



# INC-Forests Bulletin

Summary of the Fourth Session of the Intergovernmental Negotiating Committee for a Legally-Binding Agreement on Forests in Europe (INC-Forests4)

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## SUMMARY OF THE FOURTH SESSION OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR A LEGALLY BINDING AGREEMENT ON FORESTS IN EUROPE 10-14 JUNE 2013

The Fourth Session of the Intergovernmental Negotiating Committee for a Legally Binding Agreement on Forests in Europe (INC-Forests4) convened from 10-14 June 2013 in Warsaw, Poland. The session was attended by 141 participants, including delegates from 33 countries and the European Union (EU), and observers from Japan, and 19 regional and international organizations, producer associations and non-governmental organizations. The Food and Agriculture Organization of the UN serves as the Secretariat during sessions of INC-Forests, assisted by the European Forest Institute and the Liaison Unit Madrid of the Ministerial Conference on the Protection of Forests in Europe (FOREST EUROPE).

INC-Forests4 revised most of the draft negotiating text for a legally binding agreement (LBA), including two annexes on arbitration and conciliation, and continued discussion of: arrangements for bringing the LBA under the UN umbrella; possible financial and secretariat arrangements for the LBA; and presentation of the results of INC-Forests to the Extraordinary Ministerial Conference scheduled for November 2013.

The meeting worked primarily in plenary on Monday and Tuesday, with informal contact groups convening in the evenings. On Wednesday and Thursday, plenary was suspended in the afternoon to allow the contact groups to continue their work. Chair Heino also held informal consultations on institutional issues throughout the week. In addition, the legal expert group reviewed the draft annex on conciliation.

The session was unable to conclude its consideration of all issues and reach a final agreement, and consequently, on Friday evening, 14 June, INC-Forests4 was suspended. Under the mandate given to INC-Forests, the Fourth Session is to be the last negotiating session. Delegates therefore decided to reconvene INC-Forests4 for three days on dates and at a place to be announced, in order to complete key tasks before sending the results of INC-Forests to the Extraordinary Ministerial Conference. Outstanding issues to be considered at the resumed session include: decisions on the depositary/host for the convention; interim and permanent secretariat arrangements; adjustments to the final clauses that might be necessary following the choice of the depositary; and provisions on issues such as the admission of observers, the rules for the compliance committee and the right to vote.

This report summarizes the negotiations conducted during this part of INC-Forests4.



Horn blowers welcome INC-Forests4 delegates. (Photo courtesy of the INC-Forests Secretariat).

## A BRIEF HISTORY OF INC-FORESTS

The INC-Forests process was launched by the 2011 FOREST EUROPE Ministerial Conference on the Protection of Forests in Europe, held in Oslo, Norway (Oslo 2011). FOREST EUROPE is a high-level political initiative that was founded in 1990 to work towards the protection and sustainable management of forests throughout Europe. Forty-six European countries and the EU, in cooperation with a range of international organizations, participate in FOREST EUROPE.

**Strasbourg 1990:** The first Ministerial Conference on the Protection of Forests in Europe took place in Strasbourg, France, on 18 December 1990. Participants agreed to initiate scientific and technical cooperation within Europe, adopting a general declaration and six resolutions on monitoring forest ecosystems, conserving forest genetic resources, creating a decentralized European Data Bank on forest fires, adapting mountain forest management to new environmental conditions, expanding a research network on tree physiology, and creating a European research network on forest ecosystems.

**Helsinki 1993:** The second Ministerial Conference was held in Helsinki, Finland, from 16-17 June 1993. Participants adopted a general declaration and four resolutions on: general guidelines for sustainable forest management (SFM) in Europe; general guidelines for conserving the biodiversity of European

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forests; forestry cooperation with countries with economies in transition; and strategies for a process of long-term adaptation of forests to climate change.

**Lisbon 1998:** The third Ministerial Conference was held in Lisbon, Portugal, from 2-4 June 1998. The Conference focused on the socioeconomic aspects of SFM and affirmed outcomes of the Helsinki follow-up process. Participants adopted a general declaration and resolutions on: enhancement of socioeconomic aspects of SFM; and pan-European criteria, indicators and operational level guidelines for SFM.

**Vienna 2003:** The fourth Ministerial Conference took place in Vienna, Austria, from 28-30 April 2003. Conference participants adopted the Vienna Living Forest Summit Declaration and five resolutions on: strengthening synergies for SFM in Europe; enhancing the economic viability of SFM; preserving and enhancing the social and cultural dimensions of SFM; conserving and enhancing forest biodiversity; and addressing climate change and SFM in Europe.

**Warsaw 2007:** The fifth Ministerial Conference was held in Warsaw, Poland, from 5-7 November 2007. At the Conference, a proposal was tabled to begin a process for exploring the possibility of a LBA on forests in Europe. This resulted in the establishment of two working groups. The first working group was mandated to explore the potential added value of a LBA and possible options for such an agreement. The second working group was tasked with preparing options for a decision on a possible LBA and producing a non-paper setting out such options.

**Oslo 2011:** The sixth Ministerial Conference was held in Oslo, Norway, from 14-16 June 2011. The Conference adopted the Oslo Ministerial Mandate for Negotiating a LBA on Forests in Europe (the Oslo Mandate), under which the FOREST EUROPE signatories decided to take further international action on forests through the elaboration of a LBA, and established the INC to develop this agreement. Although rooted within FOREST EUROPE (through the Oslo Mandate), the INC is an independent process. Under its mandate, the INC should complete its work by 30 June 2013, and present its results to a FOREST EUROPE Extraordinary Ministerial Conference that will take place within six months of the conclusion of the negotiations.

**INC-Forests1:** INC-Forests1 was held from 27 February to 2 March 2012 in Vienna, Austria. It focused on providing guidance to the INC Bureau to elaborate the initial draft negotiating text of the agreement. During the session, the INC considered a “Non-paper on a Possible LBA on Forests in Europe,” and discussed the possible structure of such an agreement. It established a roadmap for the negotiations and requested the INC Bureau to develop the first draft of a negotiating text.

**INC-Forests2:** INC-Forests2 was held from 3-7 September 2012 in Bonn, Germany, and undertook a first reading of the LBA draft negotiating text. A revised text incorporating proposals by delegates and observers was considered by two sessional working groups, which addressed general provisions, compliance, procedures and final clauses. INC-Forests2 discussed terms and definitions and agreed on a list of those deemed essential for the LBA, indicating that some intersessional work might be required on definitions. INC-Forests2 revised the roadmap for the negotiation process and intersessional work.

**Country-Led Initiative Expert Meeting on Terms and Definitions:** During INC-Forests2, Spain offered to host an expert meeting to consider in detail, the terms and definitions needed for the LBA. Held from 27-28 November 2012 in Madrid, participants at the meeting examined the list of terms discussed during INC-Forests2 and recommended those they deemed essential for a final LBA text, along with suggested definitions. They also determined which terms did not require definitions, and elaborated a list of additional terms that they believed should be added to the section.

**INC-Forests3:** INC-Forests3 was convened in two parts, the first from 28 January to 1 February 2013 in Antalya, Turkey, and a resumed session from 3-5 April 2013 in Saint Petersburg, Russian Federation. INC-Forests3: completed the second reading of the draft negotiating text and started the final reading; changed the structure of the draft negotiating text to bring it more in line with convention format; initiated legal scrutiny of the final clauses; decided to bring the agreement “under the UN umbrella”; reviewed a draft annex on arbitration; and decided on the roadmap for negotiations from Saint Petersburg to the Extraordinary Ministerial Conference scheduled for 5-6 November 2013 in Madrid, Spain.

