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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and First Session

Rome, 21 - 23 October 2015

**Committee for Inland Fisheries and Aquaculture of Africa (CIFAA) -
Proposal to amend the Statutes**

I. INTRODUCTION

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 Statutes of commissions and committees established under Article VI of the Constitutions, as well as amendments thereto are reviewed by the CCLM.

2. This document presents proposed amendments to the Statutes of the Committee for Inland Fisheries and Aquaculture of Africa, hereinafter referred to as “CIFAA”.

II. BACKGROUND OF CIFAA

3. CIFAA was established by the Director-General, under Article VI, paragraph 2, of the Constitution, as authorized in Resolution 1/56 adopted by the Council at its Fifty-Sixth Session in June 1971. CIFAA was created to foster and promote international cooperation in the development and management, utilization and conservation of fishery resources of inland waters of Africa and to promote the sustainable development of aquaculture in its 38 Members.¹

¹ Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, This document can be accessed using the Quick Response Code on this page; a FAO initiative to minimize its environmental impact and promote greener communications. Other documents can be consulted at www.fao.org



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4. The achievements of CIFAA during the past forty years have been important, in particular, it contributed to the strengthening of national institutional capacity in inland fisheries and aquaculture research and administration through training in specific subjects and regional projects. Those experience-sharing and learning events were, in most cases, sources of guidance to CIFAA Members in elaborating policies and setting research agendas for the fisheries and aquaculture sector. Furthermore, CIFAA put in place the Aquaculture Network for Africa (“ANAF”) for the advancement of aquaculture in the region, and contributed to the establishment of two intergovernmental organizations, including the Lake Victoria Fisheries Organization (“LVFO”) and the Lake Tanganyika Authority (“LTA”).

III. CURRENT CHALLENGES AND OPTIONS FOR THE FUTURE

5. At present, many issues limit CIFAA’s effectiveness, impede its delivery and threaten its very existence. These include weak institutional structures, inadequate financial and technical resources, insufficient collaboration with stakeholders of other regional fishery bodies and the private sector, as well as the absence of a Strategic Plan and Vision. Inconsistent and low participation of its Members at its sessions has prevented a quorum from being reached for decision making purposes.

6. In an effort to address those challenges, the 16th Session of CIFAA, which was held from 16 to 18 November 2010 in Maputo, Mozambique, suggested that its role and performance as a regional fishery body be re-examined. A meeting of Permanent Secretaries of the Ministries in charge of inland fisheries and aquaculture of CIFAA Members, which took place from 26 to 27 March 2012 in Cape Town, South Africa, reiterated this need, and concluded that CIFAA was important to the development of aquaculture and inland fisheries in Member Nations, but that it needed to be reformed and its institutional arrangements and procedures strengthened.

7. In order to address those needs, a First Extraordinary Session of CIFAA was held in Lusaka, Zambia, from 1 to 2 December 2014. The meeting was attended by Ministers in charge of inland fisheries and aquaculture of 22 CIFAA Members. Four options were presented for the future of CIFAA.

- **Option 1:** The maintenance of the current institutional structure of CIFAA as a Statutory Body established under Article VI of the FAO Constitution, but its Statutes and procedures be reviewed to enable CIFAA to address specific technical and scientific matters.
- **Option 2:** The transformation of CIFAA into an autonomous body established under Article XIV of the FAO Constitution.
- **Option 3:** The replacement of CIFAA with an independent intergovernmental organization, having its own independent budget and secretariat.
- **Option 4:** The abolition of CIFAA, with its functions to be discharged through alternative, *ad hoc*, mechanisms.

8. CIFAA noted the guidance of the FAO Conference and Council on establishing new Statutory Bodies. It also noted that the process for the establishment of CIFAA as an independent body, within or outside FAO, would be cumbersome, lengthy and costly, and might not serve to address the challenges being faced by CIFAA. Accordingly, it was decided not to pursue Options 2 or 3 above. The Members did not consider Option 4.

9. Thus, the Members decided to maintain CIFAA as an Article VI body under the FAO Constitution. They recommended a review of CIFAA’s Statutes and Rules of Procedure to enable it to address specific technical and scientific matters.

10. In order to discuss, review and adopt amendments to the Statutes, a Second Extraordinary Session of CIFAA was held in Dakar, Senegal, from 14 to 15 July 2015. Twenty-one Members, out of Thirty-eight, were represented, of which four were represented at ministerial level.

IV. PROPOSED AMENDMENTS TO CIFAA STATUTES

11. The Statutes were promulgated by the Director-General in 1971 and they have remained substantially the same since their promulgation.²

12. At its Second Extraordinary Session, CIFAA adopted amendments to its Statutes and Rules of Procedure. While amendments to the Rules of Procedure only require FAO's Director-General approval to enter into force, amendments to the Statutes have to be approved by the FAO Council before promulgation by the Director-General. The proposed amendments to the Statutes, as approved by CIFAA, are set out in the Appendix to this document.

