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# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

## Hundred and Fifth Session

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### Statutes of the Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC) - Proposal to Extend its Mandate

## I. Background

1. This item has been placed on the Provisional Agenda of the Committee on Constitutional and Legal Matters (“CCLM” or “the Committee”) under Rule XXXIV, paragraph 7(e), of the General Rules of the Organization (“GRO”), whereby the Committee shall consider specific items referred to it which may arise out of “*the establishment of commissions and committees under Article VI of the Constitution, including their membership, terms of reference, reporting procedures and rules of procedure*”. On this basis, the CCLM reviews the Statutes of commissions and committees established under Article VI of the Constitution, as well as amendments thereto.

2. This document presents proposed amendments to the Statutes of the Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean, hereinafter referred to as “COPESCAALC” which are set out in the Annex hereto.

## II. COPESCAALC

3. COPESCAALC (initially named as COPESCAL) was established by the Director-General, under Article VI, paragraph 1 of the FAO Constitution, as authorized in Resolution 4/70 adopted by the Council at its Seventieth Session in December 1976.

4. COPESCAALC was initially created to help national and regional efforts targeting the development and rational use of inland fishery resources in Latin America. In December 2010 the FAO Council, on the occasion of its Hundred and Fortieth Session, adopted revised Statutes of COPESCAALC in order to extend its geographical scope to the Caribbean and its mandate to encompass

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aquaculture in view of the importance that this sector had gained in the region and the need for the Commission to be fully involved in this thematic area.

5. Currently, the Commission's mandate includes the promotion of sustainable development and management of inland fisheries and aquaculture according to the norms and principles of the FAO Code of Conduct for Responsible Fisheries. It covers inland and aquaculture areas of its Member states.

6. At present COPEESCAALC has 21 Members, as follows: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela.

### **III. Extension of the Mandate of COPEESCAALC**

#### **A. History of the Proposal**

7. At its Fourteenth Session, held in Lima, Peru from 1 to 3 February 2016, the Commission requested the Secretariat to assess the possibility to expand its mandate with a view to including marine artisanal fisheries. This possibility had already been discussed in previous meetings including during the Twelfth Session of COPEESCAALC (Cuernavaca, Mexico, 21-24 November 2011) and at an intersessional meeting (Lima, Peru, 24-25 September 2015).

8. COPEESCAALC presented its recommendations to the Thirty-fourth FAO Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February - 3 March 2016) which reaffirmed FAO's role in the context of technical secretariats of the various regional commissions. The Conference "*stressed the importance of furthering work on fisheries and aquaculture, with particular emphasis on artisanal fisheries as a differentiated policy, in view of the fact that fishery and aquaculture resources make a major contribution to food and nutrition security by helping to eradicate hunger and poverty.*"

9. By letter dated 14 July 2016, the Pro Tempore President of COPEESCAALC, on behalf of all Members of COPEESCAALC, requested the Secretariat to take the necessary steps towards the inclusion of the marine artisanal sector within the scope and objectives of the Commission, in light of the growing social and economic importance of marine artisanal fisheries in Latin America and the Caribbean, as well as the paramount contribution of these fisheries to food security of thousands of coastal communities and rural areas in general of all coastal and island states.

#### **B. Considerations on the Proposed Amendments**

10. By Resolutions 13/97 and 11/2015 on Review of FAO Statutory Bodies, the FAO Conference identified the factors and criteria to be taken into account when establishing a new body. Same criteria should be applied when extending the mandate and functions of an existing body. One of these factors is "*FAO's comparative advantage, thereby avoiding overlap and creating synergy with the work of other Bodies*". Furthermore, any decision to establish a new body should be accompanied by "*a specific assessment of whether the objectives of the proposed statutory body could be met through a different type of working arrangement, such as the organization of ad hoc technical consultations or other task-oriented and time-bound arrangements; and whether there are any existing statutory bodies covering the same, similar or related fields as those to be addressed by the proposed new statutory body*".

