

**STATEMENT OF COMPLIANCE WITH THE PARIS PRINCIPLES
OF THE COMMISSION FÉDÉRALE POUR LES QUESTIONS FÉMININES (CFQF)
- MARCH 2009 -**

I. BACKGROUND

The Swiss Commission fédérale pour les questions féminines (hereafter the CFQF) submitted its first application for accreditation as a National Institution to the ICC in July 2008. After consideration at its November 2008 session, the SCA issued the following recommendation:

Recommendation: After consideration of the application of the CFQF, the Sub-Committee is not satisfied that the CFQF is in compliance with the Paris Principles and recommends that the application be **deferred**, to allow the CFQF to take such steps as necessary to expand its powers. The Sub-Committee encourages the CFQF to also consider consolidating together with other existing human rights commissions in Switzerland into a comprehensive NHRI with a broad mandate in line with the Paris Principles.

It also decided to review the application at its March 2009 session. The summary that follows is therefore the same text as was submitted for the November 2008 session, given the absence of any new documentation submitted by the CFQF.

The following sections provide background information on the CFQF of Switzerland based on supporting documentation submitted by the Institution to the Secretariat of the ICC, in accordance with Article 3 of the ICC Rules of Procedure.

II. DOCUMENTATION PROVIDED IN SUPPORT OF THE APPLICATION

To permit the ICC to make a determination as to the compliance of the CFQF with the Paris Principles, the following documentation has been submitted by the CFQF in support of its application:

- ❖ Décision du Conseil fédéral suisse de créer la Commission fédérale pour les questions féminines (du 28 janvier 1976) (original signé en Suisse allemand et traduction en français) (hereafter : the Décision de 1976) ;
- ❖ Ordonnance 172.31 du 3 juin 1996 (Etat le 5 décembre 2006) sur les commissions extraparlimentaires, les organes de direction et les représentants de la Confédération (hereafter : RS 172.31);
- ❖ Ordonnance 172.311 du 12 décembre 1996 (Etat le 28 janvier 1997) sur les indemnités journalières et sur les autres indemnités versées aux membres des commissions extraparlimentaires (hereafter : RS 172.311);
- ❖ Règlement interne de la Commission fédérale pour les questions féminines, entrée en vigueur le 30 mai 2000 (hereafter : the Règlement interne);
- ❖ Loi fédérale 172.061 de 18 mars 2005 (Etat le 23 août 2005) sur la procédure de consultation (hereafter : RS 172.061);
- ❖ Organigramme succinct de la Commission fédérale pour les questions féminines (contenant une mention du budget) (hereafter : Organigram);
- ❖ Composition de la Commission fédérale pour les questions féminines et membres pour la période 2008-2011 ;
- ❖ Membres du personnel de la Commission fédérale pour les questions féminines ; *and*
- ❖ Rapport d'activité 2007.

In addition, the CFQF sent the following information to the ICC:

- ❖ Consultation concernant le Protocole facultatif à la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, du 6 octobre 1999 - Prise de position de la Commission fédérale pour les questions féminines (CFQF) (mars 2006)

Additionally, the Institution submitted a document entitled “Memorandum of Understanding zwischen der Eidgenössischen Kommission für Frauenfragen und der Eidgenössischen Kommission gegen Rassismus”, signed by the President of the Federal Commission against Racism on 25 June 2008 and signed by the President of the CFQF on 1 July 2008¹ The Memorandum expresses the willingness of the two institutions to cooperate and work together to promote respect for human rights in Switzerland. In particular, the Memorandum describes the common objectives of both institutions as being (i) the improvement of the human rights situation in Switzerland; (ii) promoting the domestic incorporation and implementation of the international human rights conventions in Switzerland, and (iii) sensitizing public opinion to the importance of human rights issues through information and training exercises.

III. CHARACTER OF THE NHRI

1. Establishment

Article 4, paragraph b of RS 172.31 defines a permanent commission as one that is established for an indeterminate period. Article 5, paragraph 2 defines a consultative commission as one whose functions entail giving advice and the preparation of projects for the federal government.

According to the preamble to the *Décision de 1976*, the CFQF is a federal and permanent extra-parliamentary commission established by Swiss law. The CFQF has the status of a consultative organ of the Swiss Council of State and of the administrations of the departments of the federal administration.

The CFQF was established on 28 January 1976 by *Décision de 1976* of the Swiss Council of State. This is in accordance with article 11, paragraph 1 (Section 4) of RS 172.31, which states that all commissions must be created by a decision of the federal council, the Head of a federal Department, or the Chancellor of the Swiss Confederation.

Because the CFQF is an extra-parliamentary commission, it is also governed by *Ordonnance RS 172.31*, which acts as the common base legislation for all federally established extra-parliamentary commissions in Switzerland. The CFQF is also governed by its own *Règlement interne*, which was approved by the *Département fédéral de l'intérieur* and entered into force on 30 May 2000.

The CFQF has jurisdiction throughout Switzerland over the analysis of the situation of women in Switzerland, on issues relating to the formulation of recommendations to political, social and economic actors on steps to be taken in the promotion of equal opportunities between women and men within Switzerland.

2. Independence

According to the RS 172.31, at of Article 19, paragraph 1, the CFQF enjoys a broad margin of appreciation in the exercise of its functions that is only circumscribed by specific instructions given in their constituting and regulating statutes, or in their mandate. Paragraph 2 of the same article clarifies further that public organs such as the CFQF must seek prior consultation in the conduct of their activities, where those activities bring the interests of the Swiss state into play, although the law does not specify from whom.

The CFQF itself is subject to further government supervision: according to paragraph 5 of the *Décision de 1976*, the CFQF must annually submit its work plan to the federal Department of the Interior for approval. Under the same provision, the CFQF is also obliged to submit a report on its activities to the same department annually at year's end. This obligation is confirmed by Section 2 of the CFQF's *Règlement interne*. Further, in accordance with paragraph 7 of the *Décision de 1976*, the publication of communications, reports, recommendations, and propositions by the CFQF is subject to the approval of the federal Department of the Interior.

