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منظمة  
الغذية والزراعة  
للأمم المتحدة

# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

## Hundredth Session

Rome, 23-24 February 2015

### Reform of the International Poplar Commission (IPC)

## I. INTRODUCTION

1. This item has been placed in the Provisional Agenda of the Committee on Constitutional and Legal Matters (hereinafter “CCLM or the Committee”) under Rule XXXIV, paragraph 7 (b) of the General Rules of the Organization (GRO), whereby the Committee shall consider specific items referred to it which may arise out of: *the formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution.*

2. Under Article XII of the Convention Placing the International Poplar Commission within the Framework of FAO (hereinafter called “the IPC Convention”), the International Poplar Commission (hereinafter referred to as “the Commission or IPC”) may amend the Convention by a two-thirds majority of all the Members of the Commission and the amendments shall become effective with the concurrence of the FAO Conference. Amendments not involving new obligations for Contracting Parties shall come into force as from the date of their adoption by the Commission. Amendments involving new obligations shall come into force in respect of each Contracting Party only upon acceptance of such amendments by it. The IPC Convention has been amended in the past on two occasions in 1967 and in 1977, respectively<sup>1</sup>.

3. Poplar cultivation was deemed a priority to help rebuild destroyed economies in the aftermath of World War II, resulting in the creation of the IPC in 1947; the oldest statutory body of FAO. The Commission was originally created by six European countries (Belgium, France, Italy, Netherlands, Sweden and the United Kingdom). After its placement within the framework of FAO under Article XIV of the Constitution, through the 1957 IPC Convention, its membership grew steadily, particularly between the 1960s and the 1990s. Currently 37 countries from five continents are members of the IPC, of which more than half are developing economies (20 countries). However, no new member has joined the Commission since the year 2000. The stagnation in membership is one of the factors driving the proposed IPC reform.

<sup>1</sup> 14<sup>th</sup> Session of the FAO Conference (1967) and 19<sup>th</sup> Session of the Conference (1967).



4. Notwithstanding the aforementioned stagnation in membership, the outputs and achievements of IPC are central to FAO's mandate and contribute to achieving FAO's Strategic Objectives, in particular SO2 (make agriculture and forestry more productive), SO3 (reduce rural poverty) and SO4 (enable inclusive and efficient agricultural and food systems). The IPC is the only international forum that brings together poplar and willow managers, users and researchers to facilitate the exchange of ideas and the discussion of topics that are of concern to the Member Nations.

## II. THE IPC REFORM PROCESS

5. The possibility of institutional reform of the IPC was explored in September 2012 by the FAO Committee on Forestry, which took note of the suggested reform process, and requested FAO to provide further information, including at the following session of the IPC in India.<sup>2</sup>

6. The 46<sup>th</sup> Session of the IPC Executive Committee, held from 29 October to 2 November 2012 in Dehradun, India, recommended recognizing and supporting the reform process, and agreed to establish a Task Force to explore options for such reform. The IPC Executive Committee recommended that action be taken to review the Commission's institutional, administrative and reporting procedures. Consideration was given to expanding the IPC's thematic scope to include, besides poplars and willows, other genera and species of socioeconomic and ecological importance in order to broaden the interest of FAO Members in the Commission and to attract more sustainable funding opportunities through an enlarged membership.<sup>3</sup>

7. The options presented for the proposed IPC reform were based on two consultancy reports commissioned by the IPC Secretariat (September 2012, January 2014)<sup>4</sup>; the reports of the 24<sup>th</sup> Session of the IPC and the 46<sup>th</sup> and 47<sup>th</sup> Sessions of its Executive Committee (January 2013 and July 2014)<sup>5</sup>; two strategy papers prepared by the IPC Secretariat (July and October 2013)<sup>6</sup>; as well as on extensive consultations with the IPC Executive Committee and the IPC Reform Task Force.

8. In June 2014 the FAO Committee on Forestry was informed of the progress made in the IPC reform process. It took note of the reform process and:

- invited countries to strengthen their agriculture and forest sectors by considering membership in the Commission;
- invited IPC member countries to strengthen their national poplar commissions in line with the proposed IPC;
- encouraged the IPC Executive Committee to continue the reform process of the IPC;
- encouraged the IPC to seek additional members and broaden its scope to include equivalent species in different regions and include tropical and sub-tropical regions;

<sup>2</sup> *Report of the Twenty-first Session of the Committee on Forestry*, Rome, Italy, 24-28 September 2012, COFO 2012/REP, para 70.