## REPORT OF INC-FORESTS4

### OPENING OF THE SESSION

On Monday, 10 June, the Fourth Session of the Intergovernmental Negotiating Committee for a Legally Binding Agreement on Forests in Europe (INC-Forests4) was opened by Jan Heino (Finland), Chair of the Intergovernmental Negotiating Committee (INC). Marcin Korolec, Environment Minister, Poland, and Janusz Zaleski, Under-Secretary of State, Poland, welcomed delegates.

Chair Heino thanked the hosts, emphasizing the progress already achieved under the INC process and the challenges ahead. He reminded delegates that “it is 11:55,” and that most articles in the draft negotiating text still include open paragraphs, which need to be finalized by the end of the week. He suggested starting by addressing “hard issues” including whether the legally binding agreement (LBA) should be concluded under UN/UN system auspices, or as a non-UN treaty serviced by the UN system.

Switzerland proposed solving outstanding institutional questions by adopting a UN treaty as a UN Economic Commission for Europe (UNECE) agreement, to be jointly serviced by UNECE and the Food and Agriculture Organization of the UN (FAO) on an equal footing, building upon cooperation with the UN Environment Programme



Noel Holleran (left) delivering the European Union's opening statement. (Photo courtesy of the INC-Forests Secretariat).



(UNEP) and European Forest Institute (EFI). Switzerland also suggested basing the secretariat in Geneva and including in the LBA, provisions on mandatory contributions for the running of a “minimal secretariat.” He also requested access to the recordings of the meeting by the end of the session.

Pro Natura, on behalf of several environmental NGOs, lamented the lack of: incentives to halt biodiversity loss; recognition in the text of previous legal agreements other than in the preamble; and common definitions of forests and sustainable forest management (SFM). He also noted inadequate civil society participation in the INC process and limited references to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).

The Confederation of European Forest Owners and the European Farmers and European Agri-Cooperatives expressed satisfaction with the INC process, emphasized that the LBA should be acknowledged as a legal reference for the forest sector at the EU level, and suggested that the role and involvement of forest owners and practitioners could be secured through the establishment of an advisory committee to the Conference of the Parties (COP).

### **ADOPTION OF THE AGENDA**

The draft provisional agenda (Document 1/INC4) was adopted without amendment.

### **ORGANIZATIONAL MATTERS**

In the opening session, Chair Heino outlined the proposed organization of work. At the opening of the Monday afternoon plenary session, Chair Heino reported that while the morning plenary had not been recorded, the Polish hosts had advised him that it was technically feasible to start recording, so the INC agreed to Switzerland’s request to record the session and provide access to the recordings to interested delegations.

### **CONSIDERATION OF THE DRAFT NEGOTIATING TEXT**

Throughout the week, INC-Forests4 continued the final reading of the draft negotiating text resulting from resumed INC-Forests3 in Saint Petersburg (Document 2/INC4). Work was undertaken in plenary, informal contact groups and the legal expert group (a standing group established in Saint Petersburg). On Monday, the legal expert group, facilitated by Stephen Lowe, UK, reviewed the draft annex on conciliation, while a contact group facilitated by Christoph Dürr, Switzerland, worked on outstanding issues in articles 1 (terms and definitions), 3 (principles), 5 (forest resources and their contribution to global carbon cycles) and 11 (monitoring and reporting). On Tuesday, a contact group facilitated by Liubov Poliakova, Ukraine, worked on outstanding issues in articles

12 (COP), 15 (compliance) and 16 (settlement of disputes). On Wednesday, a contact group facilitated by Throstur Eysteinnsson, Iceland, worked on all outstanding issues in articles 1-15. On Thursday, a joint meeting of the legal expert group and an informal contact group, facilitated by Stephen Lowe, worked on outstanding issues in articles 16-26. On Thursday evening, Chair Heino facilitated a contact group that sought to resolve all remaining bracketed portions of the draft negotiating text.

**TITLE:** INC-Forests4 began with the title entirely in brackets and it remained in brackets by the end of the session, albeit with different options listed. It was discussed briefly in plenary on Monday and Friday, and in contact groups on Wednesday and Thursday. During Monday plenary: Ukraine and the EU, on behalf of its member states and Croatia, supported “European Forest Convention”; Switzerland suggested “UNECE-FAO Convention”; and Iceland, supported by the Russian Federation, preferred “Framework Convention on Forests,” noting that excluding “European” allows for other parties to join later. Delegates agreed to remove the options of “Forest Agreement,” “Framework Agreement on Forests” and “Framework Agreement on Sustainable Forest Management.”

During the contact group on Wednesday, it was agreed to remove “UNECE-FAO Convention” as a possible title. In a contact group on Thursday, the option of “Regional Forest Convention” was added.

**Outcome:** The draft negotiating text currently contains the options of “European Forest Convention,” “Regional Forest Convention,” “International Framework Convention on Forests” and “Forest Convention.”

**PREAMBLE:** At the start of INC-Forests4, all paragraphs in this section had been agreed *ad referendum*, but the chapeau clause and closing clause were bracketed. It was discussed during plenary on Monday, Tuesday and Thursday, and in a contact group on Wednesday. Discussions focused mainly on whether to move to the article on principles, a paragraph emphasizing that the convention is intended to reinforce and strengthen the implementation of SFM in a way that is mutually supportive with other international treaties. The issue on how to begin and end the preamble was resolved in a contact group on Wednesday and agreed *ad referendum* in plenary on Thursday. The contact group also decided, and the INC agreed, to footnote the full names of some of the international instruments cited in the preambular paragraphs.

**Outcome:** As agreed *ad referendum* at Warsaw, the preamble contains paragraphs on, *inter alia*: the multiple economic, social, cultural and environmental benefits of forests; and the role of forests and SFM in sustainable development.

**TERMS AND DEFINITIONS:** This article was discussed in plenary on Monday, Tuesday and Thursday, and in a contact group on Monday and Wednesday. The entire article entered



Dais during the opening ceremony. L-R: Janusz Zaleski, Under-Secretary of State, Poland; Marcin Korolec, Environment Minister, Poland; INC Chair Jan Heino; and INC Secretary Malgorzata Buszko-Briggs. (Photo courtesy of the INC-Forests Secretariat).

INC-Forests4 bracketed as a whole, but with five definitions already agreed *ad referendum*. By the end of the meeting, all definitions had been agreed *ad referendum* and the overall bracket removed.

During Monday plenary, the INC agreed *ad referendum* on the definitions of forest ecosystem services, goods, forest restoration, forest fragmentation and forest degradation. Iceland, noting that a weakness of the draft negotiating text is that it does not make reference to deforestation, suggested including language on deforestation in the article on the contribution of forests to the global carbon cycle and proposed defining deforestation as conversion of forest land to non-forest land. Iceland withdrew its suggestion on Tuesday since its proposal to include deforestation in the article on the role of forests in the global carbon cycle had been rejected.