11. To that effect, a technical consultation on the incorporation of marine artisanal fisheries into the mandate of the Commission was held in San José, Costa Rica, on 4 April 2017. The purpose of the technical consultation was to discuss with other fisheries bodies of the region how to avoid overlapping of mandates and areas of coverage, how to guarantee the effective and coordinated use of resources

among these bodies, identify complementarities and strengthen synergies if the mandate was to be extended.

### **(a) FAO's comparative advantage**

12. Fisheries and aquaculture sectors are considered relevant for food security and nutrition as well as poverty eradication in the region, and are linked to FAO programs on territorial rural development. In this context, the Thirty-fourth FAO Regional Conference for Latin America and the Caribbean (Mexico City, Mexico, 29 February - 3 March 2016) “*stressed the importance of furthering work on fisheries and aquaculture, with particular emphasis on artisanal fisheries as a differentiated policy, in view of the fact that fishery and aquaculture resources make a major contribution to food and nutrition security by helping to eradicate hunger and poverty.*”

13. The proposed amendment as well as related arguments are in conformity with the FAO framework and its strategic objectives. The amendment will also be in line with the three Regional Initiatives in Latin America and the Caribbean (adopted by the FAO Regional Conference for Latin America and the Caribbean and embedded in the COPESCAALC work-plan for 2016-2017). In fact, the need for “*further implementation of the Regional Initiatives in areas like fisheries and aquaculture, forestry, agro-ecology and crop diversification*” has been emphasized during the FAO Regional Conference for LAC in 2016.

14. Moreover, FAO’s Strategic Framework on food security, nutrition and sustainable agriculture and management of natural resources is linked to several SDGs, in particular SDG 2 (“End hunger, achieve food security and improved nutrition and promote sustainable agriculture”), SDG 12 (consumption and production), SDG 14 (oceans), and SDG 15 (biodiversity). Among the fisheries related targets, calls for action include access for small-scale artisanal fishermen to marine resources and markets; other targets cover management of marine and coastal ecosystems.

15. Finally, during the various meetings of the Commission, Members noted the importance of marine artisanal fisheries for the region and the need of a regional forum for political discussion on this topic. Members highlighted that COPESCAALC is considered as a unique fisheries and aquaculture political forum for high-level discussion and an important actor for the implementation of FAO relevant policies in the region.

### **(b) Geographical coverage of COPESCAALC - Potential overlaps with other Regional Fishery Bodies**

16. Regional Fishery Bodies (RFBs) which include marine waters in their mandate and could present partial overlapping with the potential new area of competence of COPESCAALC are: WECAFC, OLDEPESCA, OSPESCA, CTMFM, CRFM, as well as IATTC and ICCA. In addition, the Permanent Commission for the South Pacific (CPPS), a maritime institution that coordinates regional maritime policies and promote fisheries management strategies, covers the territorial seas and Exclusive Economic Zones of some Member countries (Chile, Colombia, Ecuador, Peru), including their islands in the Pacific.

17. The RFBs in Latin America and the Caribbean which cover a more comprehensive area are COPESCAALC and WECAFC. While WECAFC Members mainly include Central America and Caribbean countries, COPESCAALC Members include all countries of Central and South America, with the exception of Guyana and French Guiana, as well as some countries in the Caribbean.

18. It appears that a regional fishery body with a comprehensive geographical scope like COPESCAALC with a mandate that include both, marine and inland waters, could promote and support an integrated and regionally coherent approach needed for the sustainability of the fisheries and aquaculture sectors in the Region.

### **(c) Synergy of COPESCAALC with the work of other bodies and its role in regional cooperation**

19. COPESCAALC cooperates with other bodies present in the region such as the Central American Fisheries and Aquaculture Organization (OSPESCA), the Latin American Organization for Fisheries Development (OLDEPESCA), the Aquaculture Network of the Americas (RAA) and the Latin American and Caribbean Forum of Fish and Aquaculture Parliamentarians, civil society organizations, indigenous populations, local communities, Latin American Parliament (PARLATINO) and other organizations of the UN system.

