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**Committee on Sanitary and Phytosanitary Measures**

**OBSERVERS IN THE SPS COMMITTEE - THEIR ROLE  
AND OUTSTANDING REQUESTS**

Note by the Secretariat<sup>1</sup>

1. At its meeting of 27-29 March 2012, the Committee agreed to discuss various matters relating to observers at an informal meeting scheduled for 9 July 2012, and requested the Secretariat to prepare a background document and an agenda for this meeting.<sup>2</sup> This background document is intended to assist Members in their consideration of two distinct but related matters: (i) the role of observers - and in particular of international intergovernmental organization observers - in the meetings of the SPS Committee; and (ii) the granting and maintaining of observer status to international organizations.

2. The Committee may wish to take actions as suggested in paragraphs 14, 15, 18, 19, 23 and 24 of the present document.

3. A number of previous documents have addressed various matters relating to observers in the SPS Committee. These include:

<b>Document</b>	<b>Title</b>	<b>Relevant content</b>	<b>Date</b>
G/SPS/1	Working Procedures of the Committee	Paragraph 7 - grants observer status to Codex, IPPC and OIE, and indicates that other organizations may be invited to Committee meetings in accordance with the General Council guidelines.	4 April 1995
WT/L/161	Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council	Annex 3 contains guidelines on international intergovernmental organizations granted observer status.	25 July 1996
G/SPS/W/95	International Observer Organizations	EC submission proposing criteria for granting observer status	23 November 1998

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

<sup>2</sup> See para. 135 of G/SPS/R/66.

<b>Document</b>	<b>Title</b>	<b>Relevant content</b>	<b>Date</b>
G/SPS/W/98	Consideration of Requests for Observer Status	Summarized concerns raised by Members regarding the grant of observer status and criteria proposed by Members as most appropriate in the consideration of requests (paragraph 7).	19 February 1999
G/SPS/GEN/121 + addenda	Applicants for Observer Status	This document and addenda summarize the information provided by the various bodies seeking observer status in the SPS Committee.	15 June 1999, and subsequently for addenda - most recently 15 May 2012
G/SPS/GEN/229	Criteria for Observer Status	Recalls the criteria agreed by the Committee for granting observer status (G/SPS/W/98, paragraph 7), and recalls the status of requests.	23 February 2001
G/SPS/GEN/253	The Role of International Intergovernmental Observer Organizations in Meetings of the Committee	Notes the SPS Committee Chairpersons' practice of permitting observer organizations to intervene under any agenda item, encouragement that observer organizations submit written reports in advance of meetings, and participation in informal meetings.	12 June 2001
G/SPS/GEN/775	Relationship with Codex, IPPC and OIE	Provides background information on various aspects of the relationship between the implementation of the SPS Agreement and the work of the Codex, IPPC and OIE.	15 May 2007
G/SPS/R/57	Summary Report of the Workshop on the Relationship between the SPS Committee and the International Standard-setting Organizations	Report of the 26 October 2009 workshop, including 11 recommendations to enhance this relationship (para. 28).	22 February 2010
G/SPS/GEN/1112	Outstanding Requests from International Intergovernmental Organizations	Summarizes the Committee's working procedures for considering requests for observer status and suggests the categorization of pending requests.	30 September 2011
G/SPS/W/78/Rev.9	International Intergovernmental Organizations - Requests for Observer Status in the SPS Committee	Lists all organizations with observer status, and pending requests for observer status.	6 October 2011

4. The SPS Committee has granted observer status to 15 international intergovernmental organizations and to the International Organization for Standardization (ISO) - hereinafter referred to as "observer organizations".. The Committee granted observer status to the Codex, OIE and IPPC in March 1995; to the FAO and WHO in June 1995; to ISO and ITC in November 1995; to UNCTAD in March 1996;<sup>3</sup> to the World Bank and the IMF in November 1996,<sup>4</sup> and on an ad hoc meeting-by-meeting basis since November 1999 to ACP, EFTA, IICA, OECD, OIRSA and SELA; also on an ad hoc basis since March 2010 to ECOWAS, CEN-SAD, SADC, and since June 2010 to WAEMU and AITIC. Decisions on requests from 11 other organizations are pending.

