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COUNCIL

Hundred and Fifty-first Session

Rome, 23 - 27 March 2015

Report of the 100th Session of the Committee on Constitutional and Legal Matters

Executive Summary

The 100th Session of the Committee on Constitutional and Legal Matters (CCLM):

- a) examined the 2014 Annual Report of the Ethics Committee, summarizing the outcome of the two meetings held by the Committee during that year;
- b) reviewed a document entitled “*Reform of the International Poplar Commission*” describing a process under way of amendment of the Convention placing the International Poplar Commission within the Framework of FAO (IPC Convention), sought clarifications and provided guidance on a number of issues; the CCLM will review again the proposed amendments prior to their referral to the Council and Conference in 2017; and
- c) examined document CCLM 100/4 Rev.1 entitled “*Correction of errors and editorial adjustments to the Basic Texts*”.

Suggested action by the Council

The Council is invited to:

- a) take note of the CCLM’s review of the 2014 Annual Report of the Ethics Committee;
- b) take note of the CCLM’s guidance on the process of review and adoption of the proposed amendments to the IPC Convention set out in *Appendix I* to this Report;
- c) endorse the conclusions of the CCLM on proposed adjustments to the Basic Texts.

Queries on the substantive content of this document may be addressed to: Antonio Tavares Legal Counsel, Legal Office Tel: +39 065705 5132



I. Introduction

1. The 100th Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 23 to 24 February 2015.
2. The Session, open to silent observers, was chaired by Dr Mónica Martínez Menduño. The following members were present:
 - Mr Md. Mafizur Rahman (Bangladesh)
 - H.E. (Mr) Lubomir Ivanov (Bulgaria)
 - Mr Abdulsatar Chiyad Al- Sudani (Iraq)
 - H.E. (Mr) Mohammed S. Sheriff (Liberia)
 - Mr Lawrence Kuna Kalinoe (Papua New Guinea)
 - Ms April Cohen (United States of America)
 - Mr Oscar Gabriel Piñeyro Bentos (Uruguay)
3. The CCLM approved its Provisional Agenda.

II. Ethics Committee - Annual Report 2014

4. The CCLM considered document CCLM 100/2 Rev.1 entitled “*Ethics Committee – Annual Report 2014*” and the presentation by the Ethics Officer/Ombudsman, summarizing the outcome of the two meetings held by the Committee in 2014.
5. The Ethics Officer/Ombudsman responded to the CCLM’s queries regarding the merger of the Ethics Officer and Ombudsman functions, the ongoing implementation of the Financial Disclosure Programme, the implementation of the FAO Strategy for Partnerships with the Private Sector and the *modus operandi* of the Ethics Committee.
6. Following discussion, the CCLM agreed that, at a later stage, further consideration should be given to the possible advantages and disadvantages of merging the Ethics Officer and Ombudsman functions. Such consideration would require further information based on the practical experience on these matters.
7. The CCLM recalled that the Ethics Committee was established on a trial basis in 2011 and that, in 2016, the relevant Governing Bodies of FAO would have to make a determination as to whether the Committee should be established on a permanent basis. The CCLM looks forward to receiving detailed information on the experience of the Ethics Committee in the course of the past few years.
8. The CCLM took note of the information provided in the Annual Report and further noted that the Report would be reviewed by the Finance Committee.

III. Reform of the International Poplar Commission

9. The CCLM examined document CCLM 100/3 “*Reform of the International Poplar Commission*” describing a process of amendment of the Convention placing the International Poplar Commission within the Framework of FAO (IPC Convention), currently under way, as well as the purpose and content of a set of proposed amendments to the IPC Convention. The proposed amendments to the IPC Convention, considered on the basis of a presentation by the Secretary of the International Poplar Commission (the Commission), are set out in Appendix I to the CCLM Report.
10. The CCLM noted that the amendments would be referred to the Commission for adoption at a session due to be held in 2016 and that the amendments would become effective upon approval by the Conference of FAO at its session of June 2017.

11. In the course of the discussions, the CCLM sought clarifications on, *inter alia*, the extent and implications of the proposed expansion of the scope of the Commission to cover poplars and other related trees and associated genera, the revised functions of the Commission, the relationship between the Commission and national commissions and other national bodies provided for in Article IV of the IPC Convention, the relationship between the Commission and the Committee on Forestry, and the content of the proposed amendments in light of the criteria developed by the CCLM, the Council and the Conference, to assess whether proposed amendments involved new obligations for the Parties.

12. The CCLM noted that it would review the proposed amendments again, together with further information on the deliberations of the Commission after the adoption of the amendments by the Commission in 2016 and prior to the referral of the amended IPC Convention to the Conference in June 2017 for approval.

IV. Correction of errors and editorial adjustments to the Basic Texts

13. The CCLM examined document CCLM 100/4 Rev.1 entitled “*Correction of errors and editorial adjustments to the Basic Texts*”.

14. The CCLM noted a discrepancy between the Spanish version of Rule XXXIV, paragraph 13 of the General Rules of the Organization (GRO) concerning reimbursement of expenditures of the Chairperson and the representatives of Members of the CCLM to attend sessions of the Committee and the versions of this GRO in other languages of the Organization. The CCLM endorsed a proposal that the Spanish version of that Rule, which did not make reference to the Chairperson, unlike the versions in other languages, be corrected.

15. The CCLM could not agree on whether some proposed adjustments set out in document CCLM 100/4 Rev. 1 were corrections of clerical errors or involved issues of substance and agreed to reconsider the matter at a future session.

V. Any other matters

16. There were no other matters.

Appendix I

PROPOSED AMENDMENTS TO THE IPC CONVENTION¹

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

¹ Deletions are indicated using ~~strike through text~~ and insertions are indicated using *underlined italics*.

- 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 ~~Poplar~~ 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~~man ~~person~~ and a ~~Vice-Chairman~~man ~~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~~man ~~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~~man ~~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.