<sup>3</sup> *Report of the 24<sup>th</sup> Session of the International Poplar Commission and of the 46<sup>th</sup> Session of its Executive Committee*, Dehradun, India, 29 October - 2 November 2012, FO: IPC/12/REP, FAO, Rome, 2013.

<sup>4</sup> Carle, J. *Options for International Poplar Commission Reform. Concept note*, September 2012; M.A. Mekouar, *Reform of the International Poplar Commission: legal and institutional considerations. Consultancy report*, April 2014.

<sup>5</sup> IPC, *Report of the 24<sup>th</sup> Session of the Commission and of the 46<sup>th</sup> Session of its Executive Committee*, Dehradun, India, 29 October-2 November 2012, January 2013; IPC, *Report of the 47<sup>th</sup> Session of the Executive Committee of the International Poplar Commission*, Vancouver, Canada, 20 July 2014.

<sup>6</sup> IPC Secretariat, *How to pursue and achieve the reform objectives of the International Poplar Commission (IPC)? A strategy paper*, July 2013; IPC Secretariat, *Options for an expansion of the thematic scope of the International Poplar Commission (IPC). A discussion paper*, October 2013.

- recommended to take into account the existing networks and initiatives dealing with forest tree species, as well as their outcomes and deliverables, to develop synergies with those networks and initiatives.<sup>7</sup>

9. The proposed reforms were discussed at the 47<sup>th</sup> Session of the IPC Executive Committee held in Vancouver, British Columbia, Canada, on 20 July 2014.<sup>8</sup> As a result, the Executive Committee agreed to draft proposed amendments to the IPC Convention, which are set out in the Annex to this document.

10. The proposed amendments are mainly intended to:

- expand the scope of the Commission to cover poplars and other related trees and associated genera, together with their respective functions, as reflected in the title of the Convention as well as in other relevant provisions of the Convention itself, including Articles I, III and IV;
- add a new paragraph at the end of Article II providing for States that are not IPC members to attend sessions of the Commission as observers, in line with established practice;
- eliminate the General Committee provided for paragraph 5 of Article VI, as it has not been convened at IPC sessions for a long period of time, and introducing a new paragraph under Article VI on enhanced implementation of the IPC decisions and recommendations at national level;
- provide for the possibility of the receipt of voluntary contributions by the IPC in a new paragraph under Article X, as is the case in respect of several Article XIV bodies;
- replace the words “chairman” or “chairmen” with “chairperson” or “chairpersons”, for the sake of linguistic gender-neutrality, in Articles VI-2, VI-4, VII-5, VII-6, IX-1 and XV of the Convention.

11. At its Thirty-fifth Session in October 1977, the CCLM set down the following criteria for determining whether amendments to agreements establishing statutory bodies under Article XIV of the FAO Constitution involve new obligations:

*“if, as a result of the amendments, the overall burden to be borne by contracting parties in the implementation of their existing obligations, would remain substantially the same, the amendments would not involve new obligations. If that burden would be transformed in such a way that the tasks to be performed were different in character from those entailed under existing obligations, the amendments causing such a transformation could be said to involve new obligations. Any extension of an existing obligation could not be considered per se as a new obligation; there might however be cases where such an extension could be considered as tantamount to a new obligation – where, for example, it was bound to have substantial financial implications for the contracting parties or the burden entailed was disproportionate to the existing burden on contracting parties.”<sup>9</sup>*

12. At its session of July 2014, when reviewing the proposed amendments, the Executive Committee expressed the view that they did not involve new obligations because, in general, the proposed amendments did not increase the burden of existing obligations on the Contracting Parties which remained substantially the same. In particular, no new financial, legal or administrative obligations, additional to those arising from in the implementation of the existing obligations, were established. This method of assessment by the Executive Committee is fully consistent with the past

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<sup>7</sup> Report of the Twenty-second Session of the Committee on Forestry, Rome, Italy, 23-27 June 2014, COFO 2014/REP, para 84.

<sup>8</sup> IPC, Report of the 47<sup>th</sup> Session of the Executive Committee of the International Poplar Commission, Vancouver, Canada, 20 July 2014, paras 35-49.

