**Rules for Observers at CPM and Subsidiary Body Meetings**

1. **Background**

The IPPC Secretariat is currently facing an outstanding number of requests from persons and organizations, asking to be accepted as observers at CPM meetings, what could in the future be a concern considering the timelines and resources available for the CPM meetings. The corresponding CPM Rule (RULE VII. OBSERVERS) offers considerable uncertainty on how to proceed in some cases and on which are the rights and obligations of observers. Even some uncertainty could be related to consider what a public meeting has to be.

No Rule contains indications on attendance of observers to Bureau meetings and not all cases under Rule VII take into account attendance to the meetings of subsidiary bodies.

The current contents of Rule VII, of the CPM Rules of Procedure is:

*1. Any country that is not a contracting party but is a Member of the Organization, as well as the United Nations, any of its specialized agencies and the International Atomic Energy Agency, may, upon request communicated to the Director-General, attend sessions of the Commission, and its subsidiary bodies, as an observer. Any such observer may submit memoranda and participate in discussions without a vote. Any country that is not a contracting party and is not a Member of the Organization, but is a Member of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, may, upon request and subject to the provisions relating to the granting of the Observer Status in respect of Nations as provided for by the Basic Texts of the Organization, be invited to attend, in an observer capacity, sessions of the Commission or of its subsidiary bodies. The status of such Nations shall be governed by the relevant provisions of the Basic Texts of the Organization.*

*2. Representatives of Regional Plant Protection Organizations shall be invited to attend all sessions of the Commission and its subsidiary bodies as observers. Any such observers may submit memoranda and participate in discussions without a vote.*

*3. Subject to the provisions of paragraph 4 of this Rule, the Director-General, taking into account guidance given by the Commission, may invite international (intergovernmental and non-governmental) organizations to attend sessions of the Commission in an observer capacity.*

*4. Participation of international organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution and other pertinent Basic Texts of the Organization. All such relations shall be dealt with by the Director-General, taking into account guidance given by the Commission.*

*5. Any country that is a contracting party may attend subsidiary body meetings as an observer, upon request to the Secretary of the IPPC.*

The status of observers at CPM sessions is governed by CPM Rules of Procedure, in particular Rule VII, the relevant provisions of the FAO Constitution, the General Rules of the Organization (GRO) and Principles established by the Conference which are included in Volume II of the Basic Texts. The status of observers at meetings of CPM subsidiary bodies is governed by the relevant provisions of those bodies’ Rules of Procedure (e.g. Rule VII of the Rules of Procedure for the Standards Committee and Rule 6 of the Rules of Procedure for the Subsidiary Body on Dispute Settlement).

In order to analyze the existing provisions, a distinction should be made between the granting of observer status to: 1) countries; 2) Regional Plant Protection Organizations; and 3) international organizations; and between public and private meetings, as follows:

**II. Granting of observer status in public meetings**

**1. Granting of observer status to countries**

1. In general, countries admitted as observers may, subject to the approval of the Chairperson, participate in discussions after all members have spoken and without the right to vote. They may receive documents, other than those of a restricted nature, and submit written statements on particular items of the agenda.
2. The references in paragraph 1 of Rule VII to the Basic Texts of the Organization are made to Rule XXV.8(c) of the GRO and the “*Statement of Principles relating to the Granting of Observer Status to Nations*” (Part I of Volume II of the Basic Texts), as appropriate.

**a) FAO Members which are not contracting parties**

1. Any country that is not a contracting party but is a Member of FAO, as well as the United Nations, any of its specialized agencies and the International Atomic Energy Agency, may, upon request communicated to the Director-General, attend sessions of the Commission, and its subsidiary bodies, as an observer (paragraph 1 of Rule VII).

**b) Non FAO Members which are not contracting parties**

1. Any country that is not a contracting party and is not a Member of the Organization, but is a Member of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, may, upon request be invited to attend, in an observer capacity, sessions of the Commission or of its subsidiary bodies (paragraph 1 of Rule VII).