20. As highlighted at the 32nd session of COFI (Rome, Italy, 11-15 July 2016), fisheries and aquaculture governance requires mechanisms of regional cooperation; in this case, by working together with different constituencies, the Commission is ensuring the effective implementation of policies, good practices and related activities and the harmonization of relevant laws to ensure fisheries and aquaculture sustainability in the region. In this regard, a number of jointly-supported activities are being carried out in the region, including among others: the promotion of the inclusion of fish in school feeding programs (FAO-Forum of Parliamentarians of Fisheries and Aquaculture); a Model Law for Small Scale Fisheries (FAO-Latin American Parliament), strategies to strengthen institutional capacities to combat Illegal, Unreported and Unregulated Fishing (FAO-OSPESCA) and Capacity building of resource-limited aquaculture farmers (FAO-Aquaculture Network of the Americas).

21. Moreover, in various fora, COPESCAALC Members that are implementing the Voluntary Guidelines on Small Scale Fisheries (hereinafter referred to as “VG-SSF”) have stated that there is a need for working in marine and inland areas together, due to their common issues and following the VG-SSF which include small-scale fisheries in marine and continental waters, and that a combined strategy at regional level is required. COPESCAALC Members have agreed that the needed comprehensive approach could be provided by the Commission.

## **IV. Conclusions**

22. The relevance of artisanal fisheries, both inland and marine artisanal fisheries, has been stressed by Members of COPESCAALC and by the FAO Regional Conference for Latin America and the Caribbean, and is supported by different assessments undertaken by FAO. The extension of the Commission’s mandate as requested could be strategic for fisheries governance in the region, and in particular to improve resource management in the context of small-scale fisheries following the implementation of the VG-SSF, which refer indistinctly to marine and inland areas. Members consider relevant for the region to count on a coordinated approach to provide a unique forum for political and technical discussion.

23. Given the importance of artisanal fisheries for local economies and the related concerns that countries deal with, a comprehensive approach including both marine and inland artisanal fisheries, managed by the same institutions at country level, may imply that having a common regional forum would be an advantage. In fact, Member states noted, during the COPESCAALC intersessional meeting in Peru, that decision-making at national level distinguishes marine artisanal fisheries from continental artisanal fisheries, but both sub-sectors as well as their features, problems and regulatory mechanisms require a coherent approach. The Commission could be in a strategic position to provide this forum, if marine artisanal fisheries would be included in its mandate.

24. In this context, COPESCAALC could have the possibility to enlarge its work developed in cooperation with other actors in the region, to ensure broad representativeness and facilitate exchange of information and good practices among different actors. The initiatives with parliamentarians to ensure harmonization of laws and strategies in the sector are a good example of innovative approach in terms of involvement and political commitment, as it resulted in the creation of a permanent mechanism to

support fisheries and aquaculture development. This also demonstrates that the Commission has concrete opportunities to promote and/or support the elaboration and implementation of needed policies related to fish habitats and transboundary and shared stocks.

25. On the basis of the above mentioned considerations, it is to be highlighted that the proposal implies not only legal and governance issues but also a policy one. The implications of the proposal are to be looked at from a regional, sub-regional and national perspective. The Secretariat has confirmed that despite the extension of the mandate, the Commission will continue operating within the same budget.

26. The revised statutes are provided in Annex I of this document.

## **V. Suggested Action by the Committee**

27. The CCLM is invited to examine and comment upon this document, as appropriate.

28. More specifically, the CCLM is invited to:

(a) review the draft Council Resolution containing the revised Statutes of the Commission for Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC), including the change in name to become the “Commission for Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC)”; and

(b) forward the draft Resolution to the Council for approval.

