



## COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

### Ninetieth Session

Rome, 28 – 29 April 2010

## CHANGES IN THE TERMS OF REFERENCE OF FORESTRY BODIES UNDER ARTICLE VI OF THE CONSTITUTION

### I. BACKGROUND

- Under Article VI of the Constitution, the Conference and the Council may establish general or regional commissions as well as committees and working parties, and may convene general, technical, regional or other meetings. The terms of reference of these bodies are usually determined by the Conference or the Council.
- This document deals with issues arising from the requested changes in the titles and terms of reference of two Forestry Bodies established under Article VI of the Constitution: the African Forestry and Wildlife Commission and the Near East Forestry Commission.

### II. CHANGES IN THE TERMS OF REFERENCE OF THE AFRICAN FORESTRY AND WILDLIFE COMMISSION (AFWC)

- The African Forestry Commission was established under Article VI of the Constitution at the Tenth Session of the FAO Conference (1959) through Resolution 26/59. The Statutes of the Commission were also approved at the Conference through this resolution.
- Article I of the Statutes contains the following generic definition of the terms of reference of the Commission:

*“The function of the Commission shall be to advise on the formulation of forest policy and to review and coordinate its implementation on the regional plane, to exchange information and, generally through special subsidiary bodies, advise on suitable practices and action in relation to technical problems, and make appropriate recommendations in relation to the foregoing.”*

5. The Commission adopted its Rules of Procedure at its First Session (1960). The Rules of Procedure were confirmed by the Eleventh Session of the Conference (1961).

6. In 1988, the Ninety-fourth Session of the FAO Council approved a change in the name of the Commission to “African Forestry and Wildlife Commission” (AFWC). At that time, the Council<sup>1</sup> noted that the change of title did not entail any change in the terms of reference of the Commission because it had been the practice of the Organization, as well as of the Commission, that the concept of forestry be interpreted in its widest sense, to include wildlife and allied subjects<sup>2</sup>. Therefore, the Council approved the change of name without amending the Statutes of the Commission. The Commission did later amend Rule I of its Rules of Procedure in order to include its new title.

7. During its Sixteenth Session (2008) the AFWC requested the Organization to amend its terms of reference in order to include in the first sentence of paragraph 1 of the Statutes that “*the function of the Commission shall be to advise on the formulation of forest and wildlife policy (...)*” (insertions are indicated using *underlined italics*).

8. The CCLM is invited to review the proposed amendment to Article I of the Statutes of the African Forestry and Wildlife Commission and make such comments and observations thereon as appropriate. The proposed amendment would then be referred to the Hundred and Thirty-eighth forthcoming Session of the Council for approval.

### III. CHANGES IN THE TITLE AND TERMS OF REFERENCE OF THE NEAR EAST FORESTRY COMMISSION

9. The Near East Forestry Commission (NEFC) was established under Article VI of the Constitution by the FAO Conference at its Seventh Session (1953) through Resolution 24/53. On that occasion, the Conference decided not to lay down formal terms of reference for the new Commission. However, the Conference decided at its Tenth session (1959) to review the matter and established formal Terms of Reference for the Commission by Resolution 62/59.

10. NEFC adopted its Rules of Procedure during its Second Session (1958). These Rules have been amended on two occasions (1962 and 1983).

11. At its Eighteenth Session (2008), NEFC decided to amend the title and mandate of the Commission “*in order to include range concerns*”.

12. At its Nineteenth session (5-9 April, 2010) NEFC proposed the following amendments to Article I of its Statutes and Rule 1, paragraph 1 of its Rules of Procedure. Article I of the Statutes would read as follows:

*“The functions of the Near East Forestry and Range Commission shall be to advise on the formulation of management forest policy of forests, trees, range and their products, and to review and coordinate its implementation ~~on~~ at the national and regional levels ~~plane~~; to exchange ~~information~~ views and experiences and, generally, through special subsidiary bodies, advise on suitable practices and action in regard to technical problems and make appropriate recommendations in relation to the foregoing. The Commission shall examine the widening gap between present trends and the potential of*

<sup>1</sup> See paragraph 236 of the *Report of the Ninety-fourth Session of the Council*, Rome, 15-26 November 1988.

<sup>2</sup> See paragraphs 3-5 of document CL 94/19 of the *Ninety-fourth Session of the Council*, Rome, 15-26 November 1988.

*forests and rangelands. It shall identify the threats to forests and rangelands and recommend possible action. The outcomes of the Commission reflect the views of its members and their will to work together towards common goals.*" (deletions are indicated using ~~struck out text~~ and insertions are indicated using *underlined italics*).

13. The proposed amendment to Rule I, paragraph 1 of the Commission's Rules of Procedure reads as follows:

*"Membership in the Near East Forestry and Range Commission is open to (...)"*(insertions are indicated using *underlined italics*).

14. As per past practice, the entry into force of the amendments to the Commission's Statutes would occur upon approval by the Council of the Organization. The entry into force of the amendments to the Rules of Procedure would be *"upon approval by the Director-General of the Organization* (Rule XII, paragraph 1).

15. The CCLM is invited to review the proposed amendments and make such comments and observations thereon as appropriate. The proposed amendments would then be referred to the Hundred and Thirty-eighth forthcoming Session of the Council for approval.

#### **IV. SUGGESTED ACTION BY THE COMMITTEE**

16. The CCLM is invited to review this document and make such comments thereon as appropriate. The CCLM is invited to endorse the approach taken by the secretariat that, while the Commissions were established by the Conference, for reasons of administrative convenience these amendments be endorsed by the Council, subject to such views as the Council may hold on the matter.

17. The CCLM is in particular invited to:

- (a) endorse the proposed amendment to Article I of the Statutes of the African Forestry and Wildlife Commission and refer it to the Council for approval; and
- (b) endorse the proposed amendments to Article I of the Statutes and Rule I, paragraph 1 of the Rules of Procedure of the Near East Forestry Commission and refer them to the Council for approval.