Under Section 5 of the CFQF's *Règlement interne*, the Institution is also capable of engaging with cantonment administrations, associations, and other organizations independently of the Department of the Interior. It can also demand of the Swiss Confederation the information that it requires to execute its functions.

¹ A French-language translation of the document was also provided: “Memorandum of Understanding entre la Commission Fédérale pour les questions féminines et la Commission Fédérale contre le racisme.”

Section 4.5 of the Règlement interne states that the Secretariat is attached to the Bureau fédéral de l'égalité entre les femmes et hommes. Section 4.5 also states that the secretariat participates in all the meetings of the Plenum, the Directing Committee and the Working Groups, in a consultative role. The Règlement interne further states at this section that the Secretariat's tasks are defined explicitly in the folders assigned to each of the Secretariat's staff.

According to the CFQF's Déclaration de Conformité avec les Principes de Paris (hereafter: Statement of Compliance), the Institution is not obliged to share the opinion of the government on the outcomes and conclusions of its activities.

According to article 8, paragraph 2 of RS 172.31, members of the Swiss Federal Assembly are prohibited from becoming members of Commissions, save in exceptional circumstances. Article 7, paragraph 2 of RS 172.311 further stipulates that in those exceptional circumstances where Commission members are already in the service of the Swiss Confederation in another capacity, they are not entitled to receive any indemnity for daily expenditures that a Commission member would otherwise be entitled to.

The law is silent on the issue of the potential legal liability of Commission members, as is the Institution's Statement of Compliance.

3. Appointments processes and organisational infrastructure

3.1. Composition of the NHRI's membership and appointment processes

The Décision de 1976 which created the CFQF names a President and eighteen members, but is largely silent on the regulation of the CFQF's composition, organization and appointment process. However, Section 3 ("Composition") of the RS 172.31 provides guidance on the composition of all Swiss extra parliamentary commissions. Specifically, RS 172.31 stipulates that Commissions must have as few members as possible, and in any case no more than 20 (article 6).

According to the document "Composition de la Commission fédérale pour les questions féminines et membres pour la période 2008-2011" annexed to the Institution's Statement of Compliance, the CFQF consists of 20 members. The Statement of Compliance itself asserts that 9 members occupy seats that are filled by nominees recommended by the Bureau fédéral de l'égalité entre femmes et homes to the Department of the Interior, and then to the Swiss Council, while 11 members are recommended by specific social organizations and occupy seats attached to those organizations. According to correspondence received from the institution on 30 July 2008 in response to further questions about the process by which individuals are nominated for membership in the CFQF, the Institution states that in practice it searches for members who will bring a variety of professional skills and experiences to their roles as expert members of the Institution. In the same communication, the Institution indicates that the Head of the Department of the Interior decides which candidates to propose to the Swiss Council to fill the 9 free seats in the Institution. The procedure for the ultimate appointment of those members nominated to free seats is exactly the same procedure applicable in the appointment of the nine members who are chosen to fill seats attached to social organizations.

One additional representative, the Director of the Bureau fédéral de l'égalité entre femmes et hommes in Bern, acts in the role of counsellor to the CFQF members. According to Section 3 of the Règlement interne of the CFQF, the role of the representative from the Bureau fédéral de l'égalité entre femmes et hommes is exclusively consultative.

Under Section 3, article 7 of RS 172.31, any persons meeting the requirements for engagement by the federal administration are eligible to become members of an extra-parliamentary commission. Under article 8 of RS 172.31, Commission members are to be appointed on the basis of the professional competency, aptitude for group work, and their availability to serve in the appointed role. The provision further stipulates that members chosen to address ethical issues will be chosen as a function of this consideration. Finally, article 8 also indicates that members of the federal Assembly are forbidden from participating in the activities of any extra-parliamentary commission. While exceptions to this are possible under article 8(2) of RS 172.31, no specific motivations that would justify such an exception are given in the text of the law itself.

Under Section 3 of the Règlement interne of the CFQF, the Institution is to be composed of representatives of large feminist organizations, social and scientific partners, and other specialists in the field of women's issues..

Section 2 of the *Décision de 1976* states that the term in office of each Member of the CFQF must correspond to that given for federal personnel at law. Under Section 5 of RS 172.31, at article 14, the term of office of members of permanent commissions is four years (which corresponds to that of members of the legislature des Chambres fédérales. According to the same provision of the law, the authority responsible for appointment of members to permanent commissions may also automatically renew the mandates of serving members. According to article 15 of the same law, members of permanent commissions may fulfil their functions for a maximum of twelve years; their mandate ends at the end of the calendar year corresponding to their twelfth year of service. In exceptional cases the authority responsible for the appointment of members may increase the functional term of a commissioner member to sixteen years.

Finally, article 16 of RS 172.31 imposes an age limit of 70 years on permanent commission members, but also allows for an exception to the stated limit in cases where the work of a commission requires that persons aged 70 or older be represented.

In accordance with the provisions of RS 172.31 section 3 of the *Règlement interne* of the CFQF further clarifies that the President and Members of the Institution are to be appointed for terms of four years. The Vice-Presidents are named to their functions by the other Members of the Institution at the start of each new administrative period.

The institution has no full-time members. The only full-time representatives at the institution are the staff of the Secretariat. Article 17 of RS 172.31 governs the daily stipends and emoluments paid to permanent commission members in the execution of their commission functions. The general and non-specific stipulations of this article are further clarified by RS 172.311, which exclusively governs the matter of daily and other allowable indemnities to which extra-parliamentary commission members may be entitled in the performance of their duties.

The Article 2, paragraph 2 of RS 172.311 states that members of consultative committees such as the CFQF are entitled to a daily indemnity of 100 to 150 CHF. Article 2 further stipulates that the payable indemnity is halved for those commission members who work in their place of residence. The same amount is payable to commission members on days spent travelling in the execution of their functions.

Article 4, paragraph 1 of RS 172.311 states that the President of the commission receives the same daily indemnity as the other commission members; in exceptional circumstances, she or he may be granted an annual indemnity in addition to the daily indemnity, subject to the approval of the Office fédérale du personnel (paragraph 2). Article 6 provides for reimbursement of travel expenses associated with commission-related work. In particular, article 7 indicates that commission members who are already in the service of the Swiss Confederation are not entitled to any indemnities, save in exceptional circumstances.

