the issues that the Committee has had for discussion will be thoroughly and broadly considered in the report to the Coastal Fisheries Committee for Finnmark. This committee is especially appointed to report on questions associated to

Samis' and others' right to fish in salt water, and is composed so as to reflect this.

The Sami Rights Committee has nonetheless chosen to present the issues one has considered during the work. Among the subjects dealt with is whether one should introduce an arrangement for free fishing for small boats with passive equipment and whether one should plan for a special protection of the waters that are subject to Coast Sami coast and fiord fishing. The Committee also points to the possibility of establishing management regimes that open for reserving larger parts of the fishing quotas for the coast and fiord fishers, and that may give fishing interests resident in Coast Sami areas more influence on the management of the fisheries, and on whether more locally based management arrangements should be introduced.

The Sami Parliament's role in the national fishery management is touched upon. The Committee mentions among other things as a possibility that a permanent collaboration body between the Sami Parliament and the Ministry of Fisheries and Coastal Affairs be created with a view to take care of Sami interests in the fisheries.

Enclosure no 3

Act of 17 June 2005 No. 85 relating to legal relations and management of land and natural resources in the county of Finnmark (Finnmark Act)

Chapter 1 General provisions

Section 1 The purpose of the Act

The purpose of the Act is to facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner for the benefit of the residents of the county and particularly as a basis for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

Section 2 Scope

The Act shall apply to real property and watercourses with natural resources in the county of Finnmark. On the shoreline, the Act shall apply as far out to sea as private right of ownership extends.

Section 3 Relationship to international law

The Act shall apply with the limitations that follow from ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Act shall be applied in compliance with the provisions of international law concerning indigenous peoples and minorities and with the provisions of agreements with foreign states concerning fishing in transboundary watercourses.

Section 4 The guidelines of the Sami Parliament regarding changes in the use of uncultivated land

The Sami Parliament may issue guidelines for assessing the effect of changes in the use of uncultivated land on Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines shall be approved by the Ministry. The Ministry shall examine whether the guidelines lie within the framework laid down in the first sentence and whether they have been drawn up in an appropriate manner.

In matters concerning changes in the use of uncultivated land, state, county and municipal authorities shall assess the significance such changes will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament shall be followed in the assessment of Sami interests pursuant to the first sentence.

Section 5 Relationship to established rights

Through prolonged use of land and water areas, the Sami have collectively and individually acquired rights to land in Finnmark.

This Act does not interfere with collective and individual rights acquired by Sami and other people through prescription or immemorial usage. This also applies to the rights held by reindeer herders on such a basis or pursuant to the Reindeer Herding Act.

In order to establish the scope and content of the rights held by Sami and other people on the basis of prescription or immemorial usage or on some other basis, a commission shall be established to investigate rights to land and water in Finnmark and a special court to settle

disputes concerning such rights, cf. chapter 5.

Chapter 2 Finnmarkseiendommen ("the Finnmark Estate")

Section 6 The legal position of Finnmarkseiendommen

Finnmarkseiendommen (Finnmárkkuopmodat) ("the Finnmark Estate") is an independent legal entity with its seat in Finnmark which shall administer the land and natural resources, etc. that it owns in compliance with the purpose and other provisions of this Act.

Section 7 The board of Finnmarkseiendommen
Finnmarkseiendommen shall be governed by a board consisting of six persons.

Finnmark County Council and the Sami Parliament shall each elect three members, each with a personal deputy. The members and deputies shall be resident in Finnmark. Among the members elected by the Sami Parliament at least one board member and that person's deputy shall be representatives for reindeer husbandry. Both as members and as deputies, both bodies shall elect both women and men.

The body shall elect members and deputies collectively. Employees of Finnmarkseiendommen, Finnmarkseiendommen's auditor and members and deputies of the Control Committee may not be elected as board members or deputies.

The board members and deputies are elected for a term of up to four years at a time. No-one may be a board member for longer than ten years consecutively.

Board members and deputies may be removed by the body that elected them. The body shall in such a case elect new members and deputies collectively.

Board members and deputies have a right to withdraw before their period of service expires if there are special reasons for so doing. The board and the body that has elected the member concerned shall be given reasonable notice. The fourth paragraph, second sentence, shall apply accordingly.

The board shall itself elect a chairman and vice-chairman from among its members. If no-one obtains a majority of votes, which of the six members shall be chairman and vice-chairman shall be decided by Finnmark County Council in years ending on an odd number and by the Sami Parliament in years ending on an even number.

Section 8 Proportionally representative elections

Elections of board members and deputies shall be held as proportionally representative elections as mentioned in section 37 of the Local Government Act if so required by at least one member of the body.

If in connection with proportionally representative elections it is necessary in order to fulfil the requirement that among the members and deputies there shall be both women and men, candidates of the under-represented sex shall move up on the list with fewest votes of the lists that shall be represented. In the event of tied votes, the list on which candidates of the under-represented sex are to move up shall be decided by drawing lots.

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If in connection with proportionally representative elections in the Sami Parliament it is necessary in order to fulfil the requirement that one of the board members and that member's deputy shall be representatives for reindeer husbandry, representatives for reindeer husbandry shall move up on the list that has received fewest votes of the lists that shall be represented and that have such candidates. If there is no such list, the last place on the board shall be given to the representatives for reindeer husbandry on the list that has received most votes of the lists that have such candidates. In the event of tied votes, the list that shall be regarded as having received most or fewest votes shall be decided by drawing lots.

Section 9 The duties and procedures of the board

The board is responsible for management of Finnmarkseiendommen. The board shall ensure that the body is satisfactorily organized. The board shall to the extent necessary provide plans, budget, guidelines and instructions for the body. The board shall implement the investigations it finds necessary for performance of its duties. The board shall implement such investigations if so required by a board member.

The chairman of the board shall ensure that appropriate matters are dealt with by the board and that board meetings are convened in an appropriate manner and with reasonable notice. A board member may require that specific matters be dealt with by the board.

The board shall deal with matters in meetings unless the chairman finds that a matter may be submitted to the board in writing or be dealt with in another satisfactory manner. A board member may require that a matter be dealt with at a meeting of the board.
The board may make decisions when at least five members are present. Such decisions are made by simple majority unless otherwise provided by section 10. In the event of tied votes, the chairman shall have the casting vote.

The board shall submit an annual report to the Control Committee concerning Finnmarkseiendommen's activities. This annual report shall include a particular account of changes in the use of uncultivated land and an assessment of the significance of these changes for the natural resource base for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.

The board shall fix its own fees. Such fees are to be covered by Finnmarkseiendommen.

Section 10 Matters concerning changes in the use of uncultivated land and transfer of real property, etc.

In matters concerning changes in the use of uncultivated land, Finnmarkseiendommen shall assess the significance a change will have for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. The guidelines of the Sami Parliament pursuant to section 4 shall be followed in the assessment of Sami interests pursuant to the first sentence.

Decisions concerning changes in the use of uncultivated land require the support of at least four board members if the whole minority bases its opinion on consideration for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life assessed on the basis of the guidelines of the Sami Parliament. If the majority consists of four or less, a

collective minority may during the board meeting demand that the matter be placed before the Sami Parliament. If the Sami Parliament does not ratify the decision of the majority or does not consider the matter within a reasonable time, a collective majority of the board may demand that Finnmarkseiendommen place the matter before the King, who shall then decide whether the decision shall be approved. Such approval of the decision has the same effect as such a decision by the board.

