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COMMISSION ON PHYTOSANITARY MEASURES

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**Adoption of the revision of the Implementation and Capacity Development
Committee Terms of Reference and Rules of Procedure**

Agenda item 8.6

Prepared by the IPPC Secretariat with input from FAO Legal Office

1. The CPM-12 (2017) established the Implementation and Capacity Development Committee (IC) and adopted its Terms of Reference (TOR) and Rules of Procedures (ROP)¹. The IC had been operating for a few years and some text in the TOR and ROP regarding IC members (regional vs expert and their selection process) was difficult to interpret. As an interim measure, the IPPC Secretariat requested guidance from the CPM Bureau. This guidance, which the Secretariat has been following, states that there are seven IC regional representative members that are selected by their region via their regional Bureau member and five IC expert members that are selected by the entire Bureau.

2. In December 2018, the Bureau requested the Secretariat to work with the FAO Legal Office to revise the TOR and ROP to bring clarity and as appropriate align with the Standards Committee TOR and ROP. In particular, the Bureau (June 2017) agreed that the intent of the TOR was to have twelve IC members, composed of seven regional representatives and five experts, one representative from the RPPOs (as an observer) and one from the Standards Committee (as an observer).

3. In May 2019, the Secretariat presented to the IC a revision of the IC TOR and ROP which was developed in consultation with FAO Legal Office. The IC was invited to provide comments. The Secretariat applied the changes proposed by the IC and presented the IC TOR and ROP to the Bureau in June 2019.

4. Regarding project management, the Bureau agreed that the Secretariat is in a position to manage projects while the IC should provide a review function on new implementation and capacity development projects to ensure that they are aligned with the IPPC strategic objectives, have strategic

¹ Appendix 10 to CPM-12 (2017) report available at: <https://www.ippc.int/en/publications/84387/>

value and provide a competitive advantage and the IC would recommend projects that met this criteria to the CPM for approval. In relation to the IC Sub-groups, the Bureau agreed with the FAO legal advice to have the CPM establishing and dissolving IC Sub-groups rather than the IC as there may be financial implications of these decisions, while the IC still have authority to establish ad hoc working groups to address specific issues. Regarding the process for calling and selecting the IC members, both regional representatives and experts, was clarified, including having the CPM confirm the membership. The proposed revision of the IC TOR and ROP was presented to the SPG in 2019. The SPG discussed the status of experts as well as SC and RPPO representatives in the IC and agreed that there should be fourteen members by including SC and RPPO representatives and all fourteen members should take part in the decision making process in the IC. The SPG recommended the modified TOR and ROP to the CPM for adoption. In addition, the Bureau agreed to reinstate that for the IC, experts who are retired could be considered.

5. The revised version of the IC TOR and ROP² was presented for adoption to CPM-15 (2020) and due to COVID, again in 2021. The European Union (EU) and its member states as well as the Comité de Sanidad Vegetal del Cono Sur (COSAVE) had concerns so the consideration of the revision of the IC TOR and ROP was deferred to a future session of the CPM. The IPPC Secretariat, following normal practices which help facilitate discussions at the CPM, added the proposed revision of the IC TOR and ROP to the SPG (2021) agenda.

6. In preparation for the SPG, the IPPC Secretariat liaised with the European Union (EU) and the Comité de Sanidad Vegetal del Cono Sur (COSAVE) to get a better understanding of their concerns regarding the proposed revision of the IC TOR and ROP.

7. The COSAVE's member countries responded that they no longer had any concerns.

8. The EU and its member states for its part had expressed two considerations; one related to the IC membership proposing that the RPPOs and the SC representatives need to be nominated as permanent observers) and another concern was on the oversight of the IPPC dispute settlement procedures, suggesting that this should be removed from the IC's TOR and assigned to the CPM Bureau.

9. A discussion paper on revision of the IC TOR and ROP was prepared by the IPPC Secretariat³ and submitted to the SPG (2021), in addition the EU also submitted a paper⁴.

10. After some discussion, the SPG agreed that the RPPO and SC representatives should be considered as full IC members without the possibility of taking on the IC chairpersonship or vice-chairpersonship. The SPG also recommended that the oversight of the IPPC dispute settlement procedure be removed from the IC TOR. The CPM could assign oversight of the IPPC DSP to the CPM Bureau or other oversight body as determined by the CPM, Dispute avoidance would be maintained within the IC mandate.

11. The proposed revisions are presented in Appendix 1. Deletions are indicated using struck out text and additions are indicated using underlined text and below is an overview of the main changes.