Turkey and the Russian Federation said parties should use the definition of “forests” in their national forest legislation. The EU, supported by Norway and Pro Natura, preferred defining “forests” as “an area of land spanning more than 0.5 hectares with trees higher than five meters and a canopy cover of more than 10%, or trees able to reach these thresholds *in situ*.” Iceland and Switzerland considered the benefits and challenges of using a definition consistent with that used by FAO and that used in the UN Framework Convention on Climate Change. During the Tuesday morning plenary, contact group facilitator Christoph Dürr, Switzerland, reported that the group had worked out a compromise definition of “forests” that uses the FAO definition for the purposes of the convention, but allows a party to apply its own national definition if it provides the definition in writing to the secretariat. The INC agreed to the compromise text *ad referendum*. The Wednesday contact group agreed to lift the brackets around the entire article and the INC agreed *ad referendum* on it during Thursday morning plenary.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 1 includes definitions of: forest; SFM; criteria for SFM; forest ecosystem services; goods; national forest programmes; forest fragmentation; forest degradation; forest restoration; illegal harvesting; and regional economic integration organizations.

**OBJECTIVE:** In the Monday morning plenary, the INC agreed *ad referendum* on removing brackets from a subparagraph on the “long-term provision of a broad range of forest ecosystem services and goods derived from them.”

**Outcome:** As agreed *ad referendum* in INC-Forests4, article 2 states the objectives of the convention, such as: reinforcing and strengthening SFM implementation; ensuring forest multifunctionality; enhancing the role of forests and forestry in contributing to solving global challenges; and providing a framework for fostering national actions and international cooperation.

**PRINCIPLES:** At the start of INC-Forests4, article 3 on principles had all but two subparagraphs agreed *ad referendum*. The article was discussed in plenary on Monday and Tuesday, and in a contact group on Monday, and both outstanding subparagraphs were eventually agreed *ad referendum*.

On Monday morning, the INC agreed *ad referendum* on the principle that SFM contributes to the sustainable development of parties. Regarding the subparagraph on the principle that the convention is intended to strengthen the implementation of SFM in a way that is mutually supportive with other international agreements and other instruments, Ukraine, Norway and the Russian Federation requested deleting “other instruments.” The EU proposed an alternative formulation to the effect that “this Convention shall be implemented in a mutually supportive manner with other international treaties and instruments relevant to this Convention, and that the provisions of the Convention shall not affect the rights and obligations of any party deriving from any existing international agreement.” During informal contact group talks on Monday evening, the EU offered a new phrasing: “mutually supportive with existing rights and obligations under other international agreements relevant to this Convention.” In Tuesday plenary, the subparagraph was agreed *ad referendum* with the new EU amendment.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 3 includes such principles as: recognizing shared interests and responsibilities concerning forests; good governance and enabling conditions for SFM; active participation of forest owners and other stakeholders in developing and implementing policies; cross-sectoral cooperation and coordination; and reinforcing and strengthening SFM implementation in a way that is mutually supportive with existing rights and obligations under other multilateral agreements.

**GENERAL PROVISIONS:** This article was discussed during Monday plenary, when the INC agreed to close negotiations on it since all paragraphs had been agreed *ad referendum*.



Chair Heino speaking with the Russian delegation. (Photo courtesy of the INC-Forests Secretariat).



**Outcome:** As agreed *ad referendum*, article 4 states that parties shall take measures to: ensure that SFM is implemented; use SFM criteria as a guiding framework for policy development; develop, implement and update national forest programmes or equivalent; maintain and/or strengthen enabling conditions; and strengthen and enhance international, regional and cross-border cooperation and coordination.

**FOREST RESOURCES AND THEIR CONTRIBUTION TO GLOBAL CARBON CYCLES:** Article 5 entered INC-Forests4 without any subparagraphs agreed *ad referendum*, but left entirely agreed. It was discussed in plenary on Monday and Tuesday and in a contact group on Monday.

During Monday morning plenary, Norway, supported by the Russian Federation, Switzerland, Turkey and Ukraine, suggested omitting reference to international and regional obligations on maintaining or enhancing forest resources and their capacity to act as carbon sinks and reservoirs, substitute non-renewable materials and energy, and contribute to a low carbon emission economy. During Tuesday plenary, the reference to international and regional obligations was deleted as part of the compromise text in article 3 (principles) about the convention being mutually supportive with existing rights and obligations under other multilateral agreements.

With regard to the obligation to have in place or adopt measures to reduce forest fragmentation, Iceland, opposed by the EU, proposed text on reducing the impacts of deforestation and forest fragmentation, including through a balanced approach in land-use planning and measures to enhance productivity through restoration, reforestation, afforestation and/or other relevant measures. The EU, supported by Norway, Switzerland and Ukraine, proposed alternative text on avoiding forest fragmentation and deforestation and reducing any negative impacts, where they occur, through forest restoration, reforestation, afforestation and/or other relevant measures.

During Tuesday morning plenary, contact group facilitator Christoph Dürr, Switzerland, presented the group's proposed compromise on this issue: "reduce forest fragmentation and any negative impacts thereof where they occur, *inter alia* through a balanced approach in land-use planning and measures to enhance connectivity, through forest restoration, reforestation, afforestation, and/or other relevant measures."

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 5 states that parties shall have in place or adopt legislative, administrative or other policy measures to: maintain or enhance forest resources and the capacity of forests and forest products to act as carbon sinks and reservoirs; substitute non-renewable materials and energy; and contribute to a low-carbon emission economy; and reduce forest fragmentation.

**FOREST HEALTH AND VITALITY:** Article 6 on forest health and vitality entered INC-Forests4 with only one subparagraph agreed *ad referendum*, but was entirely agreed by the end of Monday afternoon plenary. Ukraine, supported by the EU and the Russian Federation, proposed amending the paragraph on maintaining and enhancing forest health

and vitality to match language agreed in article 2 (objective) regarding ecosystem services, to read "to provide a broad range of forest ecosystem services and goods derived from them." The amended paragraph was agreed *ad referendum*.

On forest pests, diseases and fires, based on proposals by Switzerland and the EU, the INC agreed *ad referendum* to the phrasing "monitor, prevent and combat forest pests, diseases and fires, including in the context of climate change, and to cooperate with other parties where it is appropriate."

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 6 states that parties shall have or adopt legislative, administrative or other policy measures to: maintain and enhance health and vitality of forests and forest soils; implement measures on forest resilience, the role of forests in combating desertification, forest pests, diseases and fires; and adapt forest management practices to changing climatic conditions.

**PRODUCTIVE FUNCTIONS OF FORESTS:** At the start of INC-Forests 4, article 7 on productive functions of forests had two of its three subparagraphs agreed *ad referendum*. It was discussed on Monday and Tuesday in plenary and was closed by the end of Tuesday

On Monday, Ukraine lifted its reserve on the paragraph on increasing the use of wood from sustainably managed forests, but the EU asked for more time to reflect on the paragraph. On Tuesday morning, the EU proposed amending the paragraph to read "enhancing," rather than "increasing," the use of wood from sustainably-managed forests, and "including its use as a substitute for non-renewable materials and energy sources, as well as the sustainable use of non-timber forest products." Norway and Ukraine suggested that "sustainable use" was vague, so "sustainable" was removed. The paragraph was agreed *ad referendum*.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 7 states that parties shall have in place or adopt legislative, administrative or other policy measures on enhancing the use of wood from sustainably-managed forests, eliminating illegal harvesting of timber and associated trade, and integrating the use of sustainably produced forest products into relevant measures for sustainable consumption and production.

**FOREST BIODIVERSITY:** Article 8 started INC-Forests4 with two of three subparagraphs agreed *ad referendum*, and was closed by Thursday. The article was discussed on Monday and Thursday in plenary, and in a contact group on Wednesday.