**c) Contracting parties**

1. All contracting parties to the IPPC are members of the Commission (Rule I, para. 1). Therefore, paragraph 5 of Rule VII concerns the granting of observer status to contracting parties which are not members of CPM subsidiary bodies (either because membership is limited to selected members of the Commission or because the subsidiary body is composed of individuals appointed in their respective capacity). Under this provision, contracting parties may attend subsidiary body meetings as observers, upon request to the Secretary of the IPPC.
2. Paragraph 5 is silent regarding what these observers may be permitted to do as such. Therefore, general rules concerning observer status of countries apply.

**2. Granting of observer status to Regional Plant Protection Organizations**

1. Representatives of Regional Plant Protection Organizations (RPPOs) shall be invited to attend all sessions of the Commission and its subsidiary bodies as observers. General rules concerning observer status apply. Thus, they may submit memoranda and participate in discussions without a vote (Rule VII, paragraph 2).

**3. Granting of observer status to international organizations**

1. International organizations, whether intergovernmental or non-governmental, may be invited to attend sessions of the Commission in an observer capacity (paragraphs 3 and 4 of Rule VII). These provisions are silent regarding international organizations’ attendance as observers to subsidiary body meetings. Since all the other paragraphs clearly refer to subsidiary bodies when attendance is permitted (by countries and RPPOs), these provisions are interpreted as not allowing international organizations to attend subsidiary body meetings as observers.
2. Their participation and their relations with the Commission are governed by the relevant provisions of the Constitution (Article III, paragraph 5) and of the Basic Texts of the Organization (“*Guiding Lines regarding Relationship between FAO and Intergovernmental Organizations*”, Part K of Volume II; “*Granting of Observer Status in respect of International Governmental and Non-Governmental Organizations*” Part N of Volume II; and “*FAO Policy Concerning Relations with International Non-Governmental Organizations*”, Part M of Volume II), as appropriate.
3. As provided for by paragraphs 3 and 4 of Rule VII, such relations shall be dealt with by the Director-General, taking into account guidance given by the Commission.

**a) International intergovernmental organizations (IGOs)**

1. The criteria for recognizing the intergovernmental character of an organization is established in the Guiding Lines regarding Relationship between FAO and Intergovernmental Organizations (see Part K of Volume II of the Basic Texts). The organization should have been set up by an intergovernmental convention (a convention to which the parties are States); the governing body of the organization should be composed of members designated by governments; and the income of the organization should be made up mainly, if not exclusively, of contributions from governments.
2. Under the current rules, the status of observers of IGOs depends on whether they have established formal relations with FAO or not.
3. For IGOs that have established formal relations with FAO, paragraph 2 of Rule XVII of the GRO applies. Thus, their representatives, accompanied by advisers and assistants, may speak at the sessions of the CPM, and upon the request of the Chairperson, participate in the discussions. They may also circulate, without abridgement, the views of the organizations which they represent. As any other observer, they do not vote.
4. For IGOs that have not established formal relations with FAO, “*they may be invited to send observers (...) if, in the judgement of the Director-General, there are concrete reasons for inviting them which would forward the work of the [Commission]*” (“*Granting of Observer Status in respect of International Governmental and Non-Governmental Organizations*” Part N of Volume II). If invited, they participate in the same manner as indicated above for IGOs that have established formal relations with FAO.

**b) International non-governmental organizations (INGOs)**

1. The criteria for recognizing the non-governmental character of an organization is established in paragraphs 6 to 8 of the “*FAO Policy Concerning Relations with International Non-Governmental Organizations*” (Part M of Volume II of the Basic Texts). The minimum common requirements are the following:

(a) they shall be international in its structure and scope of activity and representative of the field of interest in which they operate;

(b) they shall be concerned with matters covering a substantial portion of FAO's field of activity;

(c) they shall have aims and purposes in conformity with the general principles embodied in the Constitution of FAO; and

(d) they shall have a permanent directing body, authorized representatives and systematic procedures and machinery for communicating with its membership in various countries.