I. Terms of Reference

Composition

² Revised IC TOR and ROP presented to CMP-15(2021) : <https://www.ippc.int/en/publications/89283/>

³ 12_SPG_2021_Oct: <https://www.ippc.int/en/publications/90248/>

⁴ 19_SPG_2021_Oct: <https://www.ippc.int/en/publications/90268/>

12. The text presents that there are fourteen members (seven representatives from each of the seven FAO regions, five experts without regional representation, one SC representative and one RPPOs representative). The corresponding information previously repeated differently in the ROP was removed.

Functions

13. The IC provides a review function on new implementation and capacity development projects to ensure that they are aligned with the IPPC strategic objectives, have strategic value and provide a competitive advantage and recommend these projects to CPM for approval.

14. Following the FAO legal advice, the CPM will establish and dissolve IC Sub-groups based on IC recommendations rather than the IC establishing those groups, as this may have financial implications, while the IC still have authority to establish and dissolve ad hoc working groups to address specific issues for a predetermined period of time.

15. The oversight of the dispute settlement processes has been removed from the mandate of the IC as recommended by the SPG. However the dispute avoidance will remain under the IC mandate.

Relationship with the SC and RPPOs

16. SC and RPPOs representatives are IC members and are invited to participate in IC activities and meetings.

II. Rules of Procedure

Membership

17. “Qualification for membership” was merged into “Membership” and the timing for the membership term was added. Selection process for IC members was moved to later section for more clarity.

Replacement members

18. Alternate members were removed to be integrated in replacement members. A maximum of two replacements may be nominated by each region while replacements for experts may be selected to form a pool of replacements.

Nomination and selection of members and replacement members

19. More clarity was brought to nomination and selection process for regional representatives and experts respectively. For regional representatives, each FAO region may have its own procedures for selecting members and replacement members. For experts, the IPPC Secretariat issues a call for experts and nominations submitted through IPPC Official Contact points or RPPOs reviewed and selected by the Bureau.

Chairperson and Vice-Chairperson

20. The revision proposed clarifies that the SC and RPPO representatives are IC members without the possibility for them to be elected as Chairperson or Vice-Chairperson of the IC.

Observers

21. Invited expert was removed as they are considered as observers.

Bodies established by CPM

22. The current rules indicate that a subsidiary body established by the CPM may be entrusted to the oversight of the IC. However, the FAO Legal Office advised that a subsidiary body should not oversee other subsidiary body and therefore the section was removed.

Working groups

23. The IC may establish ad hoc working groups/teams to address specific issues for a predetermined period of time.

Decision-making

24. As SC and RPPO representatives are also IC members, all fourteen members including SC and RPPO representatives take part in the decision-making.

Reporting

25. It was clarified that the IC submits recommendations to the CPM as needed.

26. The CPM is invited to:

- 1) *adopt* the revision of the Implementation and Capacity Development Committee Terms of Reference and Rules of Procedure as presented in Appendix 1 (of this paper), revoking all previous versions.

APPENDIX 1 - Proposed revisions to the Terms of Reference of the CPM Subsidiary Body: Implementation and Capacity Development Committee – A Subsidiary Body of the CPM¹

Note: on interpretation

References to implementation ~~mean implementation~~ of the International Plant Protection Convention (IPPC), include ~~ing~~ implementation of International Standards for Phytosanitary Measures (ISPMs) and the Commission on Phytosanitary Measures (CPM) Recommendations~~standards, guidelines and recommendations adopted by the Commission on Phytosanitary Measures (CPM).~~

1. Purpose

The IC develops, monitors and oversees an integrated programme to support the implementation of the IPPC and strengthen the phytosanitary capacity of contracting parties.

2. Scope of the IPPC Implementation and Capacity Development Committee (IC)

The IC, under the guidance of the CPM, provides technical oversight of activities to enhance the capacities of contracting parties to implement the IPPC and meet the strategic objectives agreed by CPM. The IC:

- Identifies and reviews the baseline capacity and capability required by contracting parties to implement the IPPC.
- Analyses issues constraining the effective implementation of the IPPC and develops innovative ways to address impediments.
- Develops and facilitates delivery of ~~an~~ implementation activities support programme to enable contracting parties to meet and surpass the baseline capacity and capability.
- Monitors and evaluates the efficacy and impact of implementation activities and reports on progress which indicates the State of Plant Protection in the World.
- Oversees dispute avoidance ~~and settlement processes.~~
- Oversees national reporting obligation processes ~~Works with the Secretariat, potential donors and the CPM to secure sustainable funding for its activities~~

3. Composition

- The IC is composed of fourteen members ~~twelve experts~~ with relevant skills and experience in implementation of phytosanitary-related instruments and/or capacity development, as follows:
 - o Seven members will be representatives from each of the seven FAO regions.
 - o Five members will be experts in subjects relevant to the work of the IC ~~The Bureau, taking account of the balance of skills and experience required, and geographical representation, selects and appoints the members.~~
 - o ~~In addition~~ Two other members: one representative from the regional plant protection organizations (RPPOs) and one from the Standards Committee (SC).