<sup>9</sup> Report of the Thirty-fifth Session of the CCLM, 10-14 October 1977, paragraph 46.

practice on the part of Members of FAO and the CCLM in assessing whether amendments to treaties involve new obligations.

13. In considering the proposed amendments, the CCLM may wish to note the following timeframe. The next session of the International Poplar Commission is due to be held in 2016. At this session it is expected that the Commission will adopt the proposed amendments. Under Article XII, paragraph 3 of the Convention, amendments not involving new obligations would become effective only with the concurrence of the Conference of FAO. The amendments would thus be referred to the FAO Conference that would be convened in June 2017. It is noted, nevertheless, that the matter might be referred again to the CCLM at a future session, depending on the outcome of the review of the proposals by the Commission.

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

14. The CCLM is invited to:

- review, advise on and adjust, as appropriate, the proposed amendments to the IPC Convention; and
- provide such guidance as it would deem fit, on the process of review, finalization and adoption of the proposed amendments to the IPC Convention contained in the Annex to this document.

## PROPOSED AMENDMENTS TO THE IPC CONVENTION<sup>10</sup>

### ~~Convention Placing the International Poplar Commission within the Framework of FAO~~

### Convention on the International Commission on Poplars and Other Trees Sustaining People and the Environment

#### Article I - Status

The International ~~Poplar~~ *Commission on Poplars and Other Trees Sustaining People and the Environment* (hereinafter referred to as "the Commission"), ~~shall be~~ *which is* placed within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization"), ~~and the present Convention whose object is to achieve that purpose shall be governed by the provisions of Article XIV of the Constitution of the Organization~~ *and by the present Convention.*

#### Article II - Membership

1. Member Nations of the Commission shall be such Member Nations or Associate Members of the Organization as accept this Convention in accordance with the provisions of Article XIII of this Convention.
2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as have submitted an application for membership and a declaration made in a formal instrument that they accept this Convention as in force at the time of admission.
3. *Member Nations and Associate Members of the Organization that are not Members of the Commission may, upon request, be represented as observers at sessions of the Commission. Non-member States of the Organization that are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon request, be represented as observers at sessions of the Commission, subject to the provisions relating to the granting of observer status to Nations adopted by the Conference of the Organization.*

#### Article III - Functions

The functions of the Commission shall be:

- a) to *study and deliver on* the scientific, technical, social ~~and~~ economic and environmental aspects of ~~poplar and willow cultivation; Populus and other tree genera such as Acacia, Salix and Tectona, for production, protection, and utilization purposes, with a view to sustaining livelihoods, land uses, rural development and the environment. This includes~~

<sup>10</sup> Deletions are indicated using ~~strike through text~~ and insertions are indicated using *underlined italics*.

food security issues, climate change, biodiversity conservation and resilience against disasters, threats and crises;

- b) to promote the exchange of ~~ideas~~ knowledge, technology and material between research workers, producers and users;
- c) to arrange joint research programs;
- d) to stimulate the organization of congress combined with study tours;
- e) to report and make recommendations to the Conference of the Organization, through the Director-General of the Organization; and
- f) to make recommendations to ~~the~~ National ~~Poplar~~ Commissions on Poplars and Other Trees Sustaining People and the Environment or other national bodies provided for in Article IV of this Convention, through the Director-General of the Organization and the governments concerned.

#### **Article IV - Establishment of National ~~Poplar~~ Commissions on Poplars and Other Trees Sustaining People and the Environment**

Each Contracting Nation shall make provision as soon as possible and to the best of its ability, either for the establishment of a National ~~Poplar~~ Commission on Poplars and Other Trees Sustaining People and the Environment dealing with Acacia, Populus, Salix, Tectona and associated tree genera, or, if not possible, for the designation of some other suitable national body, and shall transmit a description of the competence and scope of the National Commission or other body and of any changes thereto, to the Director-General of the Organization who shall circulate this information to the other Member Nations of the Commission. Each Contracting Nation shall communicate to the Director-General the publications of its National Commission or other body.

#### **Article V - Seat of the Commission**

The seat of the Commission shall be in Rome at the Headquarters of the Organization.

