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para la  
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## LATIN AMERICAN AND CARIBBEAN FORESTRY COMMISSION

### Item 4 of the Provisional Agenda

### TWENTY-FIFTH SESSION

Quito, Ecuador, 29 September – 3 October 2008

### FOREST INSTITUTIONS AND LEGISLATION

### Secretariat Note

#### Introduction

1. In the past decade, the forestry sector in Latin America and the Caribbean has undergone significant changes, many of which were triggered by the Agenda 21 of UNCED in 1992 and the follow-up developments including the establishment of several forest-related conventions and of the United Nation Forum on Forests.
2. Many countries in the region have developed new forestry legislation that tends to promote the integration of sustainability principles into forest management, the use of planning tools such as management plans, and the decentralization of management responsibilities, not only within forestry administrations, but also through devolution to local communities and the private sector.
3. National forest programmes (NFPs) have become a major framework for policy and institutional development at the national level, aiming at enhanced intersectoral collaboration as well as establishing a broader institutional base for implementing forest policies and thus ensuring better governance in the forest sector.
4. Developments at the national level have been paralleled by more regional dialogue and cooperation and the emergence of important policy processes at sub-regional level, for example in Central America and the Amazon region.
5. The paper describes recent developments in Latin America and the Caribbean in relation to forestry institutions, legislation and governance and outlines some of the main challenges facing the sector in its efforts to improve governance.

### **Main developments at the national level**

6. In the past five years alone, six Latin American countries have issued innovative and far-reaching legislation in forestry. An example is Brazil's new law on the management of public forests, which regulates the management of public forests through concessions. It creates the Brazilian Forest Service as well as a new forest development fund. In Honduras, the new forest law was recently approved after years of discussion. It makes provision for the participation of communities in consultative forestry councils and the "regularization" of forest lands by demarcation for areas of protection, community ownership, water resources, etc. Chile and Argentina have both recently approved new laws on the management of their native forests.

7. Thirteen countries in Latin America and the Caribbean and three regional organizations have entered into a partnership with the National Forest Programme Facility, a multi-donor initiative in support of NFPs, hosted by FAO. Through this partnership the institutional basis of NFPs is strengthened by enhancing the participation of non-state stakeholders in NFPs.

8. Several countries have established "*Mesas forestales*" (forestry roundtables) for national dialogue and concertation in the forest sector, including representatives of different stakeholder groups and sometimes also of other sector Ministries.

### **Main developments at regional and sub-regional levels**

9. The PUEMBO II initiative, led by the Central American Commission for Environment and Development (CCAD), the Amazon Cooperation Treaty Organization (ACTO) and FAO/LACFC (COFLAC for its acronym in Spanish), has created an informal platform for forest policy dialogue among countries in the region. During the three-year process, organizations and forestry sector decision makers discussed issues related to governance, valorization and financing, intersectoral linkages and the links between national and international initiatives. Among the ten priority themes they selected for the region, four refer to governance issues and include integration of forestry into broader development strategies, decentralization, institutional strengthening and broad participation of different actors at different levels.

10. In Central America and the Dominican Republic, the Councils of the Ministers of Environment, Agriculture and Health approved the Regional Strategic Programme for the Management of Forest Ecosystems (*Programa Estratégico Regional para el Manejo de los Ecosistemas Forestales* - PERFOR) in April 2008. This programme is an initiative of the CCAD and constitutes a major milestone for Central American cooperation in forestry, promoting an integrated, systemic and intersectoral vision of forest management. Its objective is to improve the management of forest ecosystems and of their potential to generate goods and services for the wellbeing of the people in the region. One of the main expected outcomes is the strengthening of institutions to achieve good governance in the forest sector, in accordance with the principles of transparency, participation and responsibility highlighted in the Agenda 21.

11. Central American countries are also making efforts to harmonize environmental and agricultural policies. The development of the *Agenda Agroambiental Centroamericana* is led by CCAD and the Central American Agriculture Council (CAC) and supported by the respective Ministries.

12. The workshop on the Application of Forestry Legislation in the Amazon Region (*Aplicación de la Legislación Forestal en la Amazonía* - ALFA) in 2006, was organized by ACTO with support from FAO and the International Tropical Timber Organization (ITTO) and was hosted by the Government of Brazil. The workshop was the starting point for a regional initiative under the same name by the eight Amazon countries, a process of discussion and regional exchange on issues related to governance in the forest sector and the application of forestry legislation in the region. In-depth country studies have been conducted in Bolivia, Peru,

Suriname and Guyana and similar studies are underway in the other four countries. Based on the studies, a regional document will be prepared and presented in a second ALFA workshop at the end of 2008.

13. In Central America and the Dominican Republic, a regional process on forest law enforcement and governance was initiated in 2007 by the Technical Committee for Forests of the CCAD. The FAO/ITTO Regional Workshop on Illegal Logging and Governance in Central America, which was attended by representatives of Forestry Administrations, NGOs, the private sector and environmental prosecution offices of the Central American countries, the Dominican Republic and Mexico, constituted one of the main starting points of this initiative, which is one of the mechanisms for the implementation of PERFOR. A technical meeting in April 2008 analyzed legality issues in regional forest trade, opportunities for avoiding illegal logging and strengthening governance in the forest sector and identified the elements for a ministerial declaration related to the topic.

14. Southern cone countries have recently started an initiative to institutionalize the sub-regional forestry dialogue through the establishment of an ad-hoc group on forests in the context of MERCOSUR.

### **Challenges ahead**

15. Although many countries in the region have adequate forestry legislation focusing on sustainable forest management, the laws are often neither applied nor sufficiently enforced. Public forestry institutions lack the capacity, including the human and financial resources for effective enforcement. Some countries have opted to delegate some of their supervision and control functions to private entities, with varying success.

16. Laws and regulations governing forest management are often complex, and complying with them may involve considerable costs, thus fostering illegal behaviour when enforcement capacity is weak.

17. Forest tenure is in many cases unclear and/or unregulated, fostering illegal exploitation of forest resources. Ongoing studies by FAO reveal a high diversity of forest tenure systems in Latin America, with a much higher percentage of private, communal and indigenous ownership than, for example, in Africa and Southeast Asia. However, in many cases the owners do not have clear titles and the State lacks the capability to protect their rights to the land and the forest resources.

18. Most countries have embarked on a decentralization process. However, progress is hampered by the lack of technical, managerial and administrative capacity of local institutions and actors, including local governments as well as local forest stakeholders. The role of civil society in decision making at the local level is still unclear.

19. Links with other sectors, especially in policy development, legislation and land use planning are still weak. In most Latin American countries the agriculture and livestock sector has a much higher profile than forestry. As a result, forestry is still often not considered in development strategies, including those aiming at reducing poverty. Forestry institutions have little voice in decisions on major development policies. A recent regional initiative to better reflect forestry in national accounts and quantify the contribution of the forest sector to the GDP could be a first step towards raising the profile of forestry in national development.

### **Issues to be considered:**

How can strategic planning at the regional and sub-regional level be best translated into action at the national level?

What needs to be done to increase the visibility of the forest sector and the capacity of its institutions to play a stronger role in national development policies?

How can decentralization become more effective in supporting sustainable forest management?

How could LACFC and FAO, in collaboration with other partners, further support the effective implementation of all the above?