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منظمة
الأغذية والزراعة
للأمم المتحدة

COUNCIL

Hundred and Fifty-eighth Session

Rome, 4-8 December 2017

Report of the 105th Session of the Committee on Constitutional and Legal Matters (Rome, 23-25 October 2017)

Executive Summary

The 105th Session of the Committee on Constitutional and Legal Matters (CCLM):

- a) **examined** document CCLM 105/2 "*Terms of office of Council Members*" and recommended that the Independent Chairperson of the Council hold consultations with Members under a format to be determined by the Council with a view to clarifying the legal framework for seat sharing arrangements, observing that while internal arrangements had been established by some regions and accepted by the Conference in 2015 and 2017, the General Rules of the Organization do not provide for seat sharing arrangements; the CCLM **expressed** its readiness to examine the matter again in light of the outcome of the consultations among Members, including any draft amendments to the Basic Texts, as required.
- b) noting that in a number of secret ballots scrutineers appointed by candidates had, through modern communication technology, **informed** their delegations or third parties of the outcome of the count of votes, agreed that such disclosure should not occur. The CCLM **recommended** that the Secretariat should be mandated to take such steps as may be required to ensure that the results of ballots remain undisclosed until the formal announcement.
- c) **endorsed** the draft Council Resolution proposing amendments to the Statutes the Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC), as set out in Appendix 1 to this Report, for approval by the Council.

Suggested action by the Council

The Council is invited to:

- a) **Recommend** that the Independent Chairperson of the Council hold consultations with the Members with a view to clarifying the legal framework for internal seat sharing arrangements established by some regions; **to provide** such guidance on the format of such consultations and to further **recommend** that the CCLM examine the matter again in light of the outcome of the consultations, including any draft amendments to the Basic Texts, as required.
- b) **Mandate** the Secretariat to take such steps as may be required to ensure that the results of secret ballots remain undisclosed until the formal announcement of the outcome of the ballot.
- c) **Approve** the Council Resolution entitled "*Statutes of the Commission for Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC)*" set out in Appendix 1 to this Report.

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I. Introduction

1. The Hundred and Fifth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 23 to 25 October 2017.
2. The Session, open to silent observers, was chaired by H.E. (Mr) Godfrey Magwenzi, who welcomed all the members. The following members were present:
 - Mr Royhan Nevy Wahab (Indonesia)
 - H.E. (Mr) Ali Albsoul (Jordan)
 - H.E. (Ms) Lineo Irene Molise Mabusela (Lesotho)
 - Mr Junior Escobar Fonseca (Nicaragua)
 - H.E. (Ms) Daniela Rotondaro (San Marino)
 - Ms Emily Katkar (United States of America)
3. The CCLM was informed that H.E. (Mr) Luke Daunivalu (Fiji) was unable to attend the session and that H.E. (Ms) Monica Robelo Raffone had been replaced by Mr Junior Escobar Fonseca for the session.
4. The CCLM approved its Provisional Agenda.

II. Election of the Vice Chairperson

5. The CCLM elected H.E. (Ms) Daniela Rotondaro as Vice-Chairperson.

III. Terms of office of Council Members

6. The CCLM examined document CCLM 105/2 “*Terms of office of Council Members*” and acknowledged its comprehensive nature. It noted that the subject matter raised broader issues of a policy nature, many of which were potentially divisive and would require substantive consultation amongst the Members. While it was essentially a governance issue for the Membership of the Organization, the CCLM noted that seat sharing arrangements were not foreseen at the time of adoption of the provisions of the General Rules of the Organization (GRO) on the composition of the Council. The matter was under consideration by the CCLM because it had generated discussions at the two last sessions of the Conference, as there were doubts as to whether the arrangements were in line with the letter and the spirit of the provisions.
7. From a legal perspective, the CCLM observed that seat sharing arrangements are not provided for in the GRO and that Members of the Council are elected for a 3-year term of office. However, the CCLM also noted that some regions had established internal arrangements for determining their representation in the Council, some of which resulted in seat sharing arrangements of the kind that had been accepted by the last two Sessions of the Conference.
8. The CCLM recommended that the Independent Chairperson of the Council hold consultations with the Members, under such format as would be determined by the Council, with a view to clarifying the legal framework for such arrangements, as appropriate. The CCLM noted that document CCLM 105/2 provided useful background information for the consultations.
9. The CCLM expressed its readiness to examine the matter again in light of the outcome of the consultations among Members, including any draft amendments to the Basic Texts, as required.

IV. Attendance by Candidates or scrutineers appointed by candidates at the count of votes (Implementation of Rule XII, paragraphs 10(g) and (h) of the General Rules of the Organization)

10. The CCLM examined document CCLM 105/3 “*Attendance by Candidates on scrutineers appointed by candidates at the count of votes (Implementation of Rule XII, paragraphs 10(g) and (h) of the General Rules of the Organization)*”. The CCLM noted that in a number of secret ballots scrutineers appointed by candidates had, through modern communication technology, informed their delegations or third parties of the outcome of the count of votes. This resulted in a large number of delegates being informally aware of the outcome of ballots before the formal announcement of results by the Chairperson. The CCLM noted that the Secretariat was uncertain as to the course of action to be taken in presence of this type of situation.

11. The CCLM agreed that this should not occur, particularly in consideration of the fact that informal disclosure could potentially lead to disputes and even the formally announced results being called into question.

12. The CCLM concurred with the view of the Secretariat that there was no need for an amendment of the Rules to address the issue. The CCLM recommended to the Council that the Secretariat should be mandated to take such steps as may be required to ensure that the results of ballots remain undisclosed until the formal announcement, such as not authorizing electronic devices in the room where the count of votes is taking place.

V. Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC) – Proposal to amend its mandate

13. The CCLM considered document CCLM 105/4 “*Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC) – Proposal to amend its mandate*”.

14. The CCLM noted that the amendments to the Statutes of COPESCAALC entailed a change to the official name of the Commission and an extension of its mandate to marine fisheries, in view of the growing importance of marine artisanal fisheries for the region and the need for a regional forum for political discussion on this topic. The CCLM also observed that in view of the various regional fisheries bodies active in the region, the planning and implementation of COPESCAALC activities will require coordination with those of other bodies (e.g. WECAFC), including with respect to the use of resources, identification of complementarities and strengthening synergies. CCLM Members were informed that the proposal did not carry any additional budgetary implications for the Organization.

15. The CCLM endorsed the proposed amendments to the Statutes, as set out in Appendix 1 to this Report and agreed to forward them to the forthcoming Session of the Council for approval. The draft Resolution for approval by the Council is set out in Appendix 1.

VI. Any other matters

16. There were no other matters.

Appendix 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 and the Caribbean (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 .../..¹**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;
- 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;

¹ Deletions appear as ~~strikethrough~~.

- 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.