During Monday afternoon plenary, the INC agreed to the phrasing: maintain or further develop "networks or systems," instead of just "networks," of protected forests areas. Ukraine, the Russian Federation, Iceland and Norway asked to keep the qualifier "representative" in reference to protected forest areas in such a network or systems, but the EU asked to keep it bracketed. A Pro Natura proposal to include text on "other high biodiversity forest areas" was objected to by Ukraine and the Russian Federation, and was therefore not accepted. In the Wednesday contact group, the EU agreed to lift the brackets from "representative." This change was accepted by the INC during the Thursday plenary.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 8 states that parties shall have or adopt legislative, administrative or other policy measures on: protecting, restoring and, where appropriate, increasing forest biodiversity; maintaining or further developing networks or systems of



Luca Arnold, Switzerland

representative protected forest areas; and conserving endemic and threatened species in forests and preventing, and mitigating the negative impacts of invasive alien species.

**PROTECTIVE FUNCTIONS OF FORESTS:** Article 9 started INC-Forests4 with two of three subparagraphs already agreed *ad referendum*, and was concluded by the end of Monday plenary, when the INC agreed to the EU suggestion to remove all brackets in the subparagraph relating to enhancing the protection of water resources through appropriate forest management practices and, if applicable, in the framework of integrated basin management, including through cross-border cooperation.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 9 states that parties shall have in place or adopt legislative, administrative or other policy measures on: maintaining, enhancing or restoring the protective functions of forests, such as water and soil protection; enhancing the protection of groundwater and surface water resources; and identifying and compiling relevant information for awareness-raising, decision-making and strengthening inter-sectoral cooperation.

**SOCIO-ECONOMIC FUNCTIONS OF FORESTS:** At the start of INC-Forests4, article 10 on the socio-economic functions of forests had four of its five subparagraphs agreed *ad referendum*. On Monday, the INC agreed *ad referendum* to remove the brackets in the subparagraph on broadening and diversifying the financial basis for SFM, and to include a reference to innovative financing instruments, such as payments for ecosystem services, “as appropriate.”

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 10 states that parties shall have or adopt legislative, administrative or other policy measures on, *inter alia*: taking the social and cultural benefits of forests into account in SFM; broadening and diversifying the financial basis for SFM; increasing the contribution of forests to sustainable development; improving the use of scientific and traditional forest-related knowledge; and facilitating communication between policy-makers and all stakeholders.

**MONITORING AND REPORTING:** At the start of INC-Forests4, article 11 on monitoring and reporting had several bracketed sections and alternate text formulations. It was discussed on Monday and Tuesday in plenary, and in a contact group on Wednesday.

Norway, Switzerland, Ukraine, Iceland and the EU supported that parties should monitor, analyze or assess on a regular basis, progress in implementing SFM using “indicators to be established by the COP.” The Monday contact group facilitator, Christoph Dürr, reported to plenary on Tuesday morning that the group had proposed that parties should report on the status and development of their forests and progress in implementing SFM using the criteria and indicators referred to in article 4 (general provisions), “and using, as far as applicable, reports

used for the regular Global Forest Resources Assessment of the FAO.” To accommodate a language concern raised by Russian-speaking delegates, the contact group on Wednesday agreed that parties shall “monitor and assess or analyze,” rather than just “monitor and assess,” the status and development of their forests, and “analyze or assess,” rather than just “assess,” progress in implementing SFM.

The article was agreed *ad referendum* in Thursday morning plenary.

**Outcome:** As agreed *ad referendum* at INC-Forests4, article 11 requires parties to: monitor and analyze or assess the status and development of their forests; and analyze or assess progress in SFM implementation, and periodically report to the COP on these and their implementation of the convention.

**CONFERENCE OF THE PARTIES:** At the start of INC-Forests4, article 12 on the COP had several provisions without brackets. At the end of the session, although brackets had been removed from more parts of the article, none of the paragraphs had been agreed *ad referendum*. During Tuesday plenary, the Russian Federation opposed Chair Heino’s suggestion to mark clauses as agreed *ad referendum*, arguing they should be reviewed once a decision on the secretariat has been made.

While considering this article in plenary on Tuesday, Wednesday, Thursday and Friday and in contact groups on Tuesday and Wednesday, the INC addressed several issues, including: the frequency of COP sessions; whether the COP should provide guidance on developing national targets; the establishment of subsidiary bodies; and the participation of non-parties at the COP sessions.

On Tuesday, regarding the frequency of COP sessions, Switzerland, with Norway, Ukraine and the Russian Federation, suggested that this should be decided by the COP. The EU proposed that the text should specify that the COP meets every second year, to which Norway and Switzerland suggested every third year. This issue was further discussed in the contact group on Wednesday. At the Thursday morning plenary, the INC agreed to the contact group’s suggestion that the COP convene every third year, but the second session to be held two years after the first.

Regarding guidance by the COP on developing national targets, Ukraine, supported by Switzerland and the Russian Federation and opposed by the EU, suggested that text on the COP recommending future actions to enhance implementation should not include “providing guidance on developing national targets.” On Wednesday afternoon, the contact group, facilitated by Throstur Eysteinnsson, Iceland, agreed to delete the language proposed by the EU relating to national targets and to refer only to guidelines, tools and guidance. During Thursday plenary, the INC accepted the group’s recommendation.

On subsidiary bodies, during Tuesday plenary, Ukraine suggested deleting text on adopting “financial regulations” that are applicable to subsidiary bodies. The Confederation of European Forest Owners said civil society and forestry users should be represented in subsidiary bodies.

On powers of the COP, in Tuesday plenary, Norway, opposed by Ukraine, proposed that the COP should “undertake” actions required for the achievement of the purposes and objectives of the convention. The Russian Federation, opposed by Switzerland, suggested that this be “upon the request of” the concerned parties. On Wednesday afternoon, the contact group agreed to qualify “actions” by inserting “within the framework of the Convention” and to remove “upon the request of the concerned parties.” On Thursday in plenary, the INC agreed to the group’s recommendation.



Delegates in the contact group on the presentation of the INC’s results to the Ministerial Conference (photo courtesy of the INC-Forests Secretariat)



On observers, during Tuesday plenary, the INC discussed the two articles on the participation of entities not party to the convention at sessions of the COP, with the Russian Federation clarifying that members “participate” at the COP whereas observers “attend” the COP. Delegates made a number of suggestions relating to the meaning of “participating,” “attending,” and “being represented at” COP sessions. Pro Natura suggested that NGOs be admitted as observers at sessions of the COP and its subsidiary bodies, saying that this would be consistent with UNECE treaties.

This issue was further discussed in the contact group on Wednesday, where agreement was reached on the participation of observers at COP sessions, but not on the quorum required to object to the admission of observers. One party called for admitting observers only when no party objects, another suggested requiring 10% of parties to object in order to prevent admission, while several parties supported requiring one-third of parties to object.

At the Thursday plenary, the INC endorsed the contact group’s proposals and noted that the issue of the quorum remained outstanding. During the Friday morning plenary, the proposal for a 10% quorum was withdrawn, leaving the other two options in brackets.

During the plenary on Wednesday, contact group facilitator Liubov Poliakova, Ukraine, reported that understanding was reached on, *inter alia*: periodic examinations of the obligations



Liubov Poliakova, Ukraine

of the parties and institutional arrangements; establishing the programme of work at the first session of the COP; and subsidiary bodies. The INC endorsed the agreement of the contact group in plenary on Thursday.

**Outcome:** The portions of article 12 without brackets describe the tasks of the COP as, *inter alia*: carrying out periodical

examination of the obligations of parties and the institutional arrangements: recommending future actions; facilitating the exchange of information on SFM; establishing a programme of work; cooperating with international organizations, processes, and intergovernmental and non-governmental bodies; and establishing subsidiary bodies. As currently drafted, article 12 also specifies the frequency of the COP sessions and that the first COP shall adopt by consensus, the rules of procedure and financial arrangements, including those for the secretariat. Only two paragraphs, respectively on the first session of the COP and on the admission of observers to the COP sessions, contain bracketed text.