## Annex 1

## COUNCIL RESOLUTION .../..

COMMISSION FOR ~~INLAND~~ FISHERIES AND AQUACULTURE OF  
LATIN AMERICA AND THE CARIBBEAN (COPESCAALC)

## THE COUNCIL,

**Recognizing** that the Council at its Seventieth Session, which took place in Rome from 29 November to 9 December 1976, established the Commission for Inland Fisheries of Latin America (COPESCAL), through Resolution 4/70;

**Bearing in mind** that the Hundred and Fortieth Session of the FAO Council, held from 29 November to 3 December 2010, amended COPESCAL Statutes to include aquaculture and changed its name into “Commission for Inland Fisheries and Aquaculture of Latin America (COPESCAALC)”.

**Taking into consideration** the broad geographical scope of COPESCAALC which include most of the countries of Central and South America as well as some of the Caribbean;

**Recognizing** the importance of marine artisanal fisheries for the region and the need of a regional forum for political discussion on this topic;

**Recognizing** that COPESCAALC has operated in an effective manner since its creation in 1976 and that, as a result of the experience it has gained over the years, Members have considered it as the most appropriate forum in the region to discuss marine artisanal fisheries;

**Taking note** that the Fourteenth Session of COPESCAALC, held in Lima, Peru, from 1 to 3 February 2016, had agreed to amend the Statutes of COPESCAALC to expand its mandate to marine artisanal fisheries;

**Approves**, under Article VI, paragraph 1 of the Constitution, the change of the name of COPESCAALC to “*Commission for Fisheries and Aquaculture of Latin America and the Caribbean – COPESCAALC*”, and

**Approves** its revised Statutes, including the change of the name to “*Commission for Fisheries and Aquaculture of Latin America and the Caribbean*”, which are set out in the Annex to this Resolution.

**ANNEX TO RESOLUTION .../..<sup>1</sup>****STATUTES OF THE COMMISSION FOR INLAND FISHERIES AND AQUACULTURE OF LATIN AMERICA AND THE CARIBBEAN (COPESCAALC)****1. Purpose**

The purpose of the Commission is to promote the management and sustainable development of ~~inland~~ fisheries and aquaculture in accordance with the principles and rules of the Code of Conduct for Responsible Fisheries of FAO.

In addition, the Commission shall:

- a) foster the development of ~~inland~~ fisheries and aquaculture as an instrument of support to food security;
- b) pay special attention to subsistence ~~inland~~ fisheries and small-scale aquaculture;
- c) be able to establish coordination and cooperation relations with other international organizations in thematic areas of mutual interest.

Interpretation and application of these statutory provisions shall take place in accordance with the principles and rules of the Code of Conduct for Responsible Fisheries and its related instruments.

**2. Membership**

The Commission shall be open to all Member Nations and Associate Members of the Organization which are serviced by the Regional Office for Latin America and the Caribbean. It shall be composed of those eligible Member Nations and Associate Members which notify the Director-General of their desire to be considered as Members.

**3. Functions**

The functions of the Commission are:

- a) to support the formulation of national and regional policies and plans for the management and development of ~~inland~~ fisheries and aquaculture, with due consideration of the social, economic, cultural and environmental aspects of the Member Nations;
- b) to promote and coordinate studies for the management and sustainable development of ~~inland~~ fisheries and aquaculture, as well as national and regional programmes of research and development related to such activities;
- c) to foster the sustainable development of subsistence ~~inland~~ fisheries and small-scale aquaculture;
- d) to promote, at regional level, activities aimed at protecting ecosystems related to ~~inland~~ fisheries and aquaculture, including, as the case may be, appropriate restocking actions;

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<sup>1</sup> Deletions appear as ~~strikethrough~~.