4. Functions

The IC has the following functions:

4.1) Technical work programme

- Identify and keep under review baseline capacity and capability required by contracting parties to implement the IPPC.
- Identify and propose strategies for contracting parties to enhance their implementation of the IPPC, including national reporting obligations, taking into account their specific capacities and needs.
- Review the ~~Secretariat's~~ analyses of contracting parties' challenges associated with the implementation of the IPPC.
- Based on an analysis of outputs from the above activities, recommend priorities to CPM.

¹ Report from CPM-12 (2017) see Appendix 10 to report: <https://www.ippc.int/en/publications/84387/>

- Identify and assess new technologies which could enhance implementation.
- Monitor and evaluate actions under the IPPC Strategic Framework, other related strategies, frameworks and work plan(s).

4.2ii) Effective and efficient management of the IC

- Develop, agree and maintain a list of priorities for Implementation and Capacity Development (ICD) activities work plan in alignment with CPM priorities.
- Provide a review function on new implementation and capacity development projects to ensure that they are aligned with the IPPC strategic objectives, have strategic value and a competitive advantage and recommend them to CPM for approval.
- Develop procedures and criteria for the production, oversight and approval of technical resources for implementation.
- Recommend to the CPM to establish and dissolve and provide oversight of IC Sub-groups, undertaking specific activities and tasks.
- Provide oversight to IC Sub-groups.
- Establish ad hoc working groups/teams to address specific issues.
- Seek advice and/or input on matters relevant to its work programme from technical panels (through the SC) and other groups or organizations that assist the IPPC Secretariat.
- Periodically review its functions, procedures and outcomes.
- Monitor and evaluate the effectiveness of its activities and products.
- Develop projects that contribute to achieving the implementation priorities agreed by CPM.

4.3iii) Working with the Secretariat

- ~~Develop and manage projects that contribute to achieving the implementation priorities agreed by CPM.~~
- Provide guidance on implementation and capacity development activities for inclusion in the Secretariat's work plan.
- Assess and prioritize web resources for inclusion in the International Phytosanitary Portal (IPP) or the Phytosanitary Resources website, as appropriate, technical resources that are relevant for developing capacity to implement the IPPC.
- Promote dispute avoidance as an outcome of effective implementation.
- ~~Oversee the dispute settlement process as required.~~
- Contribute to the development and maintenance of links with donors, partners and other public and private organizations concerned with implementation and capacity development in the phytosanitary area.
- Contribute to the delivery of the IPPC Secretariat's Communications.

The Secretariat is responsible for coordinating the work of the IC and providing administrative, editorial operational and technical, support. The Secretariat advises the IC on the availability and use of financial and staff resources.

iv) Working with other subsidiary bodies

- ~~Work in close collaboration with the SC to make standards setting and implementation complementary and effective.~~
- ~~Review the Framework for Standards and Implementation annually and recommend changes to the CPM through the SPG.~~
- ~~Work with other subsidiary bodies and RPOs regarding areas of mutual interest.~~

v) Actions directed by CPM

- ~~Contribute to the delivery of the IPPC Communications Strategy.~~
- ~~Provide oversight of bodies that have been established by CPM and entrusted to the IC.~~
- ~~Undertake other functions as directed by the CPM.~~
- ~~Report to the CPM on its activities.~~

5. Relationship with the IPPC Secretariat

~~— The Secretariat is responsible for coordinating the work of the IC and providing administrative, editorial operational and technical, support. The Secretariat advises the IC on the availability and use of financial and staff resources.~~

56. Relationship with the Standards Committee

The IC collaborates with the SC to make standard setting and implementation complementary and effective on the basis of aligned ~~priorities work plans~~ for the implementation of the IPPC. This collaboration will take place at a number of levels (e.g. Secretariat, chairs, members, stewards and Sub-groups). ~~The IC includes an SC A representative from the SC is invited to participate in IC activities and meetings and also selects a representative for participation in SC meetings.~~ IC and SC Subjects for collaboration will include at least:

- Alignment of ~~priorities work programmes~~
- Development of implementation plans for standards
- Analysis of responses to calls for topics and issues to be addressed
- Review of the Framework for Standards and Implementation jointly and make recommendations to the CPM for endorsement via the SPG

~~— Development and implementation of joint projects.~~

67. Relationship with the RPPOs

RPPOs provide a regional perspective on issues, challenges and the region operating context impacting contracting parties and their NPPOs. RPPOs provide support to contracting parties to enhance their phytosanitary capacities and capabilities. ~~The IC includes an A representative, selected by the RPPOs representative is invited to participate in IC activities and meetings.~~ Areas for collaboration include:

- Exchange of ~~draft work plans programmes~~
- Sharing of technical resources and information
- Identification and provision of experts
- Coordination of activities and events, including IPPC Regional Workshops

~~— Development and implementation of joint projects.~~

Proposed revisions to the Rules of Procedure of the IPPC Implementation and Capacity Development Committee (IC) – A Subsidiary Body of the CPM²

Rule 1. Membership

The IC is composed of ~~14~~ members.

Members will have experience in at least one of the following:

- Demonstrated experience in managing phytosanitary systems;
- Demonstrated experience in delivering phytosanitary capacity development activities;
- In depth knowledge of the IPPC, ISPMs and CPM Recommendations;
- Experience in the implementation of phytosanitary regulations;
- Other specific knowledge, qualifications and/or experience, for example in developing and delivering training

Members will also have a level of English which will allow them to actively participate in IC meetings and discussions.

~~— plus one representative from the regional plant protection organizations (RPPOs) and one from the Standards Committee (SC) of the International Plant Protection Convention (IPPC).~~

~~Members are selected on the basis of a balance of expertise with at least one from each Food and Agriculture Organization of the United Nations (FAO) region and representation from developing countries. Members~~

² Report from CPM-12 (2017) see Appendix 10 to report: <https://www.ippc.int/en/publications/84387/>

~~should have experience of either implementation of phytosanitary related instruments and/or capacity development and will be selected and appointed by the Commission on Phytosanitary Measures (CPM) Bureau.~~

~~The Technical Consultation (TC) among RPPOs and the SC each appoints a representative to the IC through their own processes.~~

The members ~~and representatives~~ will serve with utmost integrity, impartiality, and independence and will prevent and disclose in advance possible conflicts of interest that may arise in the course of carrying out their duties. If they occur, the Bureau will resolve cases of a conflict of interest.

Members serve for a term of three years which may be renewed as recommended by CPM Bureau and confirmed by CPM. The term of membership will begin at the end of the May IC meeting.

Rule 2. Qualification for membership

~~Nominations for members will include documented evidence of their experience in implementation and/or capacity development. This experience should include at least one of the following:~~

- ~~—— Demonstrated experience in managing phytosanitary systems;~~
- ~~—— Demonstrated experience in delivering phytosanitary capacity development activities;~~
- ~~—— In depth knowledge of the IPPC and International Standards for Phytosanitary Measures;~~
- ~~—— Experience in the implementation of phytosanitary regulations;~~
- ~~—— Other specific knowledge, qualifications and/or experience, for example in developing and delivering training.~~

~~Nominees will also have a level of English which will allow them to actively participate in IC meetings and discussions.~~

Rule 2. Replacement members

Replacements should meet the qualifications for membership set forth in these Rules.

Replacements for regional representatives. A maximum of two replacements may be nominated by each region and when a region nominates two, it should indicate the order in which they would serve as replacements.

Replacements for Experts. Experts submitted in response to a call for experts may also be selected to form a pool of replacements.

Rule 3. Procedure for nomination and selection of members and replacement members

Nominations should be submitted through the IPPC Official Contact points for contracting parties or RPPOs.

For nominations for regional representatives, the IPPC Secretariat will make a call and each of the seven Food and Agriculture Organization of the United Nations (FAO) regions may devise its own procedures for selecting its regional representatives for both members and replacement members. Their selection is communicated to the IPPC Secretariat through the CPM Bureau member from that region.

For nominations for experts, the IPPC Secretariat will make a call for experts. Nominations should be submitted to the IPPC Secretariat through IPPC Official Contact points for contracting parties or RPPOs. Nominations will be reviewed and selected by the Bureau. In addition to the qualifications for members outlined in these rules, the Bureau will also consider the skills and experience of the seven regional representatives and select additional experts to complement them.

