

Consultation 1 July – 31 August 2018

Compiled comments for the Draft Terms of Reference for the IC Sub-group on Dispute Avoidance and Settlement

T (Type) - B = Bullet, C = Comment, P = Proposed Change, R = Rating

Para	Text	T	Comment
G	(General Comment)	C	<i>Category : TECHNICAL</i> (44) Paraguay (31 Aug 2018 8:59 PM) Paraguay supports COSAVE comments.
G	(General Comment)	C	<i>Category : EDITORIAL</i> (43) Nicaragua (31 Aug 2018 7:34 PM) Estamos de acuerdo con el proyecto, pero que si van a tomar en cuenta a los países en desarrollo, para el asesoramiento en estos temas.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (42) Guyana (31 Aug 2018 5:47 PM) The document is accepted in its entirety.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (36) Brazil (31 Aug 2018 2:43 PM) Brazil supports COSAVE's comments.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (35) Mexico (30 Aug 2018 11:17 PM) Mexico is in agreement with the document
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (33) Algeria (28 Aug 2018 10:17 AM) NO COMMENT
G	(General Comment)	C	<i>Category : EDITORIAL</i> (31) Singapore (27 Aug 2018 9:23 AM) Singapore agree to the proposed draft TOR.
G	(General Comment)	C	<i>Category : TECHNICAL</i> (30) Lao People's Democratic Republic (27 Aug 2018 5:04 AM) Lao PDR agreed with Draft Terms of Reference for the Implementation and Capacity Development Committee (IC) Sub-group on Dispute Avoidance and Settlement (as revised by IC June 2018).
G	(General Comment)	C	<i>Category : TECHNICAL</i> (29) OIRSA (25 Aug 2018 10:44 PM) The IC Sub-group could report semi-annually (2 reports per year)
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (28) Malawi (25 Aug 2018 10:13 AM) No comment
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (27) Malawi (25 Aug 2018 10:12 AM) No comment
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (23) Argentina (24 Aug 2018 1:29 AM)

			As it is being proposed that an SC member be part of the Sub-Group it would be advisable that the CPM approved this ToR.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (17) Uruguay (16 Aug 2018 3:27 PM) We are suggesting that an SC member be part of the Sub-Group, therefore it would be advisable that the CPM approved these ToR.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (22) Peru (19 Aug 2018 11:57 PM) Peru shares the comments made by COSAVE
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (21) Peru (19 Aug 2018 11:55 PM) Peru shares the comments made by COSAVE
G	(General Comment)	C	<i>Category : TECHNICAL</i> (20) Iraq (19 Aug 2018 8:49 AM) The IPPC Iraq reviewed the draft and has no comments.
G	(General Comment)	C	<i>Category : TECHNICAL</i> (19) Cuba (16 Aug 2018 8:01 PM) Estamos de acuerdo con el documento propuesto
G	(General Comment)	C	<i>Category : EDITORIAL</i> (16) Nepal (12 Aug 2018 4:45 AM) The ToR IC sub-group is fine and no need any edition or correction from my side.
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (13) Caribbean Agricultural Health and Food Safety Agency (13 Jul 2018 4:35 PM) CAHFSA has no objections to this draft TOR
G	(General Comment)	C	<i>Category : SUBSTANTIVE</i> (10) COSAVE (13 Jul 2018 3:02 PM) As it is being proposed that a SC member be part of the Sub-Group it would be advisable that the CPM approved this ToR.
3	The IC Sub-group will provide support, guidance and advice on phytosanitary related disputes to the IC and IPPC Secretariat in accordance with the relevant CPM procedures <u>procedures and monitor implementation of dispute settlement recommendation.</u>	P	<i>Category : TECHNICAL</i> (1) Sierra Leone (30 Jun 2018 8:59 AM)
5	The IC Sub-group will operate until May 2020. This duration may be extended upon agreement by the IC.	C	<i>Category : SUBSTANTIVE</i> (32) NEPPO (27 Aug 2018 12:00 PM) For how many time? term?