- e) to promote application of the ecosystems approach and implementation of adequate certification and biosafety measures in ~~inland~~ fisheries and aquaculture;
- f) to identify the social, institutional and economic factors that hold back the development of ~~inland~~ fisheries and aquaculture, and recommend measures that will contribute to improving the quality of life of stakeholders;
- g) to collaborate in the management and the economic and social assessment of recreational ~~inland~~ fishing and its development;
- h) to promote the implementation of good management practices and sustainable technologies in ~~inland~~ fisheries and aquaculture, in accordance with the Code of Conduct for Responsible Fisheries;
- i) to promote good post-catch and post-harvest practices, and good marketing practices for products of ~~inland~~ fisheries and aquaculture, in accordance with internationally accepted sanitary and food safety standards;
- j) to contribute to the building of institutional capacity and to the development of human resources through training, extension and technology transfer in areas of competence of the Commission, in collaboration with national and regional institutions;
- k) to assist in the generation, dissemination and exchange of data, information and statistics on ~~inland~~ fisheries and aquaculture;
- l) to help Member Nations, upon their request, with the management and sustainable use of transboundary stocks under their respective national jurisdictions;
- m) to collaborate with Member Nations in the formulation of national and regional plans and projects to be executed in cooperation with those Member Nations, and with other sources of international cooperation, in order to attain the objectives set out in the previous paragraphs;
- n) to promote the updating and harmonization of national legislations on ~~inland~~ fisheries and aquaculture;
- o) to mobilize monetary and non-monetary resources to facilitate the activities of the Commission and to create, if necessary, one or more trust funds to receive voluntary contributions for that purpose;
- p) to foster collaboration among Member Nations of the Commission, and between the latter and international bodies;
- q) to draw up the Commission's plan of work; and
- r) to perform any other functions related to the management and sustainable development of ~~inland~~ fisheries and aquaculture in the region.

#### 4. Subsidiary bodies

- a) The Commission may establish an Executive Committee and such other subsidiary bodies as may be required for the effective discharge of its functions.
- b) The establishment of any subsidiary body shall be subject to the determination by the Director-General that the necessary funds are available in the relevant chapter of the budget of the Organization. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies, the Commission must have before it a report from the Director-General on the administrative and financial implications thereof.

## 5. Reports

The Commission shall submit to the Director-General reports on its activities and recommendations at appropriate intervals so as to enable the Director-General to take them into consideration when preparing the draft Programme of Work and Budget of the Organization or other submissions to the Organization's Governing Bodies. The Director-General shall bring to the attention of the Conference through the Council any recommendations adopted by the Commission which have policy implications or which affect the programme or finances of the Organization. Copies of each report of the Commission will be circulated to Member Nations and Associate Members of the Organization and international organizations for their information as soon as they become available.

## 6. Secretariat and expenses

a) The Secretary of the Commission shall be appointed by the Director-General and shall be administratively responsible to him. The expenses of the Secretariat of the Commission shall be determined and paid by the Organization within the limits of the relevant appropriations in the approved budget of the Organization.

b) With a view to promoting the development of ~~inland~~ fisheries and aquaculture, the Organization may also establish trust funds comprising voluntary contributions from the Members of the Commission or from private or public sources, and the Commission may advise on the use of such funds which shall be administered by the Director-General in accordance with the Financial Regulations of the Organization.

c) Expenses incurred by representatives of Members of the Commission, their alternates or advisers, when attending sessions of the Commission or its subsidiary bodies, as well as the expenses of observers at sessions, shall be borne by the respective governments or organizations.

## 7. Observers

a) Any Member Nation or Associate Member of the Organization that is not a Member of the Commission but has an interest in the development of ~~inland~~ fishery or aquaculture in the region of Latin America and the Caribbean may, upon prior request, be invited by the Director-General to attend meetings of the Commission or its subsidiary bodies in an observer capacity.

b) States which, while not Member Nations or Associate Members of the Organization, are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon their request, and with the approval of the Council of the Organization, be invited to attend meetings of the Commission or its subsidiary bodies in an observer capacity in accordance with the provisions relating to the granting of observer status to nations adopted by the Conference of the Organization.

## 8. Participation of international organizations

Participation of international organizations in the work of the Commission and relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and the General Rules of the Organization, as well as the rules on relations with international organizations adopted by the Conference or Council of the Organization.

## 9. Rules of Procedure

The Commission may adopt and amend its own rules of procedure which shall be in conformity with the Constitution and the General Rules of the Organization and with the Statement of Principles Governing Commissions and Committees adopted by the Conference. The rules of procedure and amendments thereto shall come into force upon approval by the Director-General.