**RIGHT TO VOTE:** Article 13 started at INC-Forests4 with one of two paragraphs bracketed, which at the end of the meeting remained bracketed. This article was discussed in plenary on Tuesday, Thursday and Friday, and in contact groups on Wednesday and Thursday. Discussion revolved around whether to limit the right to vote of regional economic integration organizations in matters within their competence. Iceland, Norway, the Russian Federation, Switzerland, Ukraine and Turkey expressed support for limiting the exercise of such organizations’ right to vote to that of their member states present at each session of the COP. The

suggestion was opposed by the EU, which argued that it was contrary to established practice under numerous international environmental agreements, including the UNFCCC, the Kyoto Protocol, the Convention on Biological Diversity and the Aarhus Convention.

**Outcome:** The text on limiting the right to vote of regional economic integration organizations remains bracketed.

**SECRETARIAT:** At the start of INC-Forests4, article 14 had a bracketed provision stating that a secretariat is established and unbracketed subparagraphs concerning the secretariat’s functions. At the end of the meeting, the functions paragraph had brackets removed and a new heavily bracketed paragraph on assigning the secretariat functions to given entities added. The INC discussed the article in plenary on Tuesday, Thursday and Friday, and in the contact group.

On Tuesday, the EU proposed that the secretariat functions be performed by “[xxx]” “unless the COP decides to entrust these functions to one or more other international or intergovernmental organizations.” The Russian Federation, supported by Switzerland, suggested bracketing the EU proposal. Switzerland urged avoiding making special rules for changing the functions of the secretariat other than those in the convention amendment procedures.

The EU proposed deleting text on compilation and transmission of reports, saying that it overlaps with a subsequent paragraph. The Russian Federation and Switzerland opposed, noting its links with the compliance issue, which was still under consideration.

On cooperation with other international agreements, the EU proposed text “to ensure the necessary coordination with the secretariats of other relevant intergovernmental organizations and processes and NGOs.” Norway proposed referring particularly to secretariats of agreements relevant to the convention. Ukraine, Switzerland and the Russian Federation preferred “cooperate as appropriate with the competent international organizations” and supported Norway’s addition.

On the first COP making arrangements for the functioning of the secretariat, Ukraine asked for the text to be bracketed. Ukraine and Switzerland objected to an EU suggestion that the arrangements should be made “in a cost-effective manner,” asking whether reference to cost-effectiveness exists in other conventions.

Thursday morning plenary endorsed the contact group’s suggested amendments to the paragraph on functions of the secretariat, including to “make available” national reports and to cooperate with “relevant international organizations, processes and intergovernmental bodies and organizations.” The article was further amended in the paragraph on assigning secretariat functions to a particular entity, with the EU suggesting making reference to “FAO, UNECE and xyz”; the Russian Federation suggesting “UNECE, FAO and xyz”; and Norway proposing “FAO in corporation with UNECE and UNEP.” No agreement was reached on whether to include text on the first COP making arrangements for the functioning of the Secretariat “in a cost-effective manner.”

On Friday morning in plenary, Chair Heino proposed moving paragraph 2 on the organization to perform secretariat functions from the negotiating text into the draft resolution for the Ministers. Switzerland stressed the political importance of having this paragraph in the text and, supported by the Russian Federation, opposed its deletion. Norway, with Iceland, supported deleting paragraph 2, as long as paragraph 4 on the first COP making arrangements for the secretariat remained. Chair Heino then proposed retaining a briefer version of



Knut Oistad, Norway

paragraph 2, saying that the secretariat functions would be performed by XYZ, with the rest of the paragraph's text moved into the ministerial resolution. Switzerland insisted on maintaining paragraph 2. On paragraph 4, the EU, with Norway, proposed text that the first COP should make arrangements "for the effective discharge of the functions of the secretariat." Switzerland insisted on deleting paragraph 4.

**Outcome:** Article 14 contains brackets in the paragraphs regarding the organizations to perform secretariat functions and the first COP making arrangements for the secretariat functions. Secretariat functions were agreed to include: compiling, transmitting and making available reports; reporting on its activities to the COP; and cooperating as appropriate with the relevant international organizations, processes, and intergovernmental and non-governmental bodies and organizations.

**COMPLIANCE:** Article 15 entered INC-Forests4 with a few subparagraphs without bracketed text, but none agreed *ad referendum*; at the end of the session it had been substantially cleaned up but no subparagraph agreed *ad referendum*. It was discussed in plenary from Tuesday to Friday, and in contact groups on Wednesday and Thursday. Discussions included consideration of the establishment of a mechanism for the review of information submitted by parties, and the composition and powers of the compliance committee.

Early in the week, delegates agreed to delete text relating to the establishment of an expert mechanism for the review of reports, opting for entrusting the secretariat to review information submitted by parties.

On the composition of the compliance committee, the Russian Federation, supported by Ukraine, suggested that the COP elect committee members and adopt terms of reference and rules of procedure "by consensus." Switzerland proposed that committee members serve "in their personal capacity." The EU proposed that gender equality be given consideration in selecting the compliance committee membership. Pro Natura, opposed by the Russian Federation, suggested including text stating that compliance committee members might be drawn also from stakeholder organizations. Since this proposal was not endorsed by an INC member delegation, it was not included in the draft negotiating text.

On the powers of the compliance committee, the EU, supported by Iceland, Norway and Switzerland, but opposed by the Russian Federation and Ukraine, suggested that the compliance committee consider "any information it deems credible and relevant." Pro Natura, opposed by the Russian Federation, suggested including text stating that stakeholder organizations be allowed to make submissions to the compliance committee. Since this proposal was not endorsed by an INC member delegation, it was not included in the draft negotiating text.

**Outcome:** Article 15, as currently drafted, entrusts the secretariat to review, analyze, compile and report on the information submitted by parties. It also describes the composition of the compliance committee. Text on whether the COP will elect the members of the committee and adopt its

terms of reference and rules of procedure by consensus remains bracketed. The text on the information that the committee may consider in carrying out its functions also remains bracketed.

**SETTLEMENT OF DISPUTES:** Article 16 on settlement of disputes came to INC-Forests4 with five of eight paragraphs without brackets but not yet agreed *ad referendum*, and by the end of the session the article had six paragraphs free of brackets but not agreed *ad referendum*. It was discussed in plenary as well as in contact groups on Tuesday, Wednesday and Thursday, but delegates could not reach agreement on the outstanding issues relating to the inclusion of provisions concerning conciliation procedures. At the suggestion of the combined contact group/legal expert group, delegates decided to place all provisions regarding a conciliation procedure in an annex.

**Outcome:** As now drafted, article 16 on disputes on the interpretation or application of the convention are to be solved through "consultation, negotiation or any other peaceful means of dispute settlement" including through resort to the International Court of Justice and/or arbitration. When parties to a dispute have not accepted the same means of dispute settlement, each of them could submit the dispute to conciliation, pursuant to the procedure set out in the annex on conciliation.