If a proposal concerning changes in the use of uncultivated land that either applies only to Karasjok, Kautokeino, Nesseby, Porsanger and Tana municipalities or only to the remainder of Finnmark is supported by three and only three members of the board, three members of the board may collectively demand that the matter be reconsidered by the board. The last member elected by Finnmark County Council shall not take part in this reconsideration if the matter concerns changes in the use of uncultivated land in Karasjok, Kautokeino, Nesseby, Porsanger or Tana municipalities. If the matter concerns changes in the use of uncultivated land in the remainder of Finnmark, the last board member elected by the Sami Parliament who does not represent reindeer husbandry shall not take part. The matter shall be decided by a simple majority. If changes in the use of uncultivated land are decided with the support of three and only three members of the board and the whole minority bases its opinion on consideration for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life assessed on the basis of the guidelines of the Sami Parliament, a collective minority may during the board meeting demand that the matter be placed before the Sami Parliament. The second paragraph, third and fourth sentence, shall apply correspondingly.

The second and third paragraphs shall apply correspondingly for authorization of employees and other persons to make decisions concerning changes in the use of uncultivated land.

The first to fourth paragraphs shall apply correspondingly in respect of matters concerning transfer and leasing of uncultivated land or rights to uncultivated land. The provisions of this section shall not apply to matters pursuant to chapter 3.

Decisions concerning transfer of real property adopted with the support of less than four members of the board are subject to the approval of the Sami Parliament and Finnmark County Council. The first sentence shall not apply to transfer of properties that have been partitioned by public division proceedings and that have been designated for development in plans pursuant to the Planning and Building Act or sites that have been parcelled out and developed.

Section 11 Matters concerning the employees' working conditions and legal position

A representative shall be elected by and from the employees of Finnmarkseiendommen, who shall attend meetings of Finnmarkseiendommen's board when considering matters concerning the employees' working conditions or legal position. The employees' representative shall be entitled to speak and to submit proposals, but not to vote.

The employees' representative shall not be entitled to take part in the consideration of matters concerning the employer's preparations for negotiations with employees, labour disputes, legal disputes with employee organizations or termination of collective pay agreements.

Section 12 Representation

The board represents Finnmarkseiendommen externally and signs on its behalf.

The board may assign to one or more board members or other named persons the right to sign on behalf of Finnmarkseiendommen. The right to sign on behalf of Finnmarkseiendommen may be withdrawn at any time.

If any person who represents Finnmarkseiendommen externally pursuant to this provision has exceeded his or her authority, the transaction shall not be binding for Finnmarkseiendommen when Finnmarkseiendommen establishes that the contracting party understood or should have understood that the authority was exceeded and that it would be contrary to fair practice to uphold the transaction.

Section 13 Accounts, audit and registration

Finnmarkseiendommen shall keep accounts in compliance with the provisions of the Accounting Act.

The accounts shall be audited by a state authorized public accountant. The auditor shall for each accounting year submit an auditor's report to the board of Finnmarkseiendommen.

Finnmarkseiendommen shall be registered in the Register of Business Enterprises.

Section 14 Mortgage and debt proceedings

Real property owned by Finnmarkseiendommen and limited rights held by Finnmarkseiendommen in real property owned by others may not be offered as security for debt or other commitments and may not be subject to attachment by creditors. This shall not however apply to properties and limited rights to properties that have been partitioned by public division proceedings and that have been designated for development in plans pursuant to the Planning and Building Act or sites that have been parcelled out and developed.

Bankruptcy or debt settlement proceedings may not be instituted regarding Finnmarkseiendommen.

Section 15 Distribution of surplus assets

If Finnmarkseiendommen in bank deposits, cash and the like holds assets which, less any liabilities, exceed reserves necessary for ensuring continued operations, the board may decide that such a surplus shall wholly or partly be paid to the county of Finnmark or the Sami Parliament or used for the common good of the county's inhabitants.

Section 16 The Control Committee

Supervision of the board's activities is conducted by a Control Committee consisting of three members. Finnmark County Council, the Sami Parliament and the King shall each appoint a member and a personal deputy. As member and deputy, each body shall appoint a man and a woman. The member and deputy appointed by the state shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. The members and deputies shall be appointed for a period of four years at a time. No-one may be a member for longer than ten years consecutively. The member appointed by the state shall chair the Committee.

Enclosure no 3

The Control Committee shall:
a) control that the activities of Finnmarkseiendommen are carried out in compliance with the Finnmark Act and other legislation,
b) select one or more state authorized public accountants to audit Finnmarkseiendommen's accounts,
c) approve Finnmarkseiendommen's annual accounts, annual report and auditor's report,
d) approve the fees payable to the board,
e) approve loans and guarantees and
f) approve distribution of surplus assets.

In the event of disagreement, decisions shall be made by the majority. Decisions concerning (e) and (f) in the second paragraph require unanimity.

The Control Committee shall have access to all available information held by Finnmarkseiendommen that it needs in order to perform its duties pursuant to this section.

The Control Committee shall submit an annual report to Finnmark County Council, the Sami Parliament and the Ministry. In the report, the Control Committee shall provide an account of its control activities, an assessment of the board's annual report and the matters dealt with there and an assessment of how the present Act functions and whether any amendments to the Act are desired.

The expenses of the Control Committee are to be covered by Finnmarkseiendommen. The fees of members and deputies are to be covered by the body that appointed them.

Section 17 Criminal liability and liability for compensation of board members and others

Members of the board, persons authorized to sign on behalf of Finnmarkseiendommen, auditors, senior employees authorized to make decisions on behalf of Finnmarkseiendommen within restricted areas of responsibility or members of the Control Committee who show gross lack of judgment in the execution of their responsibilities in respect of Finnmarkseiendommen shall be liable to fines or under aggravating circumstances to imprisonment for a term not exceeding one year.

Members of the board who wilfully or negligently have inflicted a loss on Finnmarkseiendommen during the performance of their duties are obliged to compensate the loss. The Control Committee shall decide whether a claim for compensation shall be made.

Section 18 Relationship to the Freedom of Information Act and the Public Administration Act

To Finnmarkseiendommen, chapter II of the Public Administration Act concerning disqualification, section 11 concerning duty to provide guidance, section 11a concerning time spent on dealing with a case and provisional replies and sections 13 to 13f concerning duty of secrecy shall apply correspondingly. Finnmarkseiendommen shall give the right holders in an area prior notification and the opportunity to express their opinions pursuant to the provisions of section 16 of the Public Administration Act before Finnmarkseiendommen makes a decision that may have legal or actual consequences for them.

Finnmarkseiendommen's case documents are public pursuant to the provisions of the Freedom of Information Act. In the event of a rejection of a request for access to a document , an appeal on

the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark.

Section 19 National parks on Finnmarkseiendommen's land

Land owned by Finnmarkseiendommen may be designated as national parks pursuant to the provisions of the Nature Conservation Act. When drafting rules of use, emphasis shall be placed on the possibility of continuing traditional use. Finnmarkseiendommen and affected holders of rights of use may demand compensation for financial loss pursuant to the provisions of section 20b of the Nature Conservation Act.

Section 20 Relationship to future legislation

Finnmarkseiendommen has no protection against change, reduction or revocation of its legal position or rights by statute.

Chapter 3 Renewable resources on Finnmarkseiendommen's land

Section 21 Main principles for management

Finnmarkseiendommen shall manage the renewable resources on its land in compliance with the purpose of this Act and within the frameworks provided by the Wildlife Act, the Act relating to salmonids and fresh-water fish and other legislation. The diversity and productivity of nature shall be preserved.

The provisions of this chapter shall not apply in so far as otherwise established by special legal relations.