13. Most of the proposed amendments concern the Terms of Reference of CIFAA and are based on its deliberations at various sessions convened from 2008 to the present day. These amendments will enable the Committee to address specific technical and scientific matters, in particular, to reflect current and prevailing economic and socio-cultural issues, such as conservation of biodiversity, climate change, pressure on resources and long-term sustainability.

14. Taking advantage of the process of review of the Statutes, an amendment was made to Paragraph 4 of the Statutes to align the Statutes with the amendments to the Constitution and the GRO, as approved in 2009, clarifying that the Conference will deal primarily with policy and regulatory matters and the Council with programme and budget matters.

15. Similarly, references to aquaculture have been included in Paragraphs 1, 2, 5 and 6 of the Statutes, as appropriate, in order to reflect the current activities of CIFAA.

V. FAO CONFERENCE RESOLUTIONS 13/97 AND 11/2015

16. During both Extraordinary Sessions, Members were informed of Resolution 13/97 on the Review of FAO Statutory Bodies, the validity of which was recently confirmed by Resolution 11/2015 and whereby the Conference recognized "*the continuing need to enhance the efficiency of the Organization and its governance in a time of financial challenge, to eliminate Statutory Bodies that are obsolete, to ensure more flexible task-oriented and time-bound working arrangements for those that remain*".

17. The CIFAA Members took note of these Resolutions and agreed to set up a trust fund for voluntary contributions to finance the activities of CIFAA. The detailed implementation of this proposal is to be worked out during the next Session of CIFAA, which should be convened in 2016.

18. However, bearing in mind the above-mentioned Resolutions, and while this would involve policy and technical matters, the Committee may also wish to give some consideration to alternative means for cooperation on inland fisheries and aquaculture through flexible *ad hoc* meetings on "as-required basis" or to deal with specific issues. This is especially so as it does not seem that this option was explored during the First Extraordinary Session of CIFAA held in Lusaka in December 2014. The FAO Conference, through Resolution 11/2015, authorized the Director General, where possible and

² At its Seventeenth and Eighteenth Sessions in 1973 and 1975, the Conference of FAO adopted amendments to the Basic Texts of the Organization with respect to (i) the participation of Non-Member States in FAO bodies and meetings and (ii) the Rules of Procedure of bodies established under Article VI or Article XIV of the Constitution. On that occasion, it invited the bodies concerned to bring their Statutes and Rules of Procedure into line with those amendments.

following any consultations that may be required under the applicable Rules of Procedure and relevant decisions, *to consider organizing ad hoc technical consultations to address matters falling within the mandates of such bodies in the place of the sessions, as required*. It is observed, nevertheless, that this question is more of a technical and policy nature rather than legal.

19. It is also noted that a further matter that may require consideration is the potential overlapping of functions between CIFAA and other regional fishery bodies such as the Committee for the Gulf of Guinea (“COREP”), the LVFO and the LTA, at least insofar as most Members of the other bodies are also Members of CIFAA.

VI. SUGGESTED ACTION BY THE COMMITTEE

20. The Committee is invited to:

- a) review the proposed amendments to the Statutes of CIFAA as set out in the Appendix hereto and make such comments and observations as appropriate; and
- b) review and, as appropriate, endorse the proposed amendments to the Statutes of CIFAA and refer them to the Council for approval;
- c) provide such other guidance as it would deem fit, in light of Resolution 13/97 and recently adopted Resolution 11/2015.

APPENDIX

STATUTES³

1. Membership

The Committee shall be composed of African Member Nations and Associate Members of the Organization selected by the Director-General of the Organization on the basis of their active interest in inland fisheries and aquaculture development in Africa and of their potential contribution to the effective discharge of the functions of the Committee.

2. Terms of reference

The terms of reference of the Committee shall be *to*:

- a) ~~to promote, coordinate and assist national and regional fishery and limnological surveys and programmes of research and development leading to the rational utilization of inland fishery resources~~
- b) ~~to assist Member Governments in establishing the scientific basis for regulatory and other measures for the conservation and improvement of inland fishery resources, to formulate such measures through subsidiary bodies as required, and to make appropriate recommendations for the adoption and implementation of these measures~~
- e) ~~to promote and coordinate efforts on a national and regional basis to prevent damage to the aquatic environment, including the prevention and control of water pollution~~
- d) ~~to assist in the development of fish culture and stock improvement, including the control of fish diseases and the importation of exotic species~~
- e) ~~to promote and assist in the utilization of the most effective fishing craft, gear and techniques~~
- f) ~~to promote and assist activities concerned with the processing, preservation and marketing of fish and fish products~~
- g) ~~to encourage education and training through the establishment or improvement of national and regional institutions and by the promotion and the organization of symposia, seminars, study tours and training centres~~
- h) ~~to assist in the collection, interchange, dissemination and analysis of statistical, biological and environmental data and other inland fishery information~~
- i) ~~to assist Member Governments in formulating national and regional programmes to be implemented through sources of international aid to help achieve the objectives referred to in the preceding paragraphs.~~
- a) *co-ordinate and serve as a platform for intra-regional discussion, planning and exchange of experiences to promote wide application of best practices leading to sustainable development of aquaculture and sustainable management of fisheries;*
- b) *promote collaboration amongst all stakeholders with special attention given to regional and sub-regional structures;*
- c) *promote and support enhanced communication and information exchange among Members and their stakeholders, including to actively collaborate with specific regional networks;*