**AMENDMENTS TO THE AGREEMENT:** Article 17 on amendments to the agreement came to INC-Forests4 without brackets but not agreed *ad referendum*, pending a decision on the depositary and any adjustments in the convention's final clauses resulting from that decision. The INC briefly discussed the draft article in plenary on Tuesday without taking action. The Thursday afternoon combined contact group/legal expert group proposed amending it to state that the date of entry into force of any amendment will be on the 90th day after deposit of the instrument of ratification, acceptance or approval, rather than the 90th day after receipt. The INC approved this recommendation in Thursday afternoon plenary.

**Outcome:** As now drafted, article 17 covers proposals of amendments, the rules on voting when an amendment cannot be reached by consensus, and entry into force of an amendment.

**ADOPTION AND AMENDMENT OF ANNEXES TO THE AGREEMENT:** Article 18 on adoption and amendment of annexes entered INC-Forests4 with brackets or notations in all but one paragraph and by the end of the session the only bracket remaining concerned a cross-reference to the article on amendments to the convention. However, no text was agreed *ad referendum* pending a decision on the depositary and any adjustments in the convention's final clauses resulting from that decision.

The article was discussed in plenary on Tuesday and Thursday, and in the combined contact group/legal expert group on Thursday. On Tuesday, Norway, with Ukraine and the Russian Federation, proposed specifying that an annex shall enter into force for those parties that have accepted it twelve months after the date of the communication of its adoption. The Thursday afternoon combined contact group/legal expert group agreed to amend the paragraph on entry into force of an annex or amendment of an annex to state that it "shall enter into force for all those parties that have accepted it" 12 months after the date of communication of its adoption by the depositary. The INC approved this recommendation in the Thursday afternoon plenary.

**Outcome:** As presently drafted, article 18 contains provisions on: annexes as an integral part of the convention; restrictions on their subject matter; and rules for their proposal, adoption and entry into force.

**PROTOCOLS:** Article 19 on protocols came to INC-Forests4 with two of five paragraphs in brackets and by the end of the session had clean text but was not agreed *ad referendum*.



It was addressed in plenary on Tuesday and Thursday, and in a contact group on Wednesday. On Tuesday, the EU proposed text stating that it is parties that shall adopt protocols, rather than the COP. The Thursday afternoon plenary removed all brackets and reworded the paragraph to state that parties can adopt protocols at any COP session.

**Outcome:** As currently drafted, the unbracketed article 19 covers the rules for proposals, adoption and entry into force of protocols.

**DEPOSITARY:** At the start of INC-Forests4, the single-sentence article 20 on the depositary had brackets around the phrase “and of protocols adopted.” The INC briefly discussed the article during the Tuesday and Thursday plenary sessions, deciding to remove all brackets except for the placeholder for the name of the person or entity that will serve as the depositary.

**SIGNATURE:** Article 21 on signature entered Warsaw with brackets or notations in all three paragraphs, and by the end of the session still had brackets or notations in every paragraph and an alternate formulation proposed for one of the paragraphs. It was discussed in the Monday and Friday plenary sessions, and in the Thursday combined contact group/legal expert group.

Switzerland suggested that the convention be open for signature by all states which are members of the UN and regional economic integration organizations, whereas Norway requested this discussion wait until the institutional setup had been decided. The combined contact group/legal expert group recommended deleting the reference to signatories to FOREST EUROPE and discussed, but did not select from, two phrasing options regarding the convention being open for signature by UN member states, members of its specialized agencies, the International Atomic Energy Agency or a party to the statute of the International Court of Justice. The group recommended amending the paragraph on timing of the signature to state that the convention would be open for signature from six weeks up to one year after adoption.

**Outcome:** The entire text under article 21 remains bracketed.

#### **RATIFICATION, ACCEPTANCE, APPROVAL OR**

**ACCESSION:** Article 22 on ratification, acceptance, approval or accession entered INC-Forests4 with one paragraph without brackets, one with a placeholder for a date, and two paragraphs regarding regional economic integration organizations entirely bracketed. By the end of the session, brackets had been removed from one of the latter, specifying that regional economic integration organizations must declare the extent of their competence concerning the matters governed by the convention when they submit their instruments of ratification, acceptance, approval or accession.

The main point of disagreement was an EU proposal, opposed by Switzerland, that regional economic integration organizations which are party to the agreement can decide their “responsibilities for the performance” and “obligation under this agreement” without being “entitled to exercise rights under this convention concurrently.” This issue remains unresolved.

In addition, the article remains open pending the outcome of the decision on the depositary and any adjustments to the convention’s final clauses that may entail.

**Outcome:** As currently drafted, article 22 would specify a range of dates during which the convention would be open to accession by any state or regional economic integration organization that has not signed the convention and contain the rule on regional economic integration organizations declaring their competence in matters governed by the convention.

**ENTRY INTO FORCE:** At the start of INC-Forests4, article 23 on entry into force was entirely in brackets. The INC discussed the article during the Tuesday and Friday plenary sessions, and in the Thursday combined contact group/

legal expert group. Outstanding issues concerned: number of ratifications required for the convention to enter into force; timespan for the entry into force of the convention for subsequently acceding states or regional economic integrated organizations; and whether to count ratifications by regional economic integrated organizations as additional to those deposited by their member states. Ukraine, opposed by the EU, proposed that the number of ratifications required for entry into force of the convention should be set at 35.

**Outcome:** The entire text under article 23 remains bracketed.

**RESERVATIONS:** Article 24 on reservations entered INC-Forests4 without brackets but not yet agreed *ad referendum* and was not discussed at Warsaw. The article states that there shall be no reservations made to the convention.

**WITHDRAWAL:** The INC discussed article 25 on withdrawal at the Tuesday and Friday plenary sessions, and in the Thursday combined contact group/legal expert group. The only outstanding issue was whether any party withdrawing from the convention would be considered to have withdrawn also from its protocols. The INC decided that withdrawal from the convention also meant withdrawal from protocols. While all brackets were lifted at INC-Forests4, the article is not yet agreed *ad referendum*.

**TERMINATION:** Article 26 on termination was first proposed in the Thursday afternoon combined contact group / legal expert group and approved by the INC on the same day.

**Outcome:** As now drafted, it calls for the convention to be terminated if and when, as a result of withdrawals, the number of parties drops below a certain number, unless the remaining parties unanimously decide otherwise. The number of parties remains bracketed.

**ANNEXES:** The focus of discussions regarding annexes was on the proposed annex on conciliation, since the annex on arbitration had been vetted by the legal expert group at Saint Petersburg. By the end of the Warsaw part of INC-Forests4, both annexes had clean text, except for cross-references to convention articles. During the Tuesday plenary, at the suggestion of Ukraine, the INC agreed to delete a reference to a possible annex on indicators.

**Arbitration:** As a result of work done by the combined contact group/legal expert group on article 16 (settlement of disputes), the INC agreed at the Thursday afternoon plenary to lift the brackets around the entire annex on arbitration.

**Outcome:** The agreed text of the annex on arbitration includes rules on: initiation of the arbitration process; composition, powers and rules of procedure of the arbitral tribunal; obligations of parties; costs; intervention in arbitral proceedings; time limits; and right to appeal. Brackets remain in provisions making reference to the organization invited to host the convention.

**Conciliation:** At the Monday plenary, the INC-Forests Secretariat introduced the draft text of an annex on conciliation prepared by the Bureau (Document 3/INC4), emphasizing that the text on the establishment, composition, powers, procedure, and costs of the conciliation commission was based upon “standard” clauses included in other international instruments. At the suggestion of the EU, the draft annex was referred to the legal expert group. The text was subsequently annexed to the draft negotiation text and, as a result of work done by the combined contact group/legal expert group, the INC agreed at the plenary on Thursday afternoon to lift the brackets around the entire annex.