1. Under the abovementioned Policy, formal relations with an INGO may take one of three forms according to the importance of its field of activity in relation to the activities of FAO. These are consultative status, specialized consultative status or liaison status. The Policy establishes detailed eligibility criteria and a procedure for selecting the Organizations with which FAO may enter into formal relationship.
2. For INGOs having consultative status, paragraph 3 of Rule XVII of the GRO applies. Thus, their representatives, accompanied by advisers and assistants, may attend the meetings of the CPM as observers. As such, they may, without vote, speak before the CPM and participate in the discussions therein upon the request of the Chairperson. They may circulate, without abridgement, the views of the organizations which they represent.
3. INGOs having specialized consultative status are entitled to attend as observers with the approval of the Director-General, to receive appropriate publications, and to submit memoranda (paragraph 21 of the aforementioned Policy).
4. Regarding INGOs having liason status, the Director-General may invite them to send observers when he is satisfied that such participation may make a significant contribution to the meeting concerned. The rights of any such observers shall be determined in an exchange of correspondence but in no case shall they exceed those accorded to observers of organizations in specialized consultative status (paragraph 24 of the Policy).
5. In practice, a system has developed where a list of organizations that are invited to Commission meetings is maintained. If requests from organizations that have not been invited previously are received, the criteria explained above are reviewed and the Director-General may decide to invite them.

**III. Granting of observer status in private meetings and Bureau meetings**

1. Paragraph 5 of Rule IV of the Rules of Procedure of the CPM provides that “*meetings of the Commission shall be held in public unless the Commission decides otherwise*”. Thus, private meetings are exceptional in FAO practice. The general principle regarding private meetings is that when a body, such as the CPM, decides to hold a private meeting, it shall determine at the same time whether observers may attend or not and the scope of such a decision.
2. A similar rule is established in Rule 6 of the Rules of Procedure for the Subsidiary Body on Dispute Settlement, which specifies “*the subsidiary body may determine that certain meetings or business need to be conducted without observers, in particular where confidential or controversial information is involved*.”
3. Regarding Bureau meetings, the interpretation given to the CPM Rules of Procedure is that observers are not allowed. Rule II, which governs the composition of the Bureau makes no provision for the participation of observers in it. Rule VII is similarly silent on the matter. Moreover, there is a long-standing practice in FAO, not to open these kinds of meetings to observers. The “*Statement of Principles relating to the Granting of Observer Status to Nations*” (Part I of Volume II of the Basic Texts) provides that committees of limited membership are not open to observers from States which are not members of such committees. That limitation is extended to international organizations, and to RPPOs, in the CPM case.

**IV. Suggested action**

The suggestion of the Bureau and the Secretariat is to consider the possibility to develop a proposal of amendment of this Rule following guidance from FAO-LEGA and considering the FAO Basic Texts and General Rules, to get a clear understanding on its application and follow procedures approved by CPM.

Other international organizations as CODEX have developed specific guidance at least for the case of international non-governmental organizations, related to the overall procedure for the so-called granting of observers status; the application of stricter criteria in that respect and, the extent of the rights and obligations of observers of international non-governmental organizations.

Special attention should be paid to the fact that CPM has been entrusted with advisory functions with respect to the granting of the observer status to international (intergovernmental and non-governmental organizations), since Rule VII.3 and 4 of the Rules of Procedures of CPM mentions: “*taking into account guidance given by the Commission”.*

In this case, and according with Rule XIII of the CPM: *Amendment of or additions to these Rules may be adopted by a two-thirds majority of the members of the Commission present and voting, provided that not less than 24 hours notice of the proposal for the amendment or the addition has been given.*

The SPTA is requested to consider this document and provided feedback with regard improvement of the document for submission to CPM-7 for their consideration.