#### **Article VI - Sessions**

1. Each Member Nation of the Commission shall be represented at sessions of the Commission by a single delegate who may be accompanied by an alternate and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Commission but not vote, except in the case of an alternate who is duly authorized to substitute for the delegate. Each Member Nation of the Commission shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast except as otherwise provided in this Convention. A majority of the Member Nations of the Commission shall constitute a quorum.

2. The Director-General of the Organization, in consultation with the ~~Chairman~~ person of the Executive Committee of the Commission, shall convene a regular session of the Commission once every four years. Special sessions of the Commission may be convened by the Director-General in consultation with the ~~Chairman~~ person of the Executive Committee, or if requested by the Commission, or by at least one-third of the Member Nations of the Commission.

3. The sessions of the Commission shall be held at the place determined by the Commission within the territories of its Member Nations or at the seat of the Commission.
4. The Commission shall elect, at the beginning of each session, from amongst the delegates, a ~~Chairman~~*person* and two ~~Vice-Chairmen~~*persons*.
5. ~~There shall be a General Committee of the session consisting of the Chairman and the two Vice Chairmen of the session and the Chairman and the Vice Chairmen of the Executive Committee.~~  
Decisions and recommendations of the Commission shall be implemented through the National Commissions and other national bodies provided for in Article IV of this Convention.

## Article VII - Executive Committee

1. There shall be an Executive Committee of the Commission consisting of 12 members and up to 5 co-opted members.
2. Twelve members of the Executive Committee shall be elected by the Commission from among individuals nominated by Member Nations of the Commission upon the suggestion of their respective National ~~Popular~~ Commissions or other national bodies provided for in Article IV of this Convention. Members of the Executive Committee shall be appointed in their personal capacity because of their special competence, and shall serve for a period of four years. Members of the Executive Committee shall be eligible for re-election.
3. The Executive Committee may, in order to ensure the co-operation of the necessary specialists, co-opt one to five additional members under the same conditions as are provided for in paragraph 2 above. The term of office of the additional members shall expire with the term of the elected members.
4. The Executive Committee shall, between sessions of the Commission, act on behalf of the Commission as its executive organ. The Executive Committee shall in particular make proposals to the Commission regarding the general orientation and the program of work of the Commission, study technical questions and implement the program as approved by the Commission.
5. The Executive Committee shall elect from amongst its members a ~~Chairman~~*person* and a ~~Vice-Chairman~~*person*.
6. Sessions of the Executive Committee may be convened as often as necessary by the Director-General of the Organization in consultation with its ~~Chairman~~*person*. The Committee shall meet in connection with each regular session of the Commission. It shall also meet at least once between two regular sessions of the Commission.
7. The Executive Committee shall report to the Commission.

## Article VIII - Secretary

A Secretary of the Commission shall be appointed by the Director-General of the Organization from amongst the senior staff of the Organization and shall be responsible to the Director-General. The Secretary shall perform such duties as the work of the Commission may require.

## Article IX - Subsidiary Bodies

1. The Commission, may, if necessary, establish sub-commissions, committees or working parties, subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization. Sessions of such sub-commissions, committees or working parties shall be convened by the Director-General of the Organization in consultation with the ~~Chairman~~*person* of such body.

2. Membership in subsidiary bodies shall be open to all Member Nations of the Commission, or shall consist of selected Member Nations of the Commission, or of individuals appointed in their personal capacity, as determined by the Commission.

### **Article X - Expenses**

1. Expenses incurred by delegates of Member Nations of the Commission and of their alternates and advisers, when attending sessions of the Commission, or subsidiary bodies, as well as the expenses incurred by observers, shall be borne by the respective governments or organizations.

2. Expenses of all the members of the Executive Committee when attending sessions of the Executive Committee shall be borne by the countries of which they are nationals.

3. Expenses incurred by individuals invited in their personal capacity to attend sessions or participate in the work of the Commission or its subsidiary bodies shall be borne by such individuals except when they have been requested to perform a specific task on behalf of the Commissions or its subsidiary bodies.

4. The expenses of the Secretariat shall be borne by the Organization.

5. When the Commission or Executive Committee hold sessions elsewhere than at the seat of the Commission, all additional expenses related to such sessions shall be borne by the host government. The expenses for publications relating to sessions of the Commission other than the report of such sessions, of the Executive Committee and subsidiary bodies shall be borne by the host government.