**Outcome:** The text of the annex on conciliation includes rules on: initiation of the conciliation procedure; composition, powers and rules of procedure of the conciliation commission; obligations of parties; costs; and time limits. Brackets remain in provisions making reference to the organization invited to host the convention.

## ISSUES REGARDING THE UN UMBRELLA, FINANCE

**Bringing the LBA under the UN Umbrella:** This issue was discussed on Monday, Tuesday and Wednesday in plenary, as well as in the informal consultations throughout the week led by Chair Heino.

Chair Heino introduced this topic at the Monday plenary by sharing the responses from the UN Office of Legal Affairs and from FAO regarding becoming the depositary of the convention. He explained that the FAO Director-General could perform the depositary function if invited and that the UN Secretary-General could do so if the convention is adopted as either a multilateral treaty by all states through the General Assembly, by plenipotentiary conference, or within the framework of a UN Regional Commission, such as UNECE.

Chair Heino then invited delegates to share their preferred institutional arrangements. The Russian Federation, supported by Belarus and Serbia, favored UNECE acting as lead in the secretariat, adding they would provide US\$50,000 for the interim secretariat if UNECE is selected, with the potential of additional funding in the future.

Norway reiterated its preference for a secretariat with participation from FAO, UNECE and UNEP, with FAO handling administration and having a lead role in the secretariat, and acting as the depositary. He added that the Extraordinary Ministerial Conference should invite the executive heads of FAO, UNECE and UNEP to set out the details of an arrangement for joint servicing; and perhaps the EFI, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services and forest-related conventions, to offer proposals to the first COP on modalities for cooperation and synergies. He said the first COP should decide the siting of the convention secretariat.

Highlighting FAO's proven track record as a UN body dealing with forestry, the EU favored FAO as the host organization for the LBA. Iceland supported FAO taking the lead and acting as depositary, with direct participation from UNECE and UNEP. Turkey supported FAO as the host organization. Switzerland reiterated its desire to have the convention adopted under UNECE, that UNECE and FAO serve as the secretariat on an equal footing, and that the secretariat be based in Geneva.

UNECE drew attention to close substantive links between the work of UNECE and matters addressed by the convention. He emphasized the need to exploit synergies between the convention and extant international processes, avoiding duplication of efforts and overlaps, and facilitating cost-savings and interaction.

During the Tuesday plenary, Eduardo Rojas-Briaies, Assistant Director-General, FAO, addressed delegates, suggesting that they consider the facilitative effect of placing the convention in a UN agency with a global mandate. He argued that placing the convention in FAO would be in line with established policy and practice of the UN Secretary-General. He reiterated FAO's flexibility on the geographical location of the secretariat and its commitment to incorporate "in a non-bureaucratic but substantive and efficient way" UNECE, UNEP and EFI.

Andrey Vasilyev, Deputy Executive Secretary, UNECE, delivered a statement on behalf of the UN Office of Legal Affairs and UNECE during the Wednesday plenary suggesting that FAO has a non-exclusive mandate on forests, with the primary mandate on the issue resting with the UN Forum on Forests. He emphasized that the mandate of UNECE covers

forest-related matters and that UN bodies and agencies should work together in promoting sustainable development and SFM, and build upon synergies.

UNEP supported UNECE's statement, emphasizing that UNEP is the leading global environmental authority and expressing the hope that other organizations and delegates would recognize this.

Informal consultations held on Friday afternoon and evening focused on negotiating a "package deal" on the basis of a non-paper drafted by Chair Heino addressing not only the question of designating the depositary and which entities would be invited to become part of the secretariat, but also the issues of: admission of observers to COP sessions (article 12); right to vote (article 13); and the election of the compliance committee, the information it can consider, and its terms of reference and rules of procedure (article 15). However, consensus could not be reached on all the elements of the package, and these issues were deferred to the resumed INC-Forests<sup>4</sup> expected to convene in the autumn.

**Finance:** This issue was dealt with in plenary on Tuesday and in a contact group on Wednesday. On Tuesday, the INC-Forests Secretariat introduced the note from the Bureau, "Summary information about major cost elements likely to be associated with the legally binding agreement, possible sources of financial resources and options showing possible draft text proposals for any financial provisions in the agreement" (Document 4/INC4). The proposed text provides that "the COP shall adopt financial rules by consensus at its first meeting, and that the COP shall undertake necessary financial arrangements for the purposes of implementing the Agreement, including for the payment of mandatory and/or voluntary contributions to its budget by each Party."

At Chair Heino's suggestion, the INC agreed to insert the Bureau's proposed text into the draft negotiating text, under article 12 on the COP. The EU said the issues identified in document 4/INC4 would be best addressed by the COP, rather than in the convention text, and that contributions should be voluntary in principle. UNEP explained that all regional conventions have trust funds and receive contributions from parties. FAO reiterated that its Constitution leaves it to the governing bodies of each treaty to decide on the type of contributions.

Switzerland noted the instability and implementation risks of having a convention being fully funded by voluntary contributions, and asked the representatives of UN organizations to give examples of any such conventions. UNEP referred to regional conventions funded by voluntary contributions, but echoed Switzerland's concern on implementation challenges posed by the unpredictability of funds from voluntary contributions. UNECE stated that under the UN, there are no legal impediments to having a convention run only on extra-budgetary contributions.

Norway suggested bracketing the part of the Bureau's proposed text referring to the payment of contributions by parties. The EU suggested language on "the COP shall, at its first session, adopt by consensus financial arrangements governing the entire agreement including those for the functioning of the Secretariat."

Ukraine suggested that the COP at its first session, should adopt rules of procedure in addition to financial arrangements. The EU noted the rules of procedure should only refer to the COP and not the entire convention, and suggested that the COP "shall adopt rules of procedure for itself and financial arrangements governing the entire agreement, including those



necessary for the secretariat.” Switzerland cautioned against negotiating different rules of procedure for the COP and its subsidiary bodies, and Norway referred to the provisions in the draft negotiating text, which call for consistency between rules of procedures for subsidiary bodies and the COP.

The contact group on Wednesday suggested deleting the reference to parties’ financial contribution to the convention’s regular budget, and during the Thursday morning plenary, the INC agreed to the contact group’s suggestion.

#### **CONSIDERATION OF THE INC RESULTS AND THEIR PRESENTATION TO THE EXTRAORDINARY MINISTERIAL CONFERENCE**

This issue was discussed on Wednesday and Thursday in plenary and in contact groups on Thursday afternoon and evening.

On Wednesday, the INC-Forests Secretariat introduced the Bureau note “Draft elements of a document by which the final draft agreement would be presented to ministers at the Extraordinary FOREST EUROPE Ministerial Conference” (Document 5/INC 4). She presented two options to proceed with the completion of the adoption process, namely that the Extraordinary Ministerial Conference: endorses the agreement and invites the relevant UN system organization/organizations to facilitate adoption by its governing bodies; or adopts the agreement and invites the relevant UN System organization/organizations to provide secretariat services.

During plenary on Wednesday and Thursday, delegates primarily discussed the first option. The Russian Federation stressed that the agreement should be within the UN system and based on neutrality, impartiality and fair procedures, and further suggested inviting UNECE to adopt the convention and make the necessary arrangements to set up the secretariat, in close cooperation with “other relevant international organizations, *inter alia*, FAO and UNEP.”

Norway suggested that the Ministerial Conference should: endorse the text of the agreement; invite FAO to adopt the agreement and host the interim secretariat; and initiate cooperation with UNECE and UNEP to elaborate the secretariat arrangements. The EU supported inviting FAO to adopt the convention and inviting the FAO Director-General to act as depositary and open the convention for signature, with FAO, UNECE and a third entity to carry out the secretariat functions.