According to Section I.3.1 of the Statement of Compliance of the Institution, the CFQF's Members serve at the Commission in an honorary capacity while also performing their professional activities and do not receive any salary.

Section 8 of the CFQF's *Règlement interne* conforms to the requirements of RS 172.311 in stipulating that indemnities received by Commission members are regulated by the Department of the Interior, while CFQF members who greater than normal expenses in the performance of their duties are entitled to a slightly increased indemnity. This accords with the provisions of RS 172.311, which makes provision for increased indemnity amounts to be paid to members at article 3, paragraph 3. Section 8 also allows for the payment of an annual indemnity to the President of the CFQF, as provided for at article 4, paragraph 2 of RS 172.311 (above).

The law is silent on the procedures for dismissal/resignation of members of extra-parliamentary commissions.

Section I.3.1 of the Statement of Compliance of the Institution states that Members of the CFQF direct their resignation directly to the Swiss Council of State and may resign at any time. According to Ms. Elisabeth Keller, the Head of the Institution's Secretariat, in practice members submit their resignations in writing to the Swiss Council, copying the President of the Institution and the Secretariat of the CFQF. Where the resigning Member occupies a seat affiliated with an organization, the successor to the newly vacant seat is determined by the organization linked to the vacant seat. Free seats vacated by commission Members are re-filled at the suggestion of the Swiss Council. According to Ms. Keller, the Institution has not received any resignations from its members in the past 18 years, nor has the

Institution has not contested the nomination of any candidates proposed by the Swiss Council to the membership of the CFQF. Ms Keller further specified that the NGOs did not have any problems with their proposals for new members in the CFQF; the Swiss Federal Council accepts the proposals of the NGOs concerning the seats for organizations.²

Beyond the consultative representation to the CFQF by the Director of the Bureau fédéral de l'égalité entre femmes et hommes in Bern, there is no legal provision for any external body to advise the Institution.

3.2. Pluralism

Article 9 of RS 172.31 states that men and women, as well as interest groups, different regions in Switzerland, and a variety of linguistic and age/generational cohorts must be equitably represented in the membership of all extra-parliamentary commissions.

Section 1 of the CFQF's Règlement interne lists the creation and maintenance of contacts with authorities, organizations, and stakeholders as being key elements of the Institution's mandate. Section 5 further indicates that the CFQF is able to undertake direct contact with cantonal administrations, associations and other organizations under its own power.

According to correspondence received from the institution on 30 July 2008 in response to further questions about the process by which individuals are selected for membership of the CFQF by the Bureau fédéral de l'égalité entre femmes et hommes, the Institution clarifies that the Head of the Secretariat searches for candidates and can ask for the Directing Committee of the CFQF to submit the names of potential candidates for her consideration. The Head of the Secretariat can also conduct supplementary candidate searches by asking other specialists who work in the domain of women's rights and equality. The Head of the Secretariat prepares a file with all of the candidate information and makes concrete recommendations on candidates to the Bureau. The correspondence of 30 July 2008 further indicates that the Director of the Bureau then decides which candidates to propose to the Head of the Department of the Interior. In practice, the Director of the Bureau discusses the proposed candidates with the Head of the Institution's Secretariat beforehand.

According to the Institution's Statement of Compliance, the Members of the CFQF represent numerous social organizations implicated in the furtherance of gender equality in Switzerland. The organizations with representatives serving as Members of the Commission (as detailed in the document "Composition de la Commission fédérale pour les questions féminines et membres pour la période 2008-2011" annexed to the CFQF's Statement of Compliance) are:

- ❖ Association suisse des organisations de femmes
- ❖ Ligue suisse des femmes catholique SKF
- ❖ Femmes Protestantes en Suisse (EPS)
- ❖ Dachverband Schweizerischer Gemeinnütziger Frauen SGF
- ❖ l'Union Suisse des Paysannes et des Femmes Rurales (USPF)
- ❖ l'Union suisse des arts et métiers (sgv-usam)
- ❖ Société suisse des employés de commerce (sec suisse)
- ❖ Travail.Suisse
- ❖ l'USS Union syndicale suisse
- ❖ l'Union patronale suisse (UPS)
- ❖ l'Association suisse pour les droits de la femme ADF

According to the document "Composition de la Commission fédérale pour les questions féminines et membres pour la période 2008-2011" submitted by the institution as an annex to its Statement of Compliance, the members of the CFQF are drawn from organizations organized around religious, commercial, industrial and regional and rural matters.

A sample of the qualifications of the members of the institution indicates several lawyers, one political scientist, a teacher, two social workers, a human resources assistant, and a businessperson.

Additionally, the members of the Institution come from organizations based in the following Swiss cities and towns: Brugg, Bern, Erlinsbach, Felsberg, Geneva, Grub, Lausanne, Neuchâtel, Riffenmatt, Rothenburg, Trogen, and Zürich.

² Personal telephone communication, 22 July 2008 c. 2:45 pm.

Regarding gender representation in the membership of the institution, article 10 of RS 172.31 further requires that the representation of either sex on any extra-parliamentary commission must not fall below 30%, and that commissions should attempt to achieve parity of gender representation. Where the required minimal level of gender representation is not met, the commission in question must submit a written justification to Swiss Chancellery. According to the document “Composition de la Commission” annexed to the Institution’s Statement of Compliance, 17 of the 20 members of the CFQF are women (this tally excluding the representative from the Bureau fédéral de l’égalité entre femmes et hommes. There is no indication given in the institution’s Statement of Compliance that either it or the federal Department of the Interior has submitted any written explanation of the imbalance in gender representation to the Swiss Chancellery, as required by article 10 of RS 172.31 (see above). It should be noted that all three of the permanent staff positions of the Secretariat to the institution are currently occupied by women.

Section 3 of the CFQF’s Règlement interne states that the institution will be composed of representative from large women’s groups, social and scientific partners, and other parties with special expertise in the area of women’s studies and gender equality.