## 1. Proposed Agenda for Informal Meeting

5. In light of the above, it is proposed that at the informal meeting of 9 July 2012, the Committee considers the following:

- (1) Relevant background information, including this note;
- (2) Clarification of the desired role of observer organizations in the meetings of the SPS Committee;
- (3) Review of current practices regarding extension of invitations to ad hoc observer organizations;
- (4) Consideration of outstanding requests for observer status.

6. The remainder of this document is structured along the lines proposed above, addressing points (2), (3) and (4).

## 2. Role of Observer Organizations

7. As stated by the General Council, the purpose of observer status for international organizations in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them. Observer status should accordingly be considered for organizations with competence and a direct interest in trade policy matters, on a case-by-case basis, taking into account the nature of work of the organization, its membership and the number of WTO Members in the organization, and whether it provides reciprocity of access to proceedings, documents, etc.<sup>5</sup>

8. At its March 1999 meeting, in deciding on requests for observer status, the SPS Committee agreed to apply the criteria identified in paragraph 7 of document G/SPS/W/98, and also agreed that, as an interim step, such requests would be granted only on an ad hoc, meeting-by-meeting basis. In particular, it was decided that the Committee should consider the mandate, scope and area of work covered by the organization and that "observer status should be granted to organizations which objectively contributed to the functioning and implementation of the SPS Agreement" (G/SPS/R/14, paragraphs 58-61).

9. In practice, the Committee has requested that observer organizations provide information on any of their activities that are relevant to the functioning and implementation of the SPS Agreement or to the work of the SPS Committee. They are encouraged to submit written reports on their relevant activities in advance of Committee meetings, and to highlight the most important aspects of these reports at the meeting. Observer organizations have also been encouraged to speak on any item of the

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<sup>3</sup> Codex, OIE, IPPC, FAO, WHO, ISO, ITC and UNCTAD were granted "regular" observer status in March 1997.

<sup>4</sup> Observer status in WTO subsidiary bodies was provided through the WTO Agreements with the Fund and World Bank (WT/L/194 and paragraph 6 Annex I and paragraph 5 Annex II of WT/L/195).

<sup>5</sup> See WT/L/161, Annex 3.

agenda that is relevant to their work, such as technical assistance, after all interested Members have been given the floor. Observer organizations have, on occasions, been specifically requested by the Chairperson to provide information with regard to a specific issue before the Committee.

10. A review of the summary reports of the Committee's meetings over the past ten years indicates that observer organizations have intervened not only to provide information on their relevant activities, but also to clarify factual, scientific or technical information related to the relevant international standards or to the observer organization's field of expertise. This was particularly noteworthy with regard to the Committee's discussions and eventual development of guidelines on the implementation of Article 4 on equivalence, and of Article 6 on regionalization, and has also occurred with respect to some specific trade concerns. The observer organizations also regularly provide information regarding their technical assistance programmes.

*(i) Role of the Three Sisters*

11. The three "sister" organizations, whose standards, guidelines and methodologies are explicitly referred to in numerous provisions of the SPS Agreement, have also provided information regarding their standard-setting processes, dispute resolution procedures, and strategic planning. The standing agenda item on monitoring the use of international standards also provides a regular opportunity for discussion of the use of existing standards, or identification of perceived needs for the development of new standards. The three organizations have, to date, taken prompt action to address specific issues raised through the monitoring procedure, and have kept the Committee informed of their relevant follow-up actions.

12. A workshop held in October 2009 examined the relationship between the Codex, IPPC, OIE and the SPS Committee and put forward recommendations on how to enhance this relationship.<sup>6</sup> In the Third Review of the Operation and Implementation of the SPS Agreement, the Committee agreed to follow-up on the recommendations from the workshop<sup>7</sup> These recommendations are annexed for ease of reference.