Stressing the need to take informed decisions based on the host organization, Switzerland offered to share documentation on the technical aspects of choosing the host organization, while reiterating their preference for a

joint UNECE/FAO/UNEP secretariat which would enter into a memorandum of understanding on the joint secretariat functions.

Regarding interim arrangements, Ukraine proposed that the interim secretariat be asked to organize preparatory meetings leading to the first session of the COP, or that the mandate of INC-Forests Bureau be extended until the first COP.

The contact group discussed the first option and focused on: institutional arrangements, interim secretariat and secretariat functions; and text on interim financial arrangements and governing arrangements. The Thursday evening contact group proposed inviting “the relevant intergovernmental” body/bodies “to provide interim governing arrangements, as may be necessary, until the adoption of the Convention.”

Text on both options and interim governing arrangements remain bracketed.

#### **REPORT OF THE SESSION**

In the Friday evening plenary, Chair Heino, noting that the INC-Forests rules of procedure specify that the draft report is considered and approved only at the end of a session, said that he would provide to the INC a “Chair’s Summary” of the session, as he did after the Antalya part of INC-Forests3.

#### **CLOSURE OF THE SESSION**

On Friday evening, 14 June, when plenary convened at 9:10pm, Chair Heino reported that the Bureau had advised that due to the need to conclude discussions on the draft negotiating text, the presentation of the INC-Forests results to the Extraordinary Ministerial Conference and interim arrangements, to leave the draft negotiating text in its current state and to suspend INC-Forests4, to be resumed for a three-day session in the autumn, at a place and date to be notified.

Ukraine expressed disappointment that the work had not been concluded in Warsaw and also at how the negotiations for a package deal on key outstanding issues were conducted on Friday. She said that, due to the time needed for national preparations, Ukraine preferred the resumed INC-Forests4 to be convened in November. She also asked the Chair to conduct informal consultations in the intervening months with a view to building consensus before INC-Forests4 resumes.

Noting that few substantive issues remained and that it was largely the institutional question that needed to be decided, Switzerland urged trying one more time to negotiate the package deal. He also announced that if it was deemed necessary to suspend INC-Forests4, Switzerland would offer to host the resumed session in Geneva and proposed the dates of 9-11 September 2013.



In the afternoon the contact group and Legal Expert Group met jointly to reach compromises and clean text in the final clauses (articles 16-26) of the draft convention.



Ivonne Higuero, UNEP. (Photo courtesy of the INC-Forests Secretariat).

The EU supported the proposal for suspension and praised the draft package deal as the basis for going forward. The Russian Federation expressed deep regret over the failure to reach consensus, especially regarding institutional arrangements, and said the package proposed had not been balanced. He supported Switzerland's offer to host the resumed session.

Iceland said it was willing to continue negotiations to try to reach consensus during the night, but if necessary could support suspension of INC-Forests4. The EU expressed willingness to continue negotiating.

The INC decided to suspend the plenary session to try again to reach consensus, through informal consultations with the Chair, but this time including heads of all interested delegations.

Plenary was suspended at 9:33pm and resumed at 11:04pm. Chair Heino reported no compromise, and agreement to suspend INC-Forests4 and resume it after the summer at a time and place to be confirmed. He noted Switzerland's offer to host in September.

Janusz Zaleski, Under-Secretary of State, Poland, said that although not everything had been finished in Warsaw, much had been accomplished, and that it seemed Europe was close to realizing its dream of a convention on forests. Chair Heino thanked Poland for its hosting and active participation.

INC-Forests4 was suspended at 11:18pm.

## UPCOMING MEETINGS

### Special Session of the ECE Committee on Forest and Forest Industry with the FAO European Forestry Commission:

The special session will review the draft Action Plan for the Forest Sector in a Green Economy, and consider the draft Joint Programme of Work 2014-17 for the ECE Committee on Forests and the Forest Industry and the FAO European Forestry Commission. **dates:** 17-18 June 2013 **location:** Geneva, Switzerland **contact:** Paola Deda **phone:** +41-22-917 2553 **email:** paola.deda@unece.org **www:** <http://www.unece.org/forests/extraordinarytc-efcmeeting.html>

### Global Symposium: REDD+ in Green Economy:

Organized jointly by FAO, UNEP and the UN Development Programme, the Global Symposium aims to take stock of lessons learned with a view to providing key decision makers with a stronger rationale for linking REDD+ (reducing emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable use of forests and enhancement of carbon stocks) planning and investment with green economy efforts. The symposium will focus on the role of comprehensive land-use planning for capturing environmental, economic and social benefits

from REDD+ investments. **dates:** 19-21 June 2013 **location:** Indonesia **contact:** John Prydz **email:** John.Prydz@unep.org **www:** [http://un-redd.org/REDD\\_in\\_Green\\_Economy\\_Global\\_Symposium/tabid/105931/Default.aspx](http://un-redd.org/REDD_in_Green_Economy_Global_Symposium/tabid/105931/Default.aspx)

**International Union of Forest Research Organizations (IUFRO) Resources for the Future Task Force:** The Task Force will bring together forest researchers, industry and government and will focus on understanding the implications of globalization on forests. **dates:** 27-29 August 2013 **location:** Vancouver, Canada **contact:** William Nikolakis **email:** william.nikolakis@ubc.ca **www:** <http://iufro2013.forestry.ubc.ca/>

**Mediterranean Regional Office of the European Forest Institute (EFIMED) Annual Meeting:** The meeting aims to gain a new perspective on managing Mediterranean forests, and present the strategic themes for the FORESTERRA ERA-net. **dates:** 3-6 September 2013 **location:** Barcelona, Spain **contact:** Sarah Adams **email:** sarah.adams@efi.int **www:** <http://www.efimed.efi.int/portal/events/?bid=967>

**European Forest Institute 20 Years Science and Policy Forum:** The EFI 20 Years Science and Policy Forum will celebrate 20 years of initiatives under the EFI and consider the future of Europe's forests. The Forum will also include a high-level segment on the theme, "Our forests in the 21st century – ready for risks and opportunities?" **dates:** 23-27 September 2013 **location:** Nancy, France **contact:** Ulla Vantinen **e-mail:** AC20years@efi.int **www:** <http://www.efi.int/portal/efi20years/ac2013/>

**Implementing Criteria and Indicators for Sustainable Forest Management. Pan-European Forum:** The event will consider the regional analyses and experiences collected from national reports on the implementation of criteria and indicators for SFM. **dates:** 8-9 October 2013 **location:** Vienna, Austria **contact:** Christelle Rambour **email:** christelle.rambour@efi.int **www:** <http://www.ci-sfm.org/pan-european-forum-in-vienna-austria-8-9-october-2013.html>

**Extraordinary Ministerial Conference:** Jointly convened by Spanish and Norwegian Ministers, this Conference is expected to consider the results of the INC-Forests negotiations, and decide whether to endorse or approve the convention text. **dates:** 5-6 November 2013 (TBC) **location:** Madrid, Spain **e-mail:** [liaison.unit.madrid@foresteurope.org](mailto:liaison.unit.madrid@foresteurope.org)

## GLOSSARY

COP	Conference of the Parties
EFI	European Forest Institute
FAO	Food and Agriculture Organization of the United Nations
INC	Intergovernmental Negotiating Committee
LBA	legally binding agreement
SFM	sustainable forest management
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change