The CFQF is also subject to law RS 172.061, which governs the conduct of consultative procedures undertaken both by the Swiss Council and by any extra-parliamentary commissions established by the Council. According to the communication from Ms. Keller, no extra-parliamentary commission is competent to independently open public consultation procedures concerning laws – but extra-parliamentary commissions are competent to give their views on draft laws in the context of consultations. Under article 5, paragraph 2 of the law, extra-parliamentary commissions such as the CFQF are competent to independently open public consultation procedures on matters within their scope of their mandate.

Article 8 of RS 172.061 affirms that opinions expressed in the context of public consultation exercises are pondered and evaluated. Article 4 of RS 172.061 states that the following groups are invited to express their opinions in the context of consultations:

- ❖ Swiss cantons;
- ❖ political parties represented in the Swiss federal Assembly;
- ❖ associations at the commune, city and regional level that act at the national level;
- ❖ economic associations active at the national level; and
- ❖ other stakeholders affected by the then current project.

Article 7 of RS.172.061 establishes a default duration for the consultation period (three months), as well as prescribing multiple formats for consultations, with opinions received both in writing and also in electronic format. Article 9 of the law also lists the consultation documents that are accessible to the public (namely the file upon which the consultation is opened; the opinions expressed during the consultation period after that period has elapsed; and the report summarizing the outcomes of a consultation, after the Swiss Council has had the opportunity to review the document).

3.3. Organisational infrastructure

3.3.1. Organisational Structure

According to section 4 of the Règlement interne of the CFQF, the institution is composed of the following organs:

the Plenum

According to section 4.1 of the Règlement interne, the Plenum is the central organ of the CFQF. The members of the Institution are required to actively participate in each of its sessions.

The meetings of the Plenum pertain only to subject matter raised on the Plenum’s agenda. Other urgent issues can be placed on the agenda at the beginning of the meeting, treated, and adopted with the agreement of a $\frac{2}{3}$ majority of the members present.

The plenum is competent to undertake the following tasks:

- ❖ Approving the Institution’s budget;
- ❖ Determining the Institution’s annual program and projects;

- ❖ Approving the Institution's annual report;
- ❖ Adopting positions papers and reports published in the Institutions name (with the exception of the CFQF's Information Bulletin); and
- ❖ Creating Working Groups and creating mandates for the Working Groups, the Directing Committee, and the Secretariat.

the Directing Committee

According to section 4.2 of the Règlement interne, the Directing Committee is composed of the President and the two Vice-Presidents of the Institution. According to section 4.5 of the Règlement interne the Head of the Secretariat attends the Directing Committee meetings in an advisory capacity. The Directing Committee It is competent to undertake the following tasks:

- ❖ Preparing the meetings of the Plenum and executing its decisions;
- ❖ Deciding of current business of the Institutions that do not require a decision from the members of the Commission;
- ❖ Managing urgent matters that will be sent outside of the Institution;
- ❖ Coordinating the activities of the Working Groups and mandated agents of the Institution; and
- ❖ Recruiting external experts to conduct projects and audits.

the President

According to section 4.3 of the Règlement interne, the President represents the Institution to all external bodies.

the Working Groups

According to section 4.4 of the Règlement interne, the Working Groups of the CFQF are created by the Plenum for a pre-determined duration. They prepare the work of the Institution, conduct research and develop project guidelines. They are responsible for reporting regularly on its activities to the Institution. Working Groups are dissolved upon the realization of their mandate.

the Secretariat

According to section 4.5 of the Règlement interne, the CFQF is also supported by a permanent Secretariat. According to the document "Membres du personnel de la Commission fédérale pour les questions féminines" annexed to the Institution's Statement of Compliance, as of 25 June 2008 the CFQF's Secretariat consists of 3 permanent staff positions: one Head who acts as a general secretary, one scientific collaborator, one administrative assistant, and one non-permanent intern.

According to paragraph 1.2 of the Institution's Statement of Compliance, the Secretariat is responsible for giving information on the CFQF to the media and the public, under section 6 of the Règlement interne. Section 6 of the Règlement interne also states that Commission members who make public statements on the Institution's activities must inform both the President and the Secretariat. Further, paragraph 1.3.3 of the Institution's Statement of Compliance asserts that the Secretariat is the only organ of the CFQF that has the full picture of the Institution's activities, and it is also the only organ that is in direct contact with the general public. According to correspondence received from the institution on 30 July 2008, the Secretariat's attachment to the Bureau fédéral de l'égalité of the Department of the Interior is purely administrative, and consists of completing business planning, personnel and data management, and accounting tasks.

According to the Institution's Statement of Compliance, the Secretariat reports regularly on its activities to the Institution.

Paragraph 3.2 of this summary describes the Institution's current Membership; a profile of the Secretariat and its current staff complement is given at paragraph 3.3.1, *immediately above*. The Institution has also annexed an "Organigramme succinct de la Commission fédérale pour les questions féminines" (Organigram) to its Statement of Compliance that gives a description of the Institution's structure.

3.3.2. Budget

According to section 7 of the Institution's Règlement interne annexed, the CFQF receives an annual credit from the government to support its activities. The Secretariat and the Directing Committee are responsible for annually preparing a draft budget based on the Institution's planned activities for the coming year. The draft budget is approved by the Plenum of the Institution (see paragraph 3.3.1 of this summary, *above*).

According to the Organigram annexed to the Institution's Statement of Compliance, the CFQF activities supported by the funds from the budget include the costs of the Institution's Plenum and Directing Committee sessions, the daily indemnities payable to the Institution's members in fulfilment of their activities, the projects of Working Groups, and the costs associated with translating reports generated by the Commission.

A detailed budget was not submitted by the Institution as part of its application for accreditation. According to the Organigram, in past years, the budget of the CFQF has averaged approximately 180,000 CHF (Swiss francs) per year. For the 2008 fiscal year, the CFQF was allocated funds of 182,720 CHF.