7	The IC Sub-group should consist of 4 to 6 <u>IC</u> members with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation).	P	Category : <i>SUBSTANTIVE</i> (37) United States of America (31 Aug 2018 4:07 PM) To clarify that maybe this should be IC members only on this body, with invited experts for each case. But this is only a suggestion.
7	The IC Sub-group should consist of 4 to 6 members with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation). <u>The IC Sub-group should consist of 7 members with combined legal, technical and phytosanitary experience, one member drawn from each of the fao regions (including developing country participation). In addition, one IC member.</u>	P	Category : <i>SUBSTANTIVE</i> (25) Panama (24 Aug 2018 3:20 PM) This is based on: <ul style="list-style-type: none"> • It is important to maintain the representativeness of each of the regions of FAO. This will help improve management when potential conflicts of interest arise. • Rule 1 of the draft RP indicates that: The IC Lead of the IC Sub-group is considered a member. • Rule 4 of the draft RP indicates that: The IC will select a Lead for each IC Sub-group from the IC members and under exceptional circumstances, it may select someone who is not a member of the IC.
7	The IC Sub-group should consist of 4 to 6 members with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation). <u>The IC Sub-Group should have an SC representative.</u>	P	Category : <i>TECHNICAL</i> (24) Argentina (24 Aug 2018 1:31 AM) The Dispute Avoidance and Settlement is directly link to the adopted ISPMs so the Sub-Group would benefit from the participation of a SC member.
7	The IC Sub-group should consist of 4 to 6 members with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation). <u>The IC Sub-Group should have a SC representative .</u>	P	Category : <i>TECHNICAL</i> (18) Uruguay (16 Aug 2018 3:29 PM) The Dispute Avoidance and Settlement is directly linked to the adopted ISPMs so the Sub-Group would benefit from the participation of a SC member.
7	The IC Sub-group should consist of 4 to 6 members <u>(unless there is clear justification 4 could quite small for the IC Sub-group)</u> with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation).	P	Category : <i>SUBSTANTIVE</i> (14) Eritrea (19 Jul 2018 3:20 PM)
7	The IC Sub-group should consist of 4 to 6 members with combined legal, technical and phytosanitary experience, considering wide geographic representation (including developing country participation). <u>The IC Sub-Group should have a SC representative.</u>	P	Category : <i>TECHNICAL</i> (9) COSAVE (13 Jul 2018 2:55 PM) The Dispute Avoidance and Settlement is directly link to the adopted ISPMs so the Sub-Group would benefit from the participation of a SC member.
7	The IC Sub-group should consist of 4 to 6 members with combined legal, technical and phytosanitary experience, considering wide geographic representation <u>RPPO</u> (including developing country participation).	P	Category : <i>SUBSTANTIVE</i> (2) Sierra Leone (30 Jun 2018 9:00 AM)
8	4. Conflict of interest	P	Category : <i>SUBSTANTIVE</i> (26) Panama (24 Aug 2018 3:20 PM) The approach that the IC Sub-Group will take the necessary measures to avoid a conflict of interest ... responds more to a Rule of Procedure than to Terms of Reference. Inclusively, the issue of how the conflict of interest will be handled within the

			IC Committee, is raised in the last paragraph of Rule 1. These paragraphs must be removed from this document and incorporated into the document: 2018_Consultation Draft Rules of Procedure for IC Sub-group ".
9	The IC Sub-group will take the necessary measures to avoid any conflicts of interest that may arise from the operations of the IC Sub-group.	C	<i>Category : SUBSTANTIVE</i> (38) United States of America (31 Aug 2018 4:08 PM) Regarding the use of "may" - Possible types of conflicts of interests should be identified, thus using "may" by itself leaves this section open to interpretation.
9	The IC Sub-group will take the necessary measures to avoid any conflicts of interest that may arise from the operations of the IC Sub-group. <u>The members should serve with utmost integrity and impartiality.</u>	P	<i>