³ In the text of the draft amendments reproduced in this document, the proposals regarding deletions are indicated using ~~struck out text~~ and the proposals for insertions are indicated using *underlined italics*.

- d) promote sustainable management and the application of the Code of Conduct for Responsible Fisheries (CCRF) as well as relevant best practices;
- e) promote equitable access to the land and water resources whilst supporting responsible and sustainable use;
- f) assist Members to develop and implement aquaculture programs that are consistent with national food security strategies and poverty reduction, to support Members to adopt an ecosystem approach to aquaculture development and to support the increased role of private sector and other non-state institutions in national and regional aquaculture development initiatives;
- g) assist Members to develop and implement inland fisheries programs that are consistent with national food security strategies and poverty reduction as well as support Members to adopt an ecosystem approach to inland fisheries development;
- h) promote the collection, management, analysis and use of credible statistics in the management of the region's resources;
- i) promote the adoption of appropriate policies, strategies and plans for the management of fisheries and aquaculture at national, sub-regional and regional levels;
- j) serve as a focal point for coordination, harmonization and facilitation of education and research on inland fisheries and aquaculture undertaken in the region;
- k) endorse proactive monitoring and evaluation programmes, and provide guidance for the implementation of those programmes at national, sub-regional and regional levels;
- l) promote effective representation and participation of fishing communities and other stakeholders in fisheries management;
- m) assist Members in formulating regional and national programmes in aquaculture and fisheries and assist in the mobilization of resources as well as encourage Members to mobilize and utilise their own national resources so as to increase the sense of ownership of CIFAA;
- n) promote and sponsor environmental and biodiversity conservation including the adoption of appropriate technologies, advise on trans-boundary movement of aquatic organisms including the use of improved species, the establishment of conservation areas as appropriate, accurate and timely monitoring as well as proactive engagement to protect endangered resources;
- o) promote strategies and actions to mitigate the impact of climate change on aquatic resources; and
- p) advance quality control and consumer protection by supporting Members and formulate and implement quality standards.

3. Subsidiary bodies

- a) The Committee may establish ~~an Executive Committee~~ Steering 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 Committee must have before it a report from the Director-General on the administrative and financial implications thereof.

4. Reporting

Copies of reports of the Committee shall be circulated to Members of the Committee and to other Member Nations and Associate Members of the Organization and international organizations for their information as soon as they become available. The activities of the

Committee shall be reported to the Committee on Fisheries as appropriate. The Committee shall submit to the Director-General reports on its activities and recommendations at such appropriate intervals as to enable the Director-General to take them into consideration when preparing the Programme of Work and Budget and other submissions to ~~the Conference, Council or the Standing Committees of the Council.~~ *the Governing Bodies.* ~~The Director-General shall bring to the attention of the Conference through the Council any recommendations adopted by the Committee which have policy implications or which affect the programme or finances of the Organization. Copies of each report of the Committee will be circulated to Member Nations and Associate Members of the Organization and international organizations for their information as soon as they become available.~~ *Recommendations of the Committee having policy and regulatory or programme and budgetary implications shall be reported to the Conference or Council, as the case may be, through the Committee on Fisheries.*

5. Expenses

- a) The expenses of the Secretariat of the Committee 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 Committee or from private or public sources, and the Committee 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.

6. Observers

- a) Any Member Nation or Associate Member of the Organization that is not a Member of the Committee but has an interest in the development of the inland fisheries *and aquaculture* resources of Africa, may upon its request, be invited by the Director-General to attend meetings of the Committee or its subsidiary bodies in an observer capacity if the Director-General deems such attendance to be in the interests of the effective discharge of the functions of the Committee.
- b) States which, while not Member Nations 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 subject to the provisions adopted by the Conference of the Organization relating to the granting of observer status to nations, be invited to attend sessions of the Committee, its subsidiary bodies, and *ad hoc* meetings in an observer capacity. The status of the States invited to such sessions or meetings shall be governed by the relevant provisions adopted by the Conference of the Organization.

7. Participation of international organizations

Participation of international organizations in the work of the Committee and relations between the Committee 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 and Council of the Organization.

8. Rules of Procedure

The Committee 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.