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منظمة  
الأغذية والزراعة  
للأمم المتحدة

## COUNCIL

### Hundred and Fifty-ninth Session

Rome, 4-8 June 2018

### Report of the 106<sup>th</sup> Session of the Committee on Constitutional and Legal Matters (Rome, 12-14 March 2018)

#### Executive Summary

The 106<sup>th</sup> Session of the Committee on Constitutional and Legal Matters (CCLM) examined procedures related to the process of appointment of the Director-General, a proposal to amend the Statutes of the Commission for Inland Fisheries and Aquaculture and of Latin America and the Caribbean (COPESCAALC), activities of the Development Law Branch and procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution.

#### Suggested action by the Council

The Council is invited to approve the report of the CCLM. The Council is, more specifically, invited to:

- (a) **agree** that any internal candidate for the office of Director-General be placed on special leave without pay from the date of communication of nominations under Rule XXXVII, paragraph 1(b) of the General Rules of the Organization.
- (b) **agree** that an advance letter of resignation be submitted with the nomination of any internal candidate to the Secretary-General of the Conference and the Council, for subsequent transmission to the Director-General Elect who will decide, within ten days after assuming office, whether to accept the resignation. If no decision is taken by that date, the letter of resignation will be null and void.

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- (c) **agree** that, in anticipation for the process for the election of the next Director-General, staff members be reminded of their obligations of neutrality and impartiality as set out in the Standards of Conduct for the International Civil Service, in line with established practice in FAO and other UN Systems Organizations.
- (d) **note** the Secretariat's observations on the need for a smooth transition between the outgoing and incoming administrations and **request** the Secretariat to prepare a document on this matter for consideration at the next CCLM session.
- (e) **approve** the Resolution amending the Statutes of the Commission for Small Scale and Artisanal Fisheries and Aquaculture of Latin America and the Caribbean (COPPEAALC) set out in Appendix 1 to this Report.
- (f) **welcome** the concerted focus given by the Development Law Branch to country needs and priorities in assisting Members to address their global priorities and commitments and the careful alignment of its activities with achievement of the FAO Strategic Objectives.
- (g) **note** the consultations undertaken by the Independent Chairperson of the Council on the issue of the procedures for the appointment of secretaries of bodies under Article XIV of the Constitution, the ongoing processes, as well as the views of the Secretariat and **further note** that the matter would be considered again by the CCLM.
- (h) **note** issues related to attendance at the forthcoming session of the CCLM.

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## I. Introduction

1. The 106<sup>th</sup> Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 12 to 14 March 2018.
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) Monica Robelo Raffone (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) and H.E. Lineo Irene Molise-Mabusela (Lesotho) were unable to attend the session.
4. The CCLM approved its Agenda.

## II. Procedures related to the process of appointment of the Director-General

5. The CCLM considered document CCLM 106/2 "*Procedures related to the process of appointment of the Director-General*" and noted the background information provided.
6. The CCLM agreed with the proposal that any internal candidates for the office of Director-General should be placed on special leave without pay from the date of communication of nominations under Rule XXXVII, paragraph 1 (b) of the General Rules of the Organization. The CCLM noted that this reflected the practice followed in 2011 and that the matter had been discussed in the context of the implementation of the FAO Reform.
7. The CCLM also concurred with the proposal that an advance letter of resignation be submitted with the nomination of any internal candidate to the Secretary-General of the Conference and the Council, for subsequent transmission to the Director-General Elect who would decide, within ten days after assuming office, whether to accept the resignation. If no decision was taken by that date, the letter of resignation would be null and void.
8. The CCLM further agreed with the proposal that, in anticipation of the process for the election of the next Director-General, staff members be reminded of their obligations of neutrality and impartiality as set out in the Standards of Conduct of the International Civil Service. The CCLM observed that this was in line with established practice in FAO and other organizations of the United Nations System.
9. The CCLM took note of the Secretariat's observations on the need for a smooth transition between the outgoing and incoming administrations and requested the Secretariat to prepare a document on this matter for consideration at the next Session.

### **III. Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC) – Proposal to amend the Statutes of the Commission**

10. The CCLM considered document CCLM 106/3 “*Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC) – Proposal to amend the Statutes of the Commission*”.

11. The CCLM noted that the Commission, during its XV<sup>th</sup> Regular Session which took place in Panama City, Panama, from 22 to 24 January 2018, reviewed and unanimously approved the amendments to the Statutes aimed at expanding the mandate of the Commission to marine artisanal fisheries, as requested by the Council at its 158<sup>th</sup> Session.

12. The CCLM once again 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. The Secretariat of the Commission informed the CCLM Members that the proposal, including the amendments to Paragraph 3 r) of the Statutes, did not carry any additional budgetary implications for the Organization.

13. On the basis of the foregoing, the CCLM endorsed the revised 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 Council Resolution is also attached in Appendix 1.

### **IV. Activities of the Development Law Branch – Information Report**

14. The CCLM took note of document CCLM 106/4 “*Activities of the Development Law Branch – Information Report*” and the information presented during the Session.

15. The CCLM expressed appreciation for the role of the Development Law Branch (LEGN) in assisting Members in addressing their global priorities and commitments, such as the Sustainable Development Goals, efforts to combat climate change, and to support the implementation of the Port States Measures Agreement, the FAO Action Plan on Anti-Microbial Resistance (AMR) and the Sustainable Wildlife Management (SWM) Programme. It observed the importance of appropriate gaps and needs analysis, underlining that legal reform is not needed in every case. The CCLM welcomed the concerted focus given to country needs and priorities and careful alignment of LEGN activities with the FAO Strategic Objectives.