Once monies are received by the Institution, according to section 7 of the Règlement interne the accounting for funds and control of expenditures is managed by the Secretariat, which is composed of staff appointed to their posts by the federal Department of the Interior. The Secretariat is obliged to inform the Institution if serious discrepancies in spending that are not compliant with the approved budget appear in the Institution's accounts. According to the Institution's Statement of Compliance, the CFQF submits its payment orders to the accounting unit of the federal Department of the Interior, to which the Secretariat is attached.

3.3.3. Staffing

As described at paragraph 3.3.1 of this summary the Institution is supported by a Secretariat. According to section 9 of the Décision de 1976, the CFQF can demand of the federal administration the services and information it requires to execute its functions.³ According to paragraph I.3.3 of the Institution's Statement of Compliance, the Head of the Secretariat is responsible for the recruitment of permanent staff to the CFQF, and decides jointly with the Director of the Bureau fédéral de l'égalité entre femmes et hommes which persons to retain, although in practice the President of the CFQF also participates in the recruitment process.

The Statement of Compliance also indicates that the Institution may also hire persons for the purposes of completing projects or to join a Working Group with an external mandate for defined period of time (for further details on the Working Groups, see paragraph 3.3.1 of this summary, *above*). This is also affirmed at paragraph 6 of the Décision de 1976, which allows for external persons to be retained by the CFQF to conduct audits.

3.3.4. Regular meetings

None of the documentation presented by the Institution gives any indication that the meetings are held according to an established and objective timetable. According to the documents submitted by the Institution, the following is the pattern of meetings in the various organs of the Institution:

the Plenum

According to section 4.1 of the Règlement interne, the Plenum generally meets between 4 and 5 times each year at the instigation of the President of the CFQF. Meetings may also be called, however, by a minimum of a third of the CFQF's members, or if the Swiss federal Department of the Interior so requests.

³ This is re-iterated in section 5 of the Règlement interne of the Institution, which allows the Institution to demand from the Swiss Confederation the information that it needs to perform its functions.

The Règlement interne further states at paragraph 2 of section 4.1 that in meetings called by the President, she or he is the dominant voice. The same section of the Règlement affirms that decisions are made by the Plenum through a vote of a simple majority of the members present. In communication with Ms. Keller, she asserts that the President holds the tie-breaking vote..

Urgent matters requiring immediate action (and those preceded by a decision of the Plenum) can be taken by way of a circular. In this case the quorum required for the vote to be binding is achieved with the presence of a simple majority of the CFQF's members. In the case of deadlock, the President casts the tie-breaking vote.

According to paragraph 1.3.3 of the Institution's Statement of Compliance, the meetings of the Plenum are confidential. This is affirmed by section 6 of the CFQF's Règlement interne, and at paragraph 8 of the Décision de 1976.

In practice, according to Ms. Elisabeth Keller, the Head of the Institution's Secretariat, the schedule of upcoming Plenum meetings for the year is set at the end of each year and is prepared by the Secretariat.⁴

the Directing Committee

The Directing Committee meets between six and eight times per year. The President of the Institution and two of the Vice-Presidents are in attendance at each meeting, as required by section 4.2 of the Règlement interne.

According to paragraph 1.3.3 of the Institution's Statement of Compliance, the meetings of the Directing Committee are confidential. This is affirmed by section 6 of the CFQF's Règlement interne, and at paragraph 8 of the Décision de 1976.

the President

According to section 4.3 of the Règlement interne, the President of the Institution is responsible for issuing invitations to the Plenum meetings and chairing meetings of the Plenum and the Directing Committee.

The President of the Institution is described in Section 4.3 of the Règlement interne as representing the Institution to external parties. In practice, however, according to Ms. Elisabeth Keller, the current Head of the Secretariat, the Secretariat conducts most of the Institution's external relations, as the current president of the Institution does not live in Bern.⁵

the Working Groups

As described at paragraph 3.3.1 of this summary the Working Groups meet to achieve their specific mandate and are dissolved upon the completion of their appointed task(s). According to Ms. Elisabeth Keller, the current Head of the Institution's Secretariate, there is no regularized schedule of Working Group meetings.

Although section 6 of the CFQF's Règlement interne states that all meetings of the Institution are confidential, paragraph 1.3.3 of the Institution's Statement of Compliance indicates that only the meetings of the Plenum and the Directing Committee must be confidential. Section 6 of the Règlement interne, however, indicates that the CFQF can place certain matters under cover of secrecy, and paragraph 8 of the Décision de 1976 states that all deliberations undertaken by the Commission are confidential. According to Ms. Elisabeth Keller, in principle the deliberations of the Working Group are confidential.⁶

⁴ Personal telephone communication, 22 July 2008 c. 2:45 pm.

⁵ Personal telephone communication, 22 July 2008 c. 2:45 pm.

⁶ Personal telephone communication, 22 July 2008 c. 2:45 pm.

the Secretariat

According to section 4.5 of the Règlement interne, the Secretariat participates in the meetings of the Plenum, the Directing Committee and the Working Groups. In all of the meetings in which the Institution's Secretariat is represented, the Head of the Secretariat participates only in an advisory role.

According to Ms. Elisabeth Keller, the current Head of the Institution's Secretariat, the Secretariat also acts independently in communicating with the media, although it sometimes consults by telephone or email with the current President of the Institution (who lives outside of Bern) on public statements.⁷

4. Relations with Civil Society and human rights institutions

4.1. Formal Relationships with Civil Society

The statute that created the CFQF does not explicitly list engaging with civil society as one of the formal tasks of the Institution (see paragraph 4 of the Décision de 1976); nor does the Règlement interne of the Institution.

Section 1 of the Règlement interne of the Institution does, however, reproduce the functions of the CFQF given at paragraph 4 of the Décision de 1976, namely:

- a) Giving advice on the projects of the Swiss federal government touching on issues of gender equality;
- b) Execute special projects at the request of the Swiss Council or Departments of the Swiss Confederation;
- c) Elaborate in particular recommendations and propositions on the optics of political measures taken by the government in the area of gender equality in Switzerland; and
- d) Analyse the evolution of government policy in matters pertaining to gender equality in Switzerland, in addition to evaluation of and periodic reporting on measures taken to the federal Department of the Interior.