6. The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a Trust Fund to be established by the Organization. The acceptance of such voluntary contributions and the administration of the Trust Fund shall be in accordance with the Financial Regulations of the Organization.

### **Article XI - Rules of Procedure**

The Commission may, by a majority of two-thirds of its membership, adopt and amend its own rules of procedure, which shall be consistent with the General Rules of the Organization. The Rules of the Commission and any amendment thereto shall come into force upon approval by the Director-General of the Organization, and from the date of such approval.

### **Article XII - Amendments**

1. This Convention may be amended by the Commission by a two-thirds majority of the membership of the Commission.

2. Proposals for amendments may be made by any Member Nation of the Commission in a communication addressed to the Director-General of the Organization not later than 120 days before the session at which the proposal is to be considered. The Director-General shall immediately inform all Member Nations of the Commission of all proposals for amendment.

3. Amendments shall become effective only with the concurrence of the Conference of the Organization and as from the date of such concurrence. The Director-General of the Organization shall inform all Member Nations of the Commission, all Member Nations and Associate Members of the Organization and the Secretary-General of the United Nations of such amendments.

4. Amendments involving new obligations for Member Nations of the Commission shall come into force in respect of each Member Nation only upon acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization. The Director-General of the Organization shall inform all Member Nations of the Commission, all Member Nations and



Associate Members of the Organization and the Secretary-General of the United Nations of such acceptance. The rights and obligations of any Member Nation of the Commission that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of the Convention in force prior to the amendment.

### **Article XIII - Acceptance**

1. Acceptance of this Convention by any Member Nation or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such notification by the Director-General.
2. Acceptance of this Convention by Non-Member Nations of the Organization shall become effective on the date on which the Commission approves the application for membership in conformity with the provisions of Article II of this Convention.
3. The Director-General of the Organization shall inform all Member Nations of the Commission, all Member Nations and Associate Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.
4. Acceptance of this Convention may be made subject to reservations, which shall become operative only upon unanimous concurrence by the Member Nations of the Commission. The Director-General of the Organization shall notify forthwith all Member Nations of the Commission of any reservations. Members of the Commission not having replied within three months from the date of the notification shall be deemed to have accepted the reservation.

### **Article XIV - Territorial Application**

Member Nations of the Commission shall, when accepting this Convention, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member Nation of the Commission is responsible. Subject to the provisions of Article XVI, paragraph 2 below, the scope of the territorial application may be modified by a subsequent declaration.

### **Article XV - Interpretation and Settlement of Disputes**

Any dispute regarding the interpretation or application of this Convention, if not settled by the Commission, shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman ~~man~~ *person* chosen by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court, unless the parties to the dispute agree to another method of settlement.

### **Article XVI - Withdrawal**

1. Any Member Nation of the Commission may give notice of withdrawal from the Commission at any time after the expiry of one year from the date of its acceptance of this Convention. Such notice of withdrawal shall take effect six months after the date of its receipt by the Director-General of the Organization, who shall inform all Member Nations of the Commission, all Member Nations and Associate Members of the Organization and the Secretary-General of the United Nations of such receipt.

2. A Member Nation of the Commission that is responsible for the international relations of more than one territory shall, giving notice of its own withdrawal from the Commission, state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member Nation of the Commission is responsible. A Member Nation of the Commission may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. Any Member Nation of the Commission that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Nation concerned is responsible, with the exception of Associate Members.

### **Article XVII - Termination**

This Convention shall be considered terminated if and when the number of Member Nations of the Commission falls below 6 unless the remaining Member Nations of the Commission unanimously decide otherwise, subject to the approval of the Conference of the Organization. The Director-General of the Organization shall inform all Member Nations of the Commission, all Member Nations and Associate Members of the Organization and the Secretary-General of the United Nations of such termination.

### **Article XVIII - Entry into force**

1. This Convention shall enter into force as soon as twelve Member Nations or Associate Members of the Organization have become parties to it by the deposit of an instrument of acceptance in accordance with the provisions of Article XIII, paragraph 1 of this Convention.
2. With respect to such Nations as are already Members of the Commission and who become parties to the present Convention, the provisions of this Convention shall replace the provisions of the Statutes of the International Poplar Commission adopted at the second session of the Commission held on 20 to 28 April 1948 in Italy.

### **Article XIX - Authentic Languages**

The English, French and Spanish texts of this Convention shall be equally authentic.