### **V. Procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution**

16. The CCLM considered document CCLM 106/5 “*Procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution*”, which included information on steps taken in accordance with the decision adopted by the Council on this matter at its 155<sup>th</sup> Session concerning both the implementation of an interim procedure and the development of a long term one.

17. The CCLM was informed that the Indian Ocean Tuna Commission (IOTC) had transmitted a proposal to the Independent Chairperson of the Council immediately prior to the current Session. The Secretariat advised the CCLM that it would be transmitting its observations thereon in time for consideration at the Commission’s next Session to be held in May 2018.

18. The CCLM noted the consultations undertaken by the Independent Chairperson of the Council, the ongoing processes, as well as the views of the Secretariat. The CCLM, following an exchange of views amongst its members, requested the Secretariat to submit the matter to the CCLM at its next Session.

## **VI. Any other matters**

19. The Chair requested the Secretariat to make appropriate arrangements to secure the attendance of a representative from all CCLM members, in particular the Republic of Fiji, at its next session in October 2018.

20. The CCLM recommended that concerned Article XIV bodies could be invited to participate in its next Session

21. No other matter was raised under this item.

**APPENDIX 1****COUNCIL RESOLUTION .../..****COMMISSION FOR ~~INLAND~~ SMALL-SCALE AND ARTISANAL FISHERIES AND  
AQUACULTURE OF****LATIN AMERICA AND THE CARIBBEAN (COPPESCAALC)****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 to “*Commission for Inland Fisheries and Aquaculture for Latin America and the Caribbean (COPESCAALC)*”;

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

**Recognizing** the importance of small-scale and artisanal fisheries for the region and the need for 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 small-scale and artisanal fisheries;

**Taking note** that at the Fifteenth Session of COPESCAALC, held in Panama City, Panama, from 22 to 24 January 2018, COPESCAALC member countries unanimously adopted the Statutes in order to expand its mandate to small-scale and artisanal fisheries;

**Approves**, under Article VI, paragraph 1 of the Constitution, the change of the name of COPESCAALC to “*Commission for small-scale and artisanal fisheries and aquaculture of Latin America and the Caribbean – COPPESCAALC*”, and

**Approves** its revised Statutes expanding the Commission’s mandate to small-scale and artisanal fisheries, as set out in the Annex to this Resolution, on the basis that they do not entail any additional financial obligation for the Organization and that the Commission will closely coordinate its activities with other regional fisheries bodies in order to avoid overlapping or duplication and to identify synergies and complementarities.

ANNEX TO RESOLUTION .../..<sup>1</sup>**STATUTES OF THE COMMISSION FOR ~~INLAND~~ SMALL-SCALE AND ARTISANAL FISHERIES AND AQUACULTURE OF LATIN AMERICA AND THE CARIBBEAN (COPPESCAALC)**1. Purpose

The purpose of the Commission is to promote the management and sustainable development of ~~inland~~ small-scale and artisanal fisheries and aquaculture in accordance with the principles and ~~standards~~ provisions of the Code of Conduct for Responsible Fisheries of FAO and the voluntary guidelines for securing sustainable small-scale fisheries and other applicable additional instruments adopted by FAO.

In addition, the Commission shall:

- a) foster the development of ~~inland~~ small-scale and artisanal fisheries and aquaculture as an instrument of support to food security;
- b) pay special attention to ~~subsistence inland~~ small-scale and artisanal 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 Countries 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 Countries and Associate Members which notify the Director-General of their desire to be considered as Members, and meet the required conditions therefore.

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~~ small-scale and artisanal 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~~ small-scale and artisanal 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~~ small-scale and artisanal fisheries and ~~small-scale~~ aquaculture;

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<sup>1</sup> Deleted text is shown with a ~~strike through~~ and additions are indicated by underlined italics.

- d) to promote, at regional level, activities aimed at protecting ecosystems related to ~~inland~~ small-scale and artisanal 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~~ small-scale and artisanal fisheries and aquaculture;
- f) to identify the social, institutional and economic factors that hold back the development of ~~inland~~ small-scale and artisanal 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 and cultural ~~inland~~ fishing and its development;
- h) to promote the implementation of good management practices and sustainable technologies in ~~inland~~ small-scale and artisanal fisheries and aquaculture, in accordance with the Code of Conduct for Responsible Fisheries and the voluntary guidelines for securing sustainable small-scale fisheries;
- i) to promote good post-catch and post-harvest practices, and good marketing practices for products of ~~inland~~ small-scale and artisanal 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~~ small-scale and artisanal fisheries and aquaculture;
- l) to help Member Countries, upon their request, with the management and sustainable use of transboundary stocks under their respective national jurisdictions;
- m) to collaborate with Member Countries in the formulation of national and regional plans and projects to be executed in cooperation with those Member Countries, 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~~ small-scale and artisanal 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 Countries 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.~~ to provide assistance to any requesting Member Country in developing any other functions that could lead to the attainment of the above objectives, related to the management and sustainable development of small-scale and artisanal fisheries and aquaculture in the respective national jurisdictions.

#### 4. Subsidiary bodies

The Commission may establish ~~Executive~~ Technical Committees, Working Groups and such other subsidiary bodies as may be required for the effective discharge of its functions in accordance with FAO regulations.

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~~ *small-scale and artisanal* 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 Country or Associate Member of the Organization that is not a Member of the Commission but has an interest in the development of ~~inland~~ *small-scale and artisanal* fishery or aquaculture activities 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.