Section 22 Rights of the persons resident in municipalities

Pursuant to the provisions of this chapter and within the frameworks provided by other legislation, residents of a municipality in the county of Finnmark have on Finnmarkseiendommen's land in the municipality the right to:

a) fish for freshwater fish with nets,
b) fish for anadromous salmonids with fixed gear in the sea,
c) gather eggs and down,
d) fell deciduous trees for domestic fuel,
e) cut peat for fuel and other domestic purposes and
f) remove deciduous trees for use as fence posts and poles for hay-drying racks in the reindeer husbandry and agriculture industries.

Reindeer herders have the same right as the persons resident in the municipality for the period during which reindeer husbandry takes place there.

Section 23 Rights of persons resident in Finnmark

In compliance with the provisions of this chapter and within the framework provided by other legislation, persons residing in the county of Finnmark have on Finnmarkseiendommen's land the right to:

a) hunt big game,
b) hunt and trap small game,
c) fish in watercourses with a rod and line,
d) pick cloudberries and
e) remove timber for home crafts.

Agricultural holdings shall have grazing rights for as large a herd as can be winter-fed on the holding.

Section 24 Special rights to local utilization

Individuals or groups of persons who are associated with a rural district and whose livelihood is wholly or partly associated with the utilization of renewable resources in the vicinity of the rural district may for up to ten years at a time be assigned special rights by the municipality to utilize renewable resources as mentioned in sections 22 and 23 in specified areas of the municipality. When establishing the area and the specific conditions, the use traditionally made of the area by people associated with the rural district shall be taken into consideration. The area shall preferable constitute a uninterrupted area in the vicinity of the rural district.

Finnmarkseiendommen may issue general rules concerning the procedures and assessment of matters pursuant to this section. Finnmarkseiendommen shall be the appeal body for decisions made by the municipality. The procedures followed by the municipalities and Finnmarkseiendommen are subject to the Public Administration Act.

This section does not apply to hunting of large and small game, fishing in watercourses with a rod and line and fishing with fixed gear in the sea for anadromous salmonids.

Section 25 Access for other persons

In compliance with the provisions of this chapter and within the frameworks provided by other legislation, all persons have the access to hunt and trap small game and to fish with a rod and line in watercourses on Finnmarkseiendommen's land and to pick cloudberries for their own domestic use.

Finnmarkseiendommen may grant other persons than those resident in the municipality or county further access to renewable resources as referred to in sections 22 and 23.

Section 26 Local management of hunting and fishing

For up to ten years at a time, Finnmarkseiendommen may grant special rights to administer hunting, trapping and fishing in specific areas of Finnmarkseiendommen's land to local organizations and associations whose purpose lies in the general promotion of hunting, trapping and fishing.

Section 27 Further conditions for utilization of renewable resources and restrictions on such utilization

Finnmarkseiendommen may issue further rules for utilization of renewable resources as mentioned in section 22 (a) to (f) and section 23 (a) to (e). Finnmarkseiendommen may stipulate

that utilization is subject to issue of a permit. Conditions may be provided in the permits.

For hunting, trapping and fishing, permission is always required. Persons who are granted permission shall be issued cards or the like indicating that they have permission. With the consent of the Ministry, Finnmarkseiendommen may make exceptions to the provisions of this paragraph.

For permission to hunt, trap and fish, Finnmarkseiendommen may claim a fee. The fee for persons resident in Finnmark shall not exceed double the fee charged to the persons resident in a municipality. Fees may not be charged in connection with assignment of special rights pursuant to section 24.

Fishing for anadromous salmonids in the sea with fixed gear may only be carried out at places indicated by Finnmarkseiendommen.

For specified areas, Finnmarkseiendommen may lay down restrictions on access to exploitation of renewable resources as referred to in the first paragraph if due consideration for any such resource so indicates. Municipalities, authorities with responsibility for wildlife, fisheries, etc. and organizations for the affected users shall be consulted in advance.

In connection with restrictions on the exploitation of renewable resources as referred to in the first paragraph, due consideration shall be taken as regards the use of the resource by the various user groups.

Finnmarkseiendommen's decisions concerning restrictions as referred to in the fifth and sixth paragraphs may be appealed to the Ministry pursuant to the provisions of the Public Administration Act chapter VI. The decision of the Ministry may not be appealed.

Chapter 4 Tana and Neiden

Section 28 Fishing in the Tana and Neiden watercourses

In the Tana and Neiden watercourses, the local population holds special rights to fishing on the basis of statutes, immemorial usage and local customs.

The King may issue regulations prescribing further rules concerning administration and exercise of the fishing. Such regulations shall make provision for a local, rights-based administration of fishing resources consistent with agreements with Finland concerning fishing in the Tana and Neiden watercourses.

The preparation of regulations and negotiations with Finland concerning fishing in the Tana and Neiden watercourses shall be conducted in consultation with the Sami Parliament, affected municipalities and holders of special rights to fishing in these watercourses.

Chapter 5 Survey and recognition of existing rights

I The Finnmark Commission

Section 29 The Finnmark Commission

Enclosure no 3

A commission (the Finnmark Commission) shall be established, which, on the basis of current national law, shall investigate rights of use and ownership to the land to be taken over by Finnmarkseiendommen pursuant to section 49.

The King shall appoint the members of the Finnmark Commission. The Finnmark Commission shall consist of a chairman and four other members. The chairman shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. Two of the other members shall fulfil the requirements regarding district court judges. At least two members shall be resident in or otherwise have a strong affiliation to the county of Finnmark.

Section 30 Delimitation of fields of investigation, etc.

The Finnmark Commission shall establish the fields for investigation and decide the order of investigation. When so deciding, emphasis shall, inter alia, be placed on due regard for a natural and appropriate delimitation of the field as regards extent and legal and historical contexts and the need to clarify the legal relations.

The Finnmark Commission may restrict or extend a field after initiating the investigation if this is necessary for the creation of a natural and appropriate delimitation.

The Finnmark Commission may omit to investigate rights that are clearly inappropriate for investigation by the Commission. When so deciding, emphasis shall, inter alia, be placed on the nature of the right and the basis on which it is founded.

Section 31 Notification of potential right holders

Investigation in respect of a field shall be announced with a request to potential right holders to make themselves known. Such announcement shall be made in the Norwegian Gazette, in a newspaper that is generally read at the place concerned and locally in any other appropriate manner.

Reindeer husbandry organizations and other representatives for user interests in the field concerned as well as the Sami Parliament, Finnmark County Council, Finnmarkseiendommen and affected municipalities shall be notified separately.

Section 32 Responsibility for obtaining information concerning a matter

The Finnmark Commission is itself responsible for obtaining sufficient information concerning a matter. The Commission may in the manner it finds appropriate obtain statements, documents and other material and conduct surveys and investigations, etc. concerning actual and legal circumstances that may be significant for the Commission's conclusions.

The parties have the right to give an account of the actual circumstances and provide evidence significant for the Commission's conclusions. The parties may request the implementation of measures pursuant to the first paragraph. The Finnmark Commission may refuse such a request if it finds it to be unfounded or that it would involve excessive delays or costs to comply with it.

In order to safeguard the interests of the parties, the Finnmark Commission may appoint representatives from various interest groups to monitor the work of the Commission. The costs shall be covered by the state.

Enclosure no 3

Section 33 The Finnmark Commission's report

After investigating a field, the Commission shall issue a report containing information concerning:

a) who, in the view of the Commission, are owners of the land
b) what rights of use exist in the Commission's view
c) the circumstances on which the Commission bases its conclusions

The report shall state whether the conclusions are unanimous. If this is not the case, it shall be stated who disagrees and which points the disagreement concerns. Grounds shall be given for the conclusions of both the majority and the minority.