The Règlement interne adds two further functions to the Institution's mandate:

- e) Informing and sensitizing public opinion on matters of gender equality by undertaking projects and campaigns, organizing seminars, and producing publications; and
- f) Collaborating with the federal authorities, organizations and stakeholder groups

Section 5 of the Institution's Règlement interne specifies that the mandate of the Institution entails direct contact with cantonal services and administration, associations and other organizations. It also states that the Institution will have regular contact with the Bureau fédérale de l'égalité entre les femmes et hommes and will periodically exchange information with them.

According to the document "Composition de la Commission fédérale pour les questions féminines et membres pour la période 2008-2011" annexed to the CFQF's Statement of Compliance, 11 of the Members seats in the organization are attached to specific Swiss organisations (please see paragraph 3.2 of this summary for a list of the relevant organizations, and a list of the various qualifications of CFQF Members).

4.2. Regular Consultations

There is no indication that the Institution's consultations with other human rights bodies are undertaken on a regular basis. Organizations that possess one of the 11 permanent CFQF Member seats are in frequent consultation with the Institution, as a function of the periodicity of the Institutions various meetings (or further details, please see paragraph 3.3.4 of this summary, *above*). As noted above, however, there is no indication of regular meeting times, despite the indications of the frequency of the meetings. According to Ms. Elisabeth Keller, the current Head of the Institution's Secretariat, dates for future meetings are chosen informally by the Institution's members at the end of each calendar year, and agendas for each session are prepared by the Secretariat.⁸

⁷ Personal telephone communication, 22 July 2008 c. 2:45 pm.

⁸ Personal telephone communication, 22 July 2008 c. 2:45 pm.

Additionally, law RS 172.061, which governs the Institution's public consultations, stipulates the requirements for consultations undertaken by the CFQF and other extra-parliamentary commissions with other external organizations. For further details, please see paragraph 3.2 of this summary, *above*. Again, there is no indication from the accompanying legal texts that the public consultations of the Institution are undertaken on a regular basis.

According to paragraph I.4.2 of the Institution's Statement of Compliance, the Secretariat of the CFQF belongs to a group called "Politique internationale des droits humains", the political division of the Swiss federal Department of Foreign Affairs' that is responsible for issues of human security. According to the Statement of Compliance, this group acts as a platform for the exchange and clarification of human rights issues in partnership with international organizations. According to the Statement of Compliance, the Universal Periodic Review mechanism and the ratification and implementation of standards contained in international human rights treaties are among the subjects discussed at these meetings. Again, however, there is no indication given of the regularity of these meetings in the Institution's Statement of Compliance or any other document annexed to the Statement.

4.3. Cooperation with the United Nations, regional and national institutions

While section 9 of the *Décision de 1976* and section 1 of the *Règlement interne* both require the CFQF to engage with key stakeholder organizations, neither document creates any explicit obligation to create links with the United Nations.

According to paragraph I.4.3. of the Institution's Statement of Compliance, the CFQF has already worked with a number of organizations at the national, regional and international levels, and has participated in international conferences dealing with issues of women's rights (specifically, the 3rd and 4th World Conference on Women in 1985 and 1995, respectively).

According to the Statement of Compliance, more recently the Institution has been involved in the following cooperative activities:

- National** In the second half of 2007, the Secretariat of the CFQF collaborated with the *Conférence Suisse des institutions d'action sociale (CSIAS)* in the planning and organization of the national day, held on 6 March 2008 in Bienne, brought together over 200 professionals specializing in the provision of social services, law, and equality to discuss gender equality in the aftermath of divorce.
- Regional** The OSCE's Election Observers' Mission to the Swiss Federal Elections (12-14 October 2007). According to the Statement of Compliance, in the aftermath of the OSCE's report on the elections, the CFQF was invited by the Swiss Council to participate in a group within the federal administration created by the Council to increase the rate of women's participation in Swiss politics.

The CFQF published a report on its activities as part of this initiative in January 2008.
- International** In 2007 and 2008 the Head of the Secretariat of the CFQF participated, as a member of the Swiss delegation, in the 5th and 6th round of talks on human rights and international organizations in Hanoi, Vietnam, and Berne, Switzerland (Human Rights dialogue Vietnam – Switzerland).

5. Accessibility

5.1. Procedures and mechanisms to ensure accessibility

The Institution asserts at paragraph I.5.1 of its Statement of Compliance that the Secretariat to the CFQF has its offices in downtown Berne, is accessible on foot, by car, and by public transit. The Secretariat is open four days per week, and that the Secretariat to the CFQF can be contacted by telephone or e-mail outside of its opening hours. Additionally, the Statement of Compliance asserts that the Internet site of the Institution has been created with a view to informing the public about the CFQF's publications, annual reports, demonstrations and activities.

According to the Statement of Compliance (paragraph I.3.3), twice a year, the Secretariat to the CFQF publishes the journal "Questions aux féminin", which discusses current issues concerning the situation of women in Switzerland. According to paragraph I.5.1 of the Statement, "Questions aux féminin" can be

ordered free of charge via the Internet or directly from the CFQF's Secretariat. According to the communication from Ms. Keller, only an overview or some special articles can be downloaded from the Institution's website. A brief review of copies of the annual reports and publications submitted by the Institution to the ICC as part of its application for accreditation noted that each issue contained content in all of Switzerland's official languages (French, German, and Italian).

The Institution is based in Bern, and does not have any regional offices or representation beyond that detailed in paragraph 5.2 of this summary, *above*. No indication is given in any of the documentation submitted to the ICC regarding whether the Institution's premises are accessible to persons with disabilities.

5.2. Procedures and mechanisms for addressing public opinion

Law RS 172.061 governs the Institution's public consultations, and states the requirements for official consultations undertaken by the CFQF and other extra-parliamentary commissions with the broader Swiss public. For further details, please see paragraph 3.2 of this summary, *above*.

Additionally, according to paragraph 1.2 of the Institution's Statement of Compliance, the Secretariat is responsible for giving information on the CFQF to the media and the public. Further on, paragraph 1.3.3 of the Institution's Statement of Compliance asserts that the Secretariat is the only organ that is in direct contact with the general public.