13. The Committee has already acted on recommendations 1, 3 and 6, changing the order of items on the agenda of its meetings, and has already received information from the Three Sisters regarding their collaborative work on cross-cutting issues, as well as on their strategic planning. With respect to recommendations 2 and 5, a number of joint training activities are organized for 2012, but reduced funds available for WTO technical assistance, as well as funding constraints in the other organizations, have limited the possibility to increase joint training and to hold coordination meetings. Recommendation 10 was addressed at the October 2011 workshop on coordination at the national level, and the IPPC, at least, has established a "Help Desk" in line with recommendation 11.

14. In terms of recommendation 7 - transmitting information relating to trade issues linked to the non-use of standards, absence of standards, or inappropriate standards to the relevant Sister organization - this is in part already addressed by the formal transmission to the Three Sisters of the Committee's annual report on the monitoring of the use of international standards. The Secretariat also draws attention to trade concerns that relate to food safety, plant protection, or animal health, in its respective reports as an observer to the Codex Alimentarius Commission, the Commission on Phytosanitary Measures, and the General Session of the World Assembly of OIE Delegates. However, the Committee may wish to consider other means for the implementation of these recommendations.

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<sup>6</sup> G/SPS/R/57.

<sup>7</sup> G/SPS/53, para. 134.

15. Finally, the Committee may wish to consider how to implement recommendation 5 to ensure equivalence among results of standards on related products, and recommendation 9 to make better use of the information regarding the use of international standards which is available from the SPS notifications.

### **3. Participation of Observer Organizations**

16. In 1997, the Committee granted "regular" observer status to eight organizations, and two others were granted observer status as of 1996 as part of separate WTO reciprocity agreements. Since that time, however, the Committee has granted observer status only on an ad hoc, meeting-by-meeting basis. At the end of each of its regular meetings, the Committee decides whether and which of these organizations to invite to participate in the next regular meeting of the Committee. In practice, the Committee has decided to invite all ad hoc observer organizations to its subsequent meeting, and has normally also invited all observer organizations to participate in its informal meetings as well.

17. It is apparent from the records of the Committee meetings that the degree of participation of the observer organizations varies considerably. Some of the observer organizations - both regular and ad hoc - have participated regularly in virtually all of the Committee's meetings since they became observers, and routinely provide written reports of the activities, as requested by the Committee. This is the case, for example, not only of the Codex, IPPC and OIE, but also of IICA and OIRSA. Other observer organizations have participated periodically over the years, including the FAO, ISO, ITC, OECD, UNCTAD, WHO, World Bank and ACP Group. For several observer organizations, there is no record of their participation in recent years, including the IMF, EFTA and SELA, and one observer organization has ceased to function (AITIC).

18. Although it has not done so previously, the Committee may wish to apply the General Council's guideline which indicates that if an observer organization does not attend meetings for any one-year period of time after the date observer status was granted, observer status would cease.<sup>8</sup> Following the October 2011 Committee meeting, the Secretariat contacted all observer organizations and, *inter alia*, drew their attention to this guideline. The Committee may wish to decide that observer status has lapsed for any observer organization which has not been present at any of the Committee's meetings during 2012.

19. In addition, in light of its long-standing practice of inviting all ad hoc observer organizations to participate in the next regular meeting of the Committee, the Committee may wish to avoid the disruptions and delays created when it requests observer organizations to leave the room while it considers this matter at the end of each meeting. Instead, the Committee may wish to adopt the process agreed by the Committee on Agriculture, and to invite the ad hoc observer organizations to participate in all meetings of the Committee for the following year, unless a Member requests otherwise.

### **4. Outstanding Requests for Observer Status**

20. As noted above, the Committee currently has 11 outstanding requests for observer status. Following each regular meeting of the Committee, the Secretariat must contact each of these organizations to inform them that the Committee has not yet reached a consensus regarding their respective request, and that the matter will be considered at the subsequent meeting of the Committee.