Following submission of the report, it shall be announced in the manner described in section 31. It is sufficient that an announcement pursuant to section 31, first paragraph contains a brief summary of the conclusions and information concerning where interested persons can obtain the report in its entirety. In such an announcement notification shall be given of the final date for bringing disputes before the Uncultivated Land Tribunal.

Section 34 Consideration by Finnmarkseiendommen

Finnmarkseiendommen shall without undue delay assess the Commission's conclusions. In the case of decisions to accept the conclusions of the Commission that other parties hold rights, section 10, sixth paragraph shall apply correspondingly.

To the extent that Finnmarkseiendommen agrees with the Commission that other parties hold rights, Finnmarkseiendommen is obliged to state this in writing, and without undue delay ensure that the right is officially registered or, if appropriate, bring the matter before the Land Consolidation Court pursuant to section 45.

Section 35 Negotiations

Parties that are not in agreement with the Commission's conclusions, or that need assistance in ensuring that the conclusions are laid down in a binding agreement may request the Finnmark Commission to mediate. The Commission's obligation to mediate ceases to apply when the time limit for bringing the dispute before the Uncultivated Land Tribunal has expired.

II The Uncultivated Land Tribunal for Finnmark

Section 36 The Uncultivated Land Tribunal for Finnmark

A special court (the Uncultivated Land Tribunal for Finnmark) shall be established, which shall consider disputes concerning rights that arise after the Finnmark Commission has investigated a field.

The members of the Uncultivated Land Tribunals shall be appointed by the King. The Uncultivated Land Tribunal shall consist of a chairman, a vice-chairman, three permanent members and two deputy members. The chairman, the vice-chairman and one of the other members shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court

judges. The same applies to one of the deputy members, who shall function as a deputy for these three members.

Matters pertaining to the jurisdiction of the Uncultivated Land Tribunal, may not be brought before the ordinary courts or the Land Consolidation Court unless the Uncultivated Land Tribunal has rejected a case pursuant to section 40 or the limit for instituting legal proceedings pursuant to section 38, first paragraph, has expired and the Uncultivated Land Tribunal shall not consider the case pursuant to section 38, second paragraph.

Section 37 Absence

If any of the permanent members is absent, one of the deputy members is summoned to serve instead of the permanent member who is absent. If the chairman is absent, the vice-chairman shall serve as chairman.

If any of the members of the Uncultivated Land Tribunal is absent after consideration of a case has commenced, proceedings may continue without summoning a deputy member provided that four members are present during the proceedings. In the event of a tied vote, the chairman shall have the casting vote.

Section 38 Summonses

Disputes may be brought before the Uncultivated Land Tribunal by means of written summonses at the latest one year and six months following submission of the report of the Finnmark Commission. The summons shall be signed and shall contain:

a) the full name and address of the party
b) a list of the claims made by the party and the circumstances on which they are based
c) the claim for judgment submitted by the party
d) the opposite party against whom the claim is made

Even if the time limit pursuant to the first paragraph has expired, the Uncultivated Land Tribunal shall nevertheless deal with cases brought before it before all cases from the same field have been brought to conclusion if it finds such cases appropriate for such consideration and that they can be considered without considerable delay to the court's proceedings. Decisions made pursuant to this paragraph may not be challenged by way of an interlocutory appeal or an appeal proper.

Section 39 Dismissal of cases

Cases found inappropriate for consideration by the Uncultivated Land Tribunal may be wholly or partly dismissed by the court. When so deciding, consideration shall be paid, inter alia, to the nature of the claim and to the basis on which it is made.

Before dismissing a case, the plaintiff shall be given the opportunity to make a statement. The case may be dismissed without summoning the parties to a sitting of the Tribunal. Dismissal pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

Section 40 Consolidation of cases, separation, etc.

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The Uncultivated Land Tribunal may:

a) consolidate two or more cases for joint consideration and, in such case, joint decision
b) separate the proceedings and judgment of one or more claims that are consolidated in a single case or individual issues in dispute concerning the same claim
c) decide the order in which cases brought will be heard

When making decisions pursuant to the first paragraph, emphasis shall be placed, inter alia, on paying due consideration to a natural and appropriate delimitation of the areas of dispute as regards extent, legal and historical context and the need to clarify the legal relations.

Before making decisions pursuant to the first paragraph, the parties shall be given the opportunity to express their views unless this is found to be unnecessary or would result in disproportionate delay or expense.

Decisions pursuant to this section may not be challenged by way of an interlocutory appeal or an appeal proper.

Section 41 Responsibility for obtaining information concerning a case, etc.

The parties are responsible for giving an account of the actual circumstances and evidence significant for deciding the case. The Uncultivated Land Tribunal shall of its own motion obtain the report of the Finnmark Commission and use this as a basis for its consideration of the case. The parties may in addition produce as evidence documents received by, submitted to or issued by the Finnmark Commission.

The Uncultivated Land Tribunal may not receive testimony from the members of the Finnmark Commission or from persons who have carried out work for the Commission in connection with the case.

Court sittings for examination of parties and witnesses outside the main hearing may be held by two members of the Uncultivated Land Tribunal, of which at least one must hold the qualifications required of Supreme Court judges. The Uncultivated Land Tribunal may request that the examination be made by the appropriate district court.

Section 42 Appeals and interlocutory appeals

Decisions of the Uncultivated Land Tribunal may be appealed to the Supreme Court. Section 357 of the Civil Procedure Act shall not apply.

Decisions that, pursuant to the provisions of the Civil Procedure Act, are subject to interlocutory appeal may in a corresponding manner be lodged with the Appeals Committee of the Supreme Court except in cases where an appeal is excluded pursuant to the present Act.

Section 43 Costs of the case

The state shall cover the costs of the Uncultivated Land Tribunal's own activities. The state shall also cover the necessary costs of the parties in cases concerning claims for rights opposed by Finnmarkseiendommen.

When deciding the question of whether the costs were necessary, the Uncultivated Land Tribunal shall, inter alia, bear in mind that parties with similar interests that are not in conflict with each other should use the same legal and technical assistance. The court shall as early as possible, of its own motion, raise the question where appropriate.

When special grounds so indicate, the Uncultivated Land Tribunal may order a party wholly or partly to carry his costs in conjunction with the case himself. Section 177 of the Civil Procedure Act shall otherwise apply correspondingly.

No fee shall be paid for consideration of cases by the Uncultivated Land Tribunal. Section 8 of Act of 17 December 1982 No. 86 concerning court fees shall apply to appeals and interlocutory appeals against decisions of the Uncultivated Land Tribunal.

III Joint provisions

Section 44 Sami language

Chapter 3 of the Sami Act shall apply to use of the Sami language. Section 3-4, first paragraph, of the Sami Act shall also apply to the Finnmark Commission.

Section 45 Delineation of boundaries and official registration

Legally enforceable judgments by the Uncultivated Land Tribunal and declarations and agreements issued or entered into in accordance with the conclusions of the Finnmark Commission may be brought before the Land Consolidation Court pursuant to section 88 of the Land Consolidation Act. The Land Consolidation Court carries out boundary marking on the ground, fixing of coordinates and survey of the boundaries in accordance with the judgment, declaration or agreement. The provisions concerning land consolidation shall apply correspondingly in so far as they are applicable. The Land Consolidation Court shall sit without lay land consolidation judges. Section 88, fifth paragraph, and section 89, second paragraph, of the Land Consolidation Act shall not apply. In the event of appeal, section 72 shall apply. The court fee pursuant to section 74, first paragraph, shall not be paid. Nor shall the parties pay for the costs of boundary marking, fixing of coordinates and survey of the boundaries. Section 24 of the Land Consolidation Act shall apply to official registration as far as it is applicable.