As indicated at paragraph 5.1, *immediately above*, according to the Statement of Compliance (paragraph 1.3.3), the Secretariat to the CFQF publishes the journal "Questions aux féminin" twice annually. The Institution writes at paragraph 1.5.2 of its Statement of Compliance that the Secretariat uses both e-mails and telephone communications to directly solicit public opinion.

Additionally, the Statement of Compliance indicates that the CFQF holds once-yearly special plenary sessions, held for two days in one of Switzerland's cantons (see paragraph 1.5.2 of the Institution's Statement of Compliance). On these occasions, the Institution communicates directly with political representatives, agents from various organizations, and local media.

5.3. Working Groups

According to paragraph 1.5.3. of the Institution's Statement of Compliance, the CFQF currently has an active Working Group (established in June 2008). The Working Group's mandate is to elaborate a position statement for the CFQF on legislation concerning parental authority. Another Working Group established by the CFQF is currently working on issues of the revision of the Swiss law on public markets, which is, according to the CFQF, key to promoting the equal remuneration for work of men and women.

IV. COMPETENCE AND RESPONSIBILITIES

6. General Jurisdiction and Functions

6.1. Mandate to promote and protect human rights.

According to the Preamble to the *Décision de 1976*, the CFQF is a permanent administrative extra-parliamentary commission, charged with dealing with all questions relating to the situation of women in Switzerland, and is a consultative organ of the Swiss Council and the Departments of the Federal Administration. This mandate is reproduced precisely at section 1 of the *Règlement interne* of the CFQF.

Section 4 of the *Décision de 1976* also sets out the specific functions of the CFQF. These stated functions are enlarged by the *Règlement interne* of the CFQF at section 1 (see paragraph 4.1 of this summary for further details).

6.2. The mandate in practice

In practical terms, the Institution is authorized by its *Règlement interne* to carry out its mandate through the creation of Working Groups (section 4.4), through collaboration with government agencies and other organizations (section 5), and also through the good offices of its Secretariat (section 4.5). Paragraph 9 of the *Décision de 1976* also states that the Commission is capable of demanding from the Swiss federal administration information that it requires to carry out its functions; the CFQF may also maintain direct

contacts with cantonal services, associations and other organizations. (“La Commission est habilitée à demander aux services de l’administration fédérale les renseignements dont elle a besoin pour exécuter ses tâches. Elle peut également, dans le cadre de son mandat, entretenir des contacts directs avec des services cantonaux, des associations et d’autres organisations.”)

According to paragraph II.6.2 of the Institution’s Statement of Compliance, the CFQF considers those questions that it considers priorities, taking into account the feasibility and efficacy of the CFQF’s capacity to undertake projects given its resources and the experience that the Institution has in the subject area in question. According to the Statement, projects undertaken by the CFQF are based on observations made in the course of a study, in a report or as part of an evaluation. The CFQF, it asserts, formulates recommendations for the various actors implicated in each topic and plans its projects with a view towards improving the targeted situations.

An example given by the Institution in its Statement of Compliance (paragraph II.6.2) pertains to a study conducted by the CFQF in 2006 of Swiss federal Court jurisprudence relating to the regulation of spousal support contributions after divorce in the case of insufficient resources on the part of one parent. The CFQF made recommendations to the government and key stakeholders based on its research, and publicised the results of the study in the media, ultimately establishing a Working Group to formulate a position statement for the Institution.

6.3. Functions regarding national legislation

The CFQF is required by Section 4.c of the *Décision de 1976* to make recommendations and proposals to the Swiss Council on measures to address the situation of women in Switzerland; section 4.d of the *Décision* also requires the CFQF to ensure that measures adopted by the Swiss Council are followed, in part by periodically addressing a report on this subject to the federal Department of the Interior. This mandate is reproduced at Sections 1.c and 1.d. of the CFQF’s *Règlement interne*.

According to paragraphs II.6.4 and II.6.5 its Statement of Compliance, the Institution has performed the following functions to execute its mandate in respect of Swiss national legislation, at the national level:

- ❖ Beginning in 1976, the CFQF supported the popular initiative “Égalité des droits entre hommes et femmes”, which aimed to inscribe gender equality into the Swiss constitution, by contributing to the elaboration of the Swiss Council’s message in a manner that maintained the language and principles stated in the popular document. The new constitutional article was given the approval of the Swiss crown on 14 June 1981;
- ❖ By creating a catalogue of Swiss laws that enshrined the unequal treatment of men and women, at the request of the Swiss federal Department of Justice and the Police. According to the Statement of Compliance, the results of this legislative review formed the basis of the legislative reform program of the Swiss Council in 1986);
- ❖ By contributing to the preparatory work that established the Swiss Bureau fédérale de l’égalité entre les femmes et homes, which began its work on 1 February 1988;
- ❖ By contributing preliminary work to the Swiss federal law on gender equality (which entered into force 1 July 1996);
- ❖ Through publication of the study “Droits des femmes et droits humains: perspectives pour la Suisse et pour la CFQF” (in February 2007); and most recently
- ❖ By creating and staging the workshop “Droits des femmes et droits humains: comment mieux mettre à profit la dynamique internationale dans la politique de suisse d’égalité?” (held 11 September 2007)

6.4. Encouraging ratification and implementation of international standards

The available law is silent on the Institution’s responsibility for encouraging the ratification and implementation of international human rights standards, beyond the direction given in the Institution’s mandate (see paragraph 6.3 of this summary, *immediately above*).