Replacement members will also be selected following the above process to form a pool of replacement members.

The selection of members who are a representative of the SC or a representative from the RPPOs is described in Rule 5.

All nominations should be accompanied by a:

- Letter of intent,
- CV and
- Completed and signed Statement of Commitment as specified in the call.

All nominations for IC members or replacement members will be recommended to the CPM for confirmation.

The Secretariat will issue a call for members when vacancies arise. Member nominations, including supporting information and a letter of commitment as specified in the call, may be formally submitted by contracting parties or RPPOs.

The CPM Bureau will review nominations against the list of requirements outlined in Rule 2.

Members serve for a term of three years which may be renewed on acceptance of the CPM Bureau.

Rule 4. Alternate and replacement members

At least one alternate for each FAO region should be appointed following the selection process detailed in Rule 3 and serves for a term of three years which may be renewed in accordance with that Rule.

An alternate may attend a meeting of the IC in place of a member who is unable to attend.

If a member resigns, no longer meets the qualifications for membership set forth in these Rules, or fails to attend two consecutive meetings of the IC, the member will be replaced. The replacement will be decided by the Bureau maintaining the balance of expertise, and the need to have at least one member from each FAO region. A replacement member will serve for a term of three years starting from the time of appointment.

Rule 4. Procedure calling a replacement member

A member of the IC will be replaced by a confirmed replacement member if the IC member resigns, no longer meets the qualifications for membership set forth in these Rules, or fails to attend two consecutive meetings of the IC.

For the replacement of a member who is a regional representative, the confirmed replacement member will be called upon in the order confirmed. In these cases, the Secretariat should inform the relevant regional Bureau member.

For the replacement of a member who is an expert, the Bureau will be requested to select a confirmed replacement member from the pool to complement the IC membership with a balance of skills and experience required.

A replacement will serve through the completion of the term of the original member.

Rule 5. Representatives of the SC and RPPOs

The SC and the Technical Consultation (TC) among RPPOs each selects a representative to the IC through their own processes.

Rule 65. Chairperson and Vice-Chairperson

The chairperson and vice-chairperson of the IC are elected by its members and serve for the remainder of their a term of three years with the possibility of re-election on acceptance of the CPM Bureau. The SC representative and the RPPOs representative are not eligible to be elected as chairperson or vice-chairperson of the IC.

Rule 76. Meetings

The IC will hold two physical meetings a year. Additional meetings may be held when necessary, subject to available staff and financial resources. Meetings of the IC may also be held through electronic means, including by video and teleconference, as necessary.

A majority of members will constitute the quorum to hold meetings.

Rule ~~87~~. Observers and participation of invited experts to IC meetings

Subject to the provisions of the below paragraph, meetings of the IC will be open, in accordance with the applicable FAO and CPM rules and procedures.

The IC may determine that certain meetings, or part thereof, be conducted without observers, in consideration of the sensitivity or confidentiality of the subject.

With the prior agreement, or at the request, of the IC members, the Secretariat may invite individuals or representatives of organizations with specific expertise, to participate ~~as observers~~ in a specific meeting or part thereof.

Rule ~~8~~. Bodies established by CPM

~~A subsidiary body established by the CPM may be entrusted to the oversight of the IC. These bodies will have their own terms of reference and rules of procedure which will have been agreed by the CPM during their establishment.~~

Rule 9. IC Sub-groups

The IC may recommend that the CPM establish IC Sub-groups to address specific implementation and capacity development issues subject to availability of financial resources. The IC will approve ~~determine in their Terms of Reference (TOR) for each IC Sub-group and Rules of Procedure (ROP) for IC Sub-groups. The TOR should outline the assigned~~ tasks, duration of the Sub-group, the composition of the, membership and reporting duties of these sub-groups.

The IC may recommend, the CPM dissolve IC Sub-groups when they are no longer required.

Rule 10. Working groups/teams

The IC may establish ad hoc working groups/teams to address specific issues. Working group/team members are selected by the IC from its membership and may, in some cases, include external experts as agreed by the IC.

The IC may dissolve these temporary working groups/teams when they are no longer required.

Rule ~~11~~10. Decision-making

The IC will endeavour to make decisions on the basis of consensus between members.

Situations where consensus is required but cannot be reached shall be described in the meeting reports detailing all positions maintained and presented to the CPM for discussion and appropriate action.

Rule ~~12~~11. Reporting

The IC will report to the CPM and submit recommendations to the CPM as needed.