In respect of rights established by a legally enforceable judgment of the Uncultivated Land Tribunal or by a declaration or agreement in accordance with the conclusions of the Finnmark Commission, the limitations of public law as regards the right to establish or transfer such rights shall not preclude their being officially registered. No fee or document duty shall be paid in connection with the official registration.

Section 46 Relation to other legislation

Chapter 6 of the Courts of Justice Act concerning disqualification and the Freedom of Information Act shall apply to the activities of the Finnmark Commission in so far as they are applicable. In the event of a rejection of a request for access to a document, an appeal on the question of the power to exempt the document from public disclosure lies to the County Governor of Finnmark. The Public Administration Act does not apply to the activities of the Finnmark Commission.

Unless otherwise provided by the present Act, the Courts of Justice Act and the Civil Procedure Act shall apply in so far as they are applicable to the activities of the Uncultivated Land Tribunals.

Section 47 Authority to issue further provisions

The King may issue further provisions concerning the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark, including provisions concerning organization and financial matters, etc.

Chapter 6 Final provisions

Section 48 Entry into force

The Act shall enter into force on the date decided by the King. The King may bring into force the various provisions on different dates.

Section 49 Transitional provisions

The real property in the county of Finnmark to which Statskog SF holds the registered title or which it owns without holding the registered title shall be transferred to Finnmarkseiendommen as soon as chapter 2 of the Act comes into force. This applies correspondingly to restricted rights to real property. Re-registration in the real property register shall be effectuated by means of a change of name. Fiscal continuity shall be maintained in connection with the transfer and the transfer shall entail no tax liability for Statskog SF pursuant to section 5-2 of the Taxation Act.

Finnmarkseiendommen shall take over the personal responsibility from Statskog SF for mortgages and other encumbrances for monetary claims on the properties or rights taken over by Finnmarkseiendommen. Finnmarkseiendommen shall also take over the responsibility for agreements concerning rights of use, leases and the like in respect of the transferred properties and rights. Finnmarkseiendommen will take over concessions and licences etc. held by Statskog SF in connection with the properties and rights taken over.

By agreement with Statskog SF, Finnmarkseiendommen has the right to take over agreements entered into by Statskog SF concerning activities in Finnmark.

Persons who, on the entry into force of chapter 2, are employees of Statskog SF with their place of work in the county of Finnmark, with the exception of employees attached to Statskog SF's Mountain Service, will be regarded as employees of Finnmarkseiendommen from the date of entry into force with the same pay and working conditions as they had in Statskog SF unless the employee concerned has notified that he or she does not so wish. From the date of entry into force, employees of Statskog SF with their place of work in Finnmark are no longer employees of Statskog SF unless by special agreement.

The Ministry shall convene the first board meeting of Finnmarkseiendommen. The board shall ensure that Finnmarkseiendommen is registered in the Register of Business Enterprises not later than six months after the entry into force.

Persons who, on the entry into force of chapter 2, are employees of Statskog SF with their place

of work in the county of Finnmark and are attached to Statskog SF's Mountain Service will be regarded as employees of the Norwegian Nature Inspectorate from the date of entry into force. The fourth paragraph shall otherwise apply correspondingly.

The King may provide that property other than real property associated with activities in Finnmark shall be transferred from Statskog SF to Finnmarkseiendommen and the Norwegian Nature Inspectorate. The King may also provide that agreements as referred to in the third paragraph may be taken over by the Norwegian Nature Inspectorate.

The King may issue further transitional provisions.

Section 50 Amendments to other legislation

From the date decided by the King, the following amendments shall be made to other legislation:

1. The Act of 12 March 1965 relating to the state's unregistered land in the county of Finnmark is repealed.
2. In the Act of 30 June 1972 No. 70 relating to mining, the following amendments shall be made:

In chapter 2, a new section 7a shall read as follows:

Special provisions concerning preliminary examination of minerals in Finnmark

In connection with preliminary examination of minerals in the county of Finnmark, a person wishing to conduct such preliminary examination of minerals shall not later than one week prior to the commencement of such preliminary examination provide written notification to the Sami Parliament, the landowner and the appropriate area and district boards for reindeer husbandry. If the person wishing to conduct such preliminary examination intends to make an impact on the land, the location of such impact shall be indicated.

In chapter 3, a new section 22a shall read as follows:

Special provisions concerning licensed prospecting in Finnmark

Applications for licensed prospecting in the county of Finnmark may be rejected if general considerations contraindicate granting of the application. When considering such applications, significant emphasis shall be placed on due consideration of Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life. If the application is granted, conditions may be stipulated in order to safeguard such considerations.

When considering the application the Commissioner of Mines shall give the landowner, the Sami Parliament, the County Governor, the county authority, the municipality and the appropriate area and district boards for reindeer husbandry an opportunity to comment.

If the Sami Parliament or Finnmarkseiendommen as landowner oppose granting of the application, the application shall be decided by the Ministry.

If the Ministry grants the application in cases mentioned in the third paragraph, an appeal to the King from the Sami Parliament or from Finnmarkseiendommen as landowner will have

suspensive effect.

In chapter 4, a new section 39b shall read as follows:

Special provisions concerning patenting of claims in Finnmark

In connection with applications for patenting of claims in the county of Finnmark, the provisions of section 22a shall apply correspondingly. In cases mentioned in section 22a, third paragraph, the Ministry shall decide whether patenting of claim proceedings shall be held before or after the Ministry considers the application.

Section 42, first paragraph, new second sentence shall read as follows:

In the case of mines on Finnmarkseiendommen's land, the King may by regulations stipulate a larger fee.

3. In the Act of 9 June 1978 No. 49 relating to reindeer husbandry, the following amendments shall be made:

Section 13, third paragraph, new fourth sentence shall read as follows:

Finnmarkseiendommen may not claim payment pursuant to the provisions of this paragraph.

Section 14, first paragraph, first sentence shall read as follows:

In connection with the lawful practice of reindeer husbandry in reindeer herding areas, the right to hunt, trap and fish covers hunting, trapping and fishing on state-owned common land, on state-owned land that is not specifically registered and on Finnmarkseiendommen's land in the reindeer herding district where reindeer husbandry is practised on the same conditions as apply for persons who are permanent residents of the municipality, rural district or neighbourhood where the common land, state-owned land or relevant part of Finnmarkseiendommen's land is situated.

4. In the Act of 29 May 1981 No. 38 relating to wildlife and wildlife habitats, section 44, second paragraph, is repealed.

5. In the Act of 15 May 1992 No. 47 relating to salmonids and freshwater fish, etc. the following amendments shall be made:

Section 19, third paragraph, shall read as follows:

When real property in the county of Finnmark is sold by the state or by Finnmarkseiendommen, the fishing rights may be withheld for the benefit of the general public.

Section 22, fourth and fifth paragraph, are repealed.

6. In the Act of 21 June 1996 No. 38 relating to a government nature inspectorate, section 2, new fourth paragraph, shall read as follows:

On Finnmarkseiendommen's land, the Inspectorate shall conduct further control as agreed

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between the Ministry and Finnmarkseiendommen.

Text of the Convention in English

NORDIC SAAMI CONVENTION

The Governments of Finland, Norway and Sweden,

affirming

– that the Saami is the indigenous people of the three countries,

– that the Saami is one people residing across national borders,

– that the Saami people has its own culture culture, its own society, its own history, its own traditions, its own language, its own livelihoods and its own visions of the future,

– that the three states have a national as well as an international responsibility to provide adequate conditions for the Saami culture and society,

– that the Saami people has the right of self-determination,

– that the Saami people's culture and society constitutes an enrichment to the countries' collected cultures and societies,

– that the Saami people has a particular need to develop its society across national borders,

– that lands and waters constitute the foundation for the Saami culture an that hence the Saami must have access to such,

– and that, in determining the legal status of the Saami people, particular regard shall be paid to the fact that during the course of history the Saami have not been treated as a people of equal value, and have thus been subjected to injustice,

that take as a basis for their deliberations that the Saami parliaments in the three states

– want to build a better future for the life and culture of the Saami people,

– hold the vision that the national boundaries of the states shall not obstruct the community of the Saami people and Saami individuals,

– view a new Saami convention as a renewal and a development of Saami rights established through historical use of land that were codified in the Lapp Codicil of 1751,

– emphasize the importance of respecting the right of self-determination, that the Saami enjoy as a people,

– particularly emphasise that the Saami have rights to the land and water areas that constitutes the Saami people's historical homeland, as well as to natural resources in those,

– maintain that the traditional knowledge and traditional cultural expressions of the Saami people, integrated with the people's use of natural resources, constitutes a part of the Saami culture,

– hold that increased consideration shall be given to the role of Saami women as custodians of traditions in the Saami society, including when appointing representatives to public bodies,

– want that the Saami shall live as one people within the three states,

– emphasize the Saami people's aspiration, wish and right to take responsibility for the development of its own future

– and will assert the Saami people's rights and freedoms in accordance with international human rights law and other international law.

that have elaborated this convention in close cooperation with representatives of the Saami,

deeming it to be of particular importance that the Convention, before being ratified by the states, be approved by the three Saami parliaments

and that commit themselves to secure the future of the Saami people in accordance with this convention,

have agreed on the following Nordic Saami Convention.

Chapter I

The general rights of the Saami people

Article 1

The objective of the Convention

The objective of this Convention is to affirm and strengthen such rights of the Saami people that are necessary to secure and develop its language, its culture, its livelihoods and society, with the smallest possible interference of the national borders.

Article 2

The Saami as an indigenous people

The Saami people is the indigenous people of Finland, Norway and Sweden.

Article 3

The right of self-determination

As a people, the Saami has the right of self-determination in accordance with the rules and provisions of international law and of this Convention. In so far as it follows from these rules and provisions, the Saami people has the right to determine its own economic, social and cultural development and to dispose, to their own benefit, over its own natural resources.

Article 4

Persons to whom the Convention applies

The Convention applies to persons residing in Finland, Norway or Sweden that identify themselves as Saami and who

1. have Saami as their domestic language or have at least one parent or grandparent who has or has had Saami as his or her domestic language, or
2. have a right to pursue Saami reindeer husbandry in Norway or Sweden, or
3. fulfil the requirements to be eligible to vote in elections to the Saami parliament in Finland, Norway or Sweden, or
4. are children of a person referred to in 1, 2 or 3.

Article 5

The scope of the State's responsibility

The responsibilities of the state pursuant to this Convention apply to all state bodies at national, regional and local levels. Other public administrative bodies and public undertakings also have such responsibilities. The same applies to private legal entities when exercising public authority or performing other public duties.

In applying this Convention, the Saami parliaments and other Saami bodies, regardless of their legal status under national or international law, shall not be deemed to fall under the concept state, except when exercising public authority.

Article 6

State measures with respect to the Saami people

The three states shall effectively establish conditions enabling the Saami people to secure and develop its language, its culture, its livelihoods and its society.

The states shall create favourable conditions for maintaining and developing the local Saami communities.

To a reasonable extent, the states' responsibility to take measures pursuant to this Convention shall apply also to Saami persons who are residing outside the traditional Saami areas.

Article 7

Non-discrimination and special measures

The Saami people and Saami individuals shall be ensured protection against all discrimination.

The States shall, when necessary for the implementation of Saami rights pursuant to this Convention, adopt special positive measures with respect to such rights.

Article 8

Minimum rights

The rights laid down in this Convention are minimum rights. They shall not be construed as preventing any state from extending the scope of Saami rights or from adopting more far reaching measures than contained in this Convention. The Convention may not be used as a basis for limiting such Saami rights that follow from other legal provisions.

Article 9

Saami legal customs

The states shall show due respect for the Saami people's conceptions of law, legal traditions and customs.

Pursuant to the provisions in the first paragraph, the states shall, when elaborating legislation in areas where there might exist relevant Saami legal customs, particularly investigate whether such customs exist, and if so, consider whether these customs should be afforded protection or in other manners be reflected in the national legislation. Due consideration shall also be paid to Saami legal customs in the application of law.

Article 10

Harmonization of legal provisions

The states shall, in cooperation with the Saami parliaments, strive to ensure continued harmonization of legislation and other regulation of significance for Saami activities across national borders.

Article 11

Cooperation on cultural and commercial arrangements

The states shall implement measures to render it easier for the Saami to pursue economic activities across national borders and to provide for their cultural needs across these borders. For this purpose, the states shall strive to remove remaining obstacles to Saami economic activities that are based on their citizenship or residence or that otherwise are a result of the Saami settlement area stretching across national borders. The states shall also give Saami individuals access to the cultural provisions of the country where they are staying at any given time.

Article 12

Cooperation on education and welfare arrangements

The states shall take measures to provide Saami individuals residing in any of the three countries with the possibility to obtain education, medical services and social provisions in another of these countries when this appears to be more appropriate.

Article 13

The symbols of the Saami people

The states shall respect the right of the Saami to decide over the use of the Saami flag and other Saami national symbols. The states shall moreover, in cooperation with the Saami parliaments, make efforts to ensure that the Saami symbols are made visible in a manner signifying the Saami's status as a distinct people in the three countries.

Chapter II

Saami governance

Article 14

The Saami parliaments

In each of the three countries there shall be a Saami parliament. The Saami parliament is the highest representative body of the Saami people in the country. The Saami parliament acts on behalf of the Saami people of the country concerned, and shall be elected through general elections among the Saami in the country.

Further regulations concerning the elections of the Saami parliaments shall be prescribed by law, prepared through negotiations with the Saami parliaments pursuant to Article 16.

The Saami parliaments shall have such a mandate that enables them to contribute effectively to the realization of the Saami people's right of self-determination pursuant to the rules and provisions of international law and of this Convention. Further regulations concerning the mandate of the Saami parliaments shall be prescribed by law.

The Saami parliaments take initiatives and state their views on all matters where they find reason to do so.

Article 15

Independent decisions by the Saami parliaments

The Saami parliaments make independent decisions on all matters where they have the mandate to do so under national or international law.

The Saami parliaments may conclude agreements with national, regional and local entities concerning cooperation with regard to the strengthening of Saami culture and the Saami society.

Article 16

The Saami parliaments' right to negotiations

In matters of major importance to the Saami, negotiations shall be held with the Saami parliaments before decisions on such matters are made by a public authority. These negotiations must take place sufficiently early to enable the Saami parliaments to have a real influence over the proceedings and the result.

The states shall not adopt or permit measures that may significantly damage the basic conditions for Saami culture, Saami livelihoods or society, unless consented to by the Saami parliament concerned.

Article 17

The rights of the Saami parliaments during preparation of other matters

The Saami parliaments shall have the right to be represented on public councils and committees when these deal with matters that concerns the interests of the Saami.

Matters concerning Saami interests shall be submitted to the Saami parliaments before a decision is made by a public authority.