According to paragraphs II.6.4 and II.6.5 its Statement of Compliance, however, the Institution has performed the following functions to execute its mandate in respect of international human rights standards at the Swiss national level:

- ❖ Contributing preliminary work to the Swiss Council’s ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (ratified by the Swiss government on 27 March 1997);

- ❖ Taking a public position in support of Switzerland's adoption of the Optional Protocol to CEDAW (adopted by Switzerland on 6 October 1999), sending recommendations to all members of the Swiss Parliament (for further details, see the document "Consultation concernant le Protocole facultatif à la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, du 6 octobre 1999 - Prise de position de la Commission fédérale pour les questions féminines (CFQF) (mars 2006)" at annex 10 to the Institution's Statement of Compliance);
- ❖ Supporting the technical consultation of the federal Directorate on Public International Law of the Federal Department of Foreign Affairs on Switzerland's report on the implementation of CEDAW (December 2006-February 2007); and
- ❖ Participating in the technical consultations held by the Labour Directorate of the Secretary of State for the Economy on the Swiss government's implementation of the Convention on Economic, Social and Cultural Rights (August 2007)

6.5. Programmes for teaching and research

Teaching

While the available legal texts are silent on a formally educative function for the Institution, section 1.e. of the Règlement interne of the CFQF includes "informing and sensitising public opinion" as part of the CFQF's mandate.

Research

Section 4.d. of the Décision de 1976 includes in the CFQF's mandate the task of observing the evolution of the situation of women in Switzerland. Additionally, section 1.d. of the Règlement interne of the CFQF includes "analysing the evolution of policy concerning issues of women's equality" as part of the CFQF's mandate.

The Institution refers to several research projects at paragraph II.6.5 of its Statement of Compliance, most notably two studies: on the implementation of current international legal mechanisms into Swiss politics on gender equality (details are contained at paragraph II.6.3 of the Statement of Compliance); and a second on the availability and effects of support payments to women after divorce (details are contained at paragraph II.6.2 of the Statement of Compliance).

6.6. General powers

The powers of the Institution are dictated by its constituting document, the Décision de 1976; its Règlement interne; and the laws RS 172.31 (functions of extra-parliamentary commissions) and RS 172.061 (Swiss federal law on consultations of extra-parliamentary commissions).

According to the Décision de 1976, the CFQF is a specialized agency that is authorised to give advice and make recommendations to the Swiss Council; to undertake work at the request of the Swiss Council; to elaborate on propositions made by the Swiss Council relating to the situation of women in Switzerland; and to observe and regularly report on the situation of women in Switzerland.

The CFQF does not act on specific, discrete, and individualized violations of human rights. Instead, according to paragraph II.6.6 of the Institution's Statement of Compliance, the CFQF makes recommendations on laws that impact on the equality of women in Switzerland, in accordance with its Mandate as expressed in the Décision de 1976 and the Règlement interne. For particular elaborations of the Institution's performance of this function in respect of Swiss national laws, please see paragraph 6.3 of this summary, *above*.

The preparation of reports on the national situation of women in Switzerland is foreseen by the Institution's mandate, given in the Décision de 1976 (section 1) and the Règlement interne (section 4). The same legislative texts empower the CFQF to draw the attention of the Swiss Council to matters in Switzerland that affect the equality of Swiss women in society. The CFQF is also empowered by these same texts to propose initiatives to remedy women's inequality in Switzerland, and to follow-up on the Swiss government's implementation of the aforementioned measures.

6.7. Power to gather information

The legislative texts establishing the CFQF do not give this Institution a quasi-judicial competence. Instead, its information-gathering powers are laid out in the legislation that outlines its functions. In particular, Section 9 of the Décision de 1976 gives the CFQF the power to demand of the federal administration the information that it needs to execute its functions. This is re-iterated at section 5 of the

Règlement interne of the CFQF, which also states the CFQF's power to exchange information with the Swiss federal Bureau fédéral de l'égalité entre femmes et hommes.

V. SUMMARY OF THE ANNUAL REPORT

The 2007 Annual Report of the CFQF is divided into two main sections. The first deals with the Institution's *Thematic Priorities*, and the second its *Permanent Tasks*.

Under the heading of *Thematic Priorities*, the Annual Report discusses its recent publication of a study by a member of one of its Working Groups, entitled "Contribution d'entretien après le divorce – soutien financier par des proches parents – aide sociale". The study was published in 2007 in the first volume of the Institution's journal "Questions au féminin", which is available on the Internet. The recommendations of the Institution in the aftermath of this study are also discussed. The activities of the Institution concerning media outreach and public opinion to promote the release of the study are also discussed, as is the Institution's holding of a national day centred on the theme of women's poverty after divorce. The *Thematic Priorities* section of the Institution's 2007 Annual Report outlines the Institution's participation in the 2007 federal elections, through its participation in the activities of the OSCE election observers' mission, and through the submission of recommendations to Swiss political parties, the media, and the public on the topic of women's participation in politics. The section on *Thematic Priorities* concludes with a discussion of the CFQF's publication of its study entitled "Droits des femmes et droits humains: Perspectives pour la Suisse et pour la CFQF", and the workshop based on the findings of the study.

The section of the Institution's 2007 Annual Report dedicated to *Permanent Tasks* outlines the Institution's position statements on various issues relating to women's equality, specifically on procedural rules in Swiss law relating to the granting of divorce, individual taxation for married couples, the ability of married women to retain their original family names, the Swiss government's implementation of the First Optional Protocol to the Convention on Economic, Social and Cultural Rights, and the Swiss government's implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. The *Permanent Tasks* section also discusses the publication of two issues of the Institution's journal "Questions au féminin", and the Institution's efforts to confirm a new logo as part of a campaign to revise its public identity. The section on the Institution's *Permanent Tasks* concludes with a discussion of the Institution's other activities, among them its plenary meetings, the activities of the Office and the CFQF Secretariat, and the renewal in June 2007 of the Institution's mandate.

Of particular interest is the discussion in the Institution's 2007 Annual Report of the Swiss federal government's forthcoming revision of the Loi sur l'organisation du gouvernement et de l'administration (LOGA). According to the Institution's 2007 Annual Report, the intention of the law is to create a legal basis for the government to create a future system of commissions that is better adapted to the needs of the Swiss Council and the federal administration. The CFQF criticizes the proposed legal reform, arguing that the role of Swiss extra-parliamentary commissions is not solely to counsel the Swiss federal government and administration, but also to pursue a variety of mandated activities that the proposed changes in the law will restrict them from doing, in particular ensuring the continued consideration of the interests of civil society in the political decision-making process.
