

**Committee on Sanitary and Phytosanitary Measures**

**CONSIDERATION OF REQUESTS FOR OBSERVER STATUS**

Note by the Secretariat

*Introduction*

1. At present, the following international intergovernmental organizations have regular observer status in the Committee on Sanitary and Phytosanitary Measures ("SPS Committee"): Food and Agriculture Organization (FAO); FAO International Plant Protection Convention (IPPC); FAO/WHO Joint Codex Alimentarius Commission (Codex); International Organization for Standardization (ISO); International Trade Centre (ITC); Office international des épizooties (OIE); United Nations Conference on Trade and Development (UNCTAD); World Health Organization (WHO), the World Bank and the International Monetary Fund (IMF).

2. At the June 1998 meeting of the SPS Committee the Chairman recalled that at its March 1998 meeting the Committee had agreed to hold informal consultations with the aim of identifying criteria in order to assist Members in reaching decisions on pending requests for observer status in the SPS Committee.

3. Subsequent to the June 1998 meeting of the SPS Committee, the Secretariat contacted those international organizations which had requested observer status in the SPS Committee, and requested them to provide more specific information regarding their work in this area. The response of the Organismo Internacional Regional de Sanidad Agropecuaria (OIRSA) was circulated to Members in October 1998; those from the Office international de la vigne et du vin (OIV), the European Free Trade Association (EFTA), the Latin American Economic System (SELA), the European and Mediterranean Plant Protection Organization (EPPO) and the Inter-American Institute for Cooperation on Agriculture (IICA) were circulated before the September 1998 meeting.

4. At the November 1998 meeting of the SPS Committee, an informal discussion was held regarding this matter. At request of the SPS Committee, the following summarizes the issues raised by Members at that meeting.

*General Council Guidelines*

5. The existing Guidelines on Observer Status for International Intergovernmental Organizations in the WTO were adopted by the General Council on 25 July 1996 (see the "General Council Guidelines", attached to this note).<sup>1</sup> The Secretariat confirmed that while there were requests for

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<sup>1</sup> "Observer Status for International Intergovernmental Organizations in the WTO" [footnote omitted], WT/L/161, adopted by the General Council on 25 July 1996.

observer status pending at the General Council level, the General Council Guidelines allowed for individual Committees to move ahead on their own.<sup>2</sup>

### *Criteria*

6. Some Members maintained that the legal decisions already taken under the General Council were an appropriate basis for developing criteria for dealing with requests for observer status in the SPS Committee. They noted that it was important for the SPS Committee to develop such criteria given the growing list of candidates for observer status and the fact that Members would inevitably be faced with situations where such requests would have to be turned down. Rejections should be based on the objectives of the SPS Agreement and the guidelines already approved by the General Council.

7. Suggested criteria for considering requests for observer status included the mandate, scope and area of work covered by the organization. Observer status should be granted to organizations which objectively contributed to the functioning and implementation of the SPS Agreement.<sup>3</sup> Another criteria identified was reciprocity.

8. Some Members were concerned that it must be clear that observers were present only as representatives of their organizations, otherwise there was a danger of some Members being represented both through their delegations and also by the observers. However, it was noted that an inter-governmental organization was naturally made up of governments. Therefore, even though the person attending a meeting represented the institution, the institution itself was made up of governments, who were in most cases also WTO Members.

9. In respect of limitations on the participation of observer organizations and in line with the General Council Guideline 8, several Members suggested that observers could be permitted only at regular meetings of the SPS Committee and further that these observers not be allowed to take the floor unless they were specifically invited to do so by the Chairperson, with agreement from the Members. Furthermore, these Members considered that observers did not have the right to circulate papers or to make proposals and could not participate in the decision-making process.

10. Other Members were concerned about the Committee examining specific criteria for observer status while the same issue was being discussed at a broader, systemic level.

### *Ad hoc observer status*

11. Given the lack of agreement on pending requests for observer status, some Members suggested that, as an interim step, such requests could be granted on an *ad hoc* basis. These observers would be specifically invited, by the Secretariat, to meetings of the SPS Committee either until they were granted regular observer status or until any Member objected to the presence of the *ad hoc* observers at a meeting. One Member suggested that this approach would permit invitation of any particular observer only for selected meetings or even only for the consideration of specific items on the agenda of a particular meeting.

12. Several Members who were not prepared to agree to granting regular observer status as long as there were issues still pending in the General Council on this matter indicated that they could consider the possibility of *ad hoc* observer status. However, this was subject to a clear understanding of how *ad hoc* observers would interact with the Committee. It would be necessary to clarify whether

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<sup>2</sup> General Council Guideline 4: "Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed ...". [emphasis added]

<sup>3</sup> The position of the European Communities is developed in greater detail in document G/SPS/W/95, "International Observer Organizations", circulated on 23 November 1998.

the basis for participation of *ad hoc* observers was the same as for the current, regular observers to the SPS Committee. Most important, in their view, was avoiding such a large number of *ad hoc* observers that the orderly working of the Committee was made difficult.

#### *Regional Organizations*

13. One Member stressed that regional organizations were particularly important for many developing countries in that they facilitated their member governments' understanding and implementation of WTO Agreements.

14. Several Members argued that the regional plant protection organizations should be considered as a special case. The regional organizations operating within the framework of the IPPC were specifically referred to in the SPS Agreement<sup>4</sup> and thus fell within the scope of the General Council Guidelines. These Members maintained that although these organizations did not have a global membership, their work within the IPPC umbrella meant that they should be granted observer status. These organizations had to be given special attention considering their particular structure and working procedures, and the need to develop plant protection standards on a regional basis due to the major effect geography and climatic factors had on plants.

15. Other Members noted that the regional plant protection organizations were constituent parts of the IPPC. As such, they could be invited by the IPPC to attend SPS Committee meetings as part of the IPPC's delegation. Since the IPPC itself was a regular observer in the SPS Committee, there was no need for its constituent organizations to be invited separately.

#### *Further consideration by the SPS Committee*

16. Some Members suggested that at its next meeting in March 1999, the SPS Committee should reach agreement on how to handle pending and new requests for observer status. Failing this, a full discussion of the subject should be permitted in the formal meeting so that Members' positions were appropriately recorded. The usefulness of Members' submitting positions on the matter in writing was also stressed.

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<sup>4</sup> The preamble of the SPS Agreement (6<sup>th</sup> indent) states:

*"Desiring* to further the use of harmonized sanitary and phytosanitary measures between Members, on the basis of international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention, without requiring Members to change their appropriate level of protection of human, animal or plant life or health;" [underlining added]

These organizations are also mentioned in Article 3.4, Article 12.3 and Annex A (para. 3) of the SPS Agreement.

**Attachment 1**  
**(WT/L/161, 25 July 1996, Annex 3, pp. 16-17)**

OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL  
ORGANIZATIONS IN THE WTO<sup>1</sup>

1. The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.
2. Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.
3. Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status. Requests for observer status from organizations shall not, however, be considered for meetings of the Committee on Budget, Finance and Administration or of the Dispute Settlement Body.<sup>2</sup>
4. Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.
5. In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.
6. Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.
7. Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.
8. Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.
9. Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.
10. If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease. In the case of sessions of the Ministerial Conference, this period shall be two years.

<sup>1</sup> These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.

<sup>2</sup> In the case of the IMF and the World Bank, their requests for attendance as observers to the DSB will be acted upon in accordance with the arrangements to be concluded between the WTO and these two organizations