The states shall investigate the need for such representation and prior opinions from the Saami parliaments. This must take place sufficiently early to enable the Saami parliaments to influence the proceedings and the outcome.

The Saami parliaments shall themselves decide when they wish to be represented or submit prior opinions during such preparation of matters.

Article 18

The relationship to national assemblies

The national assemblies of the states or their committees or other bodies shall, upon request, receive representatives of the Saami parliaments in order to enable them to report on matters of importance to the Saami.

The Saami parliaments shall be given the opportunity to be heard during the consideration by national assemblies of matters that particularly concern the Saami people.

The national assemblies of the individual states shall issue further regulations concerning which matters this applies to and concerning the procedure to be followed.

Article 19

The Saami and international representation

The Saami parliaments shall represent the Saami in intergovernmental matters.

The states shall promote Saami representation in international institutions and Saami participation in international meetings.

Article 20

Joint Saami organizations

The Saami parliaments may form joint organizations. In consultation with the Saami parliaments, the states shall strive to transfer public authority to such joint organizations as needed.

Article 21

Other Saami associations

The states shall respect and when necessary consult Saami villages (samebyar), siidas, reindeer herders' communities (renbeteslag), the village assemblies of the Skolt Saami (*byastämma*) and other competent Saami organizations or local Saami representatives.

Article 22

A Saami region

The states shall actively seek to identify and develop the area within which the Saami people can manage its particular rights pursuant to this Convention and national legislation.

Chapter III

Saami language and culture

Article 23

Saami language rights

The Saami shall have the right to use, develop and pass on to future generations its language and its traditions and have the right to make efforts to ensure

that knowledge of the Saami language is also disseminated to Saami persons with little or no command of this language.

The Saami shall have the right to decide and retain their personal names and geographical names, as well as to have these publicly acknowledged.

Article 24

The states' responsibility for the Saami language

The states shall enable the Saami to preserve, develop and disseminate the Saami language. To meet this end, states shall ensure that the Saami alphabet can be used effectively.

It shall be possible to use the Saami language effectively in courts of law and in relation to public authorities in the Saami areas. The same shall also apply outside these areas in disputes and cases first dealt with in the Saami areas or which in any other manner have a particular association with these areas.

The states shall promote the publication of literature in the Saami language.

The provisions of this article shall also apply to the less prevalent Saami dialects.

Article 25

Saami media

The states shall create conditions for an independent Saami media policy which enables the Saami media to control its own development and to provide the Saami population with rich and multi-faced information and opinions in matters of general interest.

The states shall ensure that programmes in the Saami language can be broadcast on radio and TV, and shall promote the publication of newspapers in this language. In cooperation with the Saami parliaments, the states shall also promote cooperation across national borders between media institutions that provide programmes or articles in the Saami language.

The provision of the second paragraph concerning the Saami language shall also to a reasonable extent apply to the less prevalent Saami dialects.

Article 26

Saami education

The Saami population residing in the Saami areas shall have access to education both in and through the medium of the Saami language. The education and study financing system shall be adapted to their background. Such education shall enable attendance of further education at all levels while at the same time meet the needs of Saami individuals to continuously be active within the traditional Saami livelihoods. The study financing system shall be arranged in such a way as to enable higher education through the medium of the Saami language.

Saami children and adolescents outside the Saami areas shall have access to education in the Saami language, and also through the medium of the Saami language to the extent that may be deemed reasonable in the area concerned. The education shall as far as possible be adapted to their background.

The national curricula shall be prepared in cooperation with the Saami parliaments and be adapted to the cultural backgrounds and needs of Saami children and adolescents.

Article 27

Research

The states shall, in cooperation with the Saami parliaments, create good conditions for research based on the knowledge needs of the Saami society, and promote recruitment of Saami researchers. In planning such research, regard shall be paid to the linguistic and cultural conditions in the Saami society.

The states shall, in consultation with the Saami parliaments, promote cooperation between Saami and other research institutions in the various countries and across national borders, and strengthen research institutions with a primary responsibility for such research referred to in the first paragraph.

Research concerning Saami matters shall be adapted to such ethical rules that the Saami's status as an indigenous people requires.

Article 28

Education and information about the Saami

The Saami people's culture and society shall be appropriately reflected in education outside the Saami society. Such education shall particularly aim to promote knowledge of the status of the Saami as the country's indigenous people. The states shall, in cooperation with the Saami parliaments, offer education about the Saami culture and society to persons who are going to work in the Saami areas.

The states shall, in cooperation with the Saami parliaments, provide the general public with information about the Saami culture and society.

Article 29

Health and social services

The states shall, in cooperation with the Saami parliaments, ensure that health and social services in the Saami settlement areas are organized in such a way that the Saami population in these areas are ensured health and social services adapted to their linguistic and cultural background.

Also health and social services outside the Saami settlement areas shall pay regard to the linguistic and cultural background of Saami patients and clients.

Article 30

Saami children and adolescents

Saami children and adolescents have the right to practise their culture and to preserve and develop their Saami identity.

Article 31

Traditional knowledge and cultural expressions

The states shall respect the right of the Saami people to manage its traditional knowledge and its traditional cultural expressions while striving to ensure that the Saami are able to preserve, develop and pass these on to future generations.

When Saami culture is applied commercially by persons other than Saami persons, the states shall make efforts to ensure that the Saami people gains influence over such activities and a reasonable share of the financial revenues. The Saami

culture shall be protected against the use of cultural expressions that in a misleading manner give the impression of having a Saami origin.

The states shall make efforts to ensure that regard is paid to Saami traditional knowledge in decisions concerning Saami matters.

Article 32

Saami cultural heritage

Saami cultural heritage shall be protected by law and shall be cared for by the country's Saami parliament or by cultural institutions in cooperation with the Saami parliament.

The states shall implement measures for cooperation across national borders on documentation, protection and care of Saami cultural heritage.

The states shall make efforts to ensure that Saami cultural heritage that has been removed from the Saami areas and that is of particular interest to the Saami community is entrusted to suitable museums or cultural institutions as further agreed with the countries' Saami parliaments.

Article 33

The cultural basis

The responsibilities of the states in matters concerning the Saami culture shall include the material cultural basis in such a way that the Saami are provided with the necessary commercial and economic conditions to secure and develop their culture.

Chapter IV

Saami right to land and water

Article 34

Traditional use of land and water

Protracted traditional use of land or water areas constitutes the basis for individual or collective ownership right to these areas for the Saami in accordance with national or international norms concerning protracted usage.

If the Saami, without being deemed to be the owners, occupy and have traditionally used certain land or water areas for reindeer husbandry, hunting, fishing

or in other ways, they shall have the right to continue to occupy and use these areas to the same extent as before. If these areas are used by the Saami in association with other users, the exercise of their rights by the Saami and the other users shall be subject to due regard to each other and to the nature of the competing rights. Particular regard in this connection shall be paid to the interests of reindeer-herding Saami. The fact that the Saami use of these areas is limited to the right of continued use to the same extent as before shall not prevent the forms of use from being adapted as necessary to technical and economic developments.

Assessment of whether traditional use exists pursuant to this provision shall be made on the basis of what constitutes traditional Saami use of land and water and bear in mind that Saami land and water usage often does not leave permanent traces in the environment.

The provisions of this article shall not be construed as to imply any limitation in the right to restitution of property that the Saami might have under national or international law.

Article 35

Protection of Saami rights to land and water

The states shall take adequate measures for effective protection of Saami rights pursuant to article 34. To that end, the states shall particularly identify the land and water areas that the Saami traditionally use.