21. In September 2011, the Secretariat suggested a possible classification of the organizations whose observer request was outstanding, in order to facilitate the Committee's consideration of these

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<sup>8</sup> G/SPS/L/161, Annex 3, para. 10.

requests.<sup>9</sup> The suggested categories, according to the nature of work of the organization and its membership, were:

- (a) African regional secretariat and development bodies (four requests including the latest one from the African Union);
- (b) Other regional bodies (one request);
- (c) Commodity-specific organizations (three requests);
- (d) International "scientific" organizations (one request); and
- (e) Other global bodies (two requests).

22. In December 2011, those organizations whose request had been submitted before 2009 were asked to re-confirm this request. The table below indicates the current status of these requests classified according to the above-mentioned categories.

<b>Outstanding intergovernmental organizations</b>	<b>Application received on</b>	<b>Application renewed on</b>	<b>Background information G/SPS/GEN/121/</b>
African regional secretariats and development bodies			
AU	13 September 2011		Add.14
COMESA	15 February 2011		Add.12
ECCAS/CEEAC	8 January 2011		Add.10
IGAD	11 March 2011		not yet received
Other regional bodies			
GSO	6 May 2007	2 January 2012	Add.3/Rev.1
Commodity-specific organizations			
APCC	25 October 1999	20 April 2012	Add.1/Rev.1
ICCO	14 July 2011		Add.13
OIV	1 March 1999	2 April 2012	Add.15
International "scientific" organizations			
CABI	11 February 2011		Add.9
Other global bodies			
CBD	13 June 2002	11 August 2010	Add.2/Rev.1
CITES	14 March 2011		Add.11

23. Consideration by categories could ensure that the Committee was consistent in its decisions. For example, the Committee may decide to grant observer status to all outstanding requests from the African regional secretariats and development bodies' category on the basis that four organizations from this category have already been granted with observer status in the past (CEN-SAD, ECOWAS, SADC, WAEMU). Also, the Committee may decide that at this point in time it does not see significant value in granting observer status to commodity-specific organizations. In this case, the Secretariat could inform the four organizations with commodity-specific mandates once, and further contact would be necessary only if the Committee were in future to decide to reconsider this matter.

24. Alternatively, the Committee may wish to consider the outstanding requests on a one-by-one basis.

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<sup>9</sup> G/SPS/GEN/1112.

## ANNEX

Paragraph 28 of G/SPS/R/57, Summary Report of the Workshop on the Relationship between the SPS Committee and the International Standard-setting Organizations, 26 October 2009

### V. RECOMMENDATIONS

28. The recommendations arising from the workshop included the following:
- (1) Moving the reports on activities of the Three Sisters to earlier in the Committee's agenda;
  - (2) Increasing the number of joint capacity building activities which could provide an opportunity to discuss current work, for example, draft standards;
  - (3) Joint work by two or all Three Sisters on cross-cutting issues such as certification, inspection, approval procedures and/or risk analysis;
  - (4) Coordination meetings among the Three Sisters and with the WTO Secretariat;
  - (5) Consideration of how to ensure equivalence among results of standards on related products;
  - (6) Soliciting more information at the strategic planning phase of the Three Sisters work;
  - (7) The SPS Committee transmitting information relating to trade issues linked to non-use of standards, absence of standards, or inappropriate standards to the relevant Sister organization;
  - (8) Requesting the Three Sisters to analyze the current specific trade concerns raised in the SPS Committee to see which of these could have been addressed by the use of the existing international standards;
  - (9) Better use by the SPS Committee of the information regarding the use of international standards which is available from the SPS notifications;
  - (10) Identifying ways to improve coordination at a national level of the relevant representatives of the Three Sisters and SPS representatives; and
  - (11) The establishment of a "help desk" to answer enquiries and provide information in each of the Three Sisters and the WTO Secretariat.
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