Appropriate procedures for examination of questions concerning Saami rights to land and water shall be available under national law. In particular, the Saami shall have access to such financial support that is necessary for them to be able to have their rights to land and water tried through legal proceedings.

Article 36

Utilization of natural resources

The rights of the Saami to natural resources within such land or water areas that fall within the scope of Article 34 shall be afforded particular protection. In this connection, regard shall be paid to the fact that continues access to such natural resources may be a prerequisite for the preservation of traditional Saami knowledge and cultural expressions.

Before public authorities, based on law, grant a permit for prospecting or extraction of minerals or other sub-surface resources, or make decisions concerning utilization of other natural resources within such land or water areas that are owned or used by the Saami, negotiations shall be held with the affected Saami, as well as with the Saami parliament, when the matter is such that it falls within Article 16.

Permit for prospecting or extraction of natural resources shall not be granted if the activity would make it impossible or substantially more difficult for the Saami to continue to utilize the areas concerned, and this utilization is essential to the Saami culture, unless so consented by the Saami parliament and the affected Saami.

The above provisions of this article also apply to other forms of natural resource utilization and to other forms of intervention in the nature in such geographical areas that fall under Article 34, including activities such as forest logging, hydroelectric and wind power plants, construction of roads and recreational housing and military exercise activities and permanent exercise ranges.

Article 37

Compensation and share of profits

The affected Saami shall have the right to compensation for all damage inflicted through activities referred to in Article 36, paragraphs two and four. If national law obliges persons granted permit to extract natural resources to pay a fee or share of the profit from such activities, to the landowner, the permit holder shall be similarly obliged in relation to the Saami that have traditionally used and continue to use the area concerned.

The provisions of this article shall not be construed as to imply any limitation in the right to a share of the profit from extraction of natural resources that may follow under international law.

Article 38

Fjords and coastal seas

The provisions of Articles 34–37 concerning rights to water areas and use of water areas shall apply correspondingly to Saami fishing and other use of fjords and coastal seas.

In connection with the allocation of catch quotas for fish and other marine resources, as well as when otherwise regulation such resources, due regard shall be paid to Saami use of these resources and its importance to local Saami communities. This shall apply even though this use has been reduced or has ceased due to the fact that catch quotas have not been granted or owing to other regulations of the fisheries or other exploitation of resources in these areas. The same shall apply if the use is reduced or has ceased owing to a reduction of marine resources in these areas.

Article 39

Land and resource management

In addition to the ownership or usage rights that the Saami enjoy, the Saami parliaments shall have the right of co-determination in the public management of the areas referred to in Articles 34 and 38, pursuant to Article 16.

Article 40

Environmental protection and environmental management

The states are in cooperation with the Saami parliaments obliged to actively protect the environment in order to ensure sustainable development of the Saami land and water areas referred to in Articles 34 and 38.

Pursuant to Article 16, the Saami parliaments shall have the right of co-determination in the environmental management affecting these areas.

Chapter V

Saami livelihoods

Article 41

Protection of Saami livelihoods

Saami livelihoods and Saami use of natural resources shall enjoy special protection by means of legal or economic measures to the extent that they constitute an important fundament for the Saami culture.

Saami livelihoods and Saami use of natural resources are such activities that are essential for the maintenance and development of the local Saami communities.

Article 42

Reindeer husbandry as a Saami livelihood

Reindeer husbandry, as a particular and traditional Saami livelihood and a form of culture, is based on custom and shall enjoy special legal protection.

To that end, Norway and Sweden shall maintain and develop reindeer husbandry as a sole right of the Saami in the Saami reindeer grazing areas.

Acknowledging Protocol No. 3 of its Affiliation Agreement with the European Union concerning the Saami as an indigenous people, Finland undertakes to strengthen the position of Saami reindeer husbandry.

Article 43

Reindeer husbandry across national borders

The right of the Saami to reindeer grazing across national borders is based on custom.

If agreements have been concluded between Saami villages (samebyar), siidas or reindeer grazing communities (renbeteslag) concerning the right to reindeer grazing across national borders, these agreements shall prevail. In the event of dispute concerning the interpretation or application of such an agreement, a party shall have the opportunity to bring the dispute before an arbitration committee for decision. Regarding the composition of such an arbitration committee and its rules of procedure, the regulation jointly decided by the three Saami parliaments shall apply. A party who is dissatisfied with the arbitration committee's decision of the dispute shall have the right to file a suit on the matter in a court of law in the country on which territory the grazing area is situated.

In the absence of an applicable agreement between Saami villages (samebyar), siidas or reindeer grazing communities (renbeteslag), if a valid bilateral treaty regarding reindeer grazing exists, such a treaty shall apply. Notwithstanding any such treaty, shall a person asserting that he or she has a reindeer grazing right based on custom that goes beyond what follows from the bilateral treaty, have the opportunity to have his or her claim tried before a court of law in the country on which territory the grazing area is situated.

Chapter VI

Implementation and development of the Convention

Article 44

Cooperation Council of Saami ministers and presidents of Saami Parliaments

The ministers in Finland, Norway and Sweden responsible for Saami affairs and the presidents of Saami Parliaments from each of these countries shall convene regularly.

The said cooperation shall promote the objectives of this Convention pursuant to Article 1. The meetings shall consider relevant Saami matters of common interest.

Article 45

Convention committee

A Nordic Saami Convention Committee shall be established to monitor the implementation of this Convention. The committee shall have six members serving in their independent capacity. Each of the three states and and each of the three Saami parliaments appoint one member each. Members shall be appointed for a period of five years.

The committee shall submit reports to the governments of the three countries and to the three Saami parliaments. It may submit proposals aimed at strengthening the objective of this Convention to the governments of the three countries and to the three Saami parliaments. The committee may also deliver opinions in response to questions from individuals and groups.

Article 46

National implementation

In order to ensure as uniform an application of this Convention as possible, the states shall make the provisions of the Convention directly applicable as national law.

Article 47

Economic commitments

The states shall provide the financial resources necessary to implement the provisions of this Convention. The joint expenses of the three countries shall be divided between them in relation to the Saami population in each country.

In addition to situations referred to in paragraph 2 of Article 35, it shall be possible for the Saami to receive the necessary financial assistance to bring important questions of principle concerning the rights contained in this Convention before a court of law.

Chapter VII

Final provisions

Article 48

The approval of the Saami parliaments

After being signed, this Convention shall be submitted to the three Saami parliaments for approval.

Article 49

Ratification

This Convention shall be subject to ratification. Ratification may not take place until the three Saami parliaments have given their approval pursuant to Article 48.

Article 50

Entry into force

The Convention shall enter into force thirty days after the date that the instruments of ratification are deposited with the Norwegian Ministry of Foreign Affairs.

The Norwegian Ministry of Foreign Affairs shall notify Finland, Sweden and the three Saami parliaments of the deposit of the instruments of ratification and of the date of entry into force of the Convention.

The original of this Convention shall be deposited with the Norwegian Ministry of Foreign Affairs, which shall provide authenticated copies to Finland, Sweden and the three Saami parliaments.

Article 51

Amendments to the Convention

Amendments to this Convention shall be made in cooperation with the three Saami parliaments, and with respect for the provision in Article 48.

An amendment to the Convention enters into force thirty days after the date that the parties to the Convention notify the Norwegian Ministry of Foreign Affairs that the amendments have been approved by them.

In witness whereof the representatives of the parties to the Convention have signed the present Convention.

Which took place at .... on .... 20.... in a single copy in the Finnish, Norwegian, Swedish and Saami languages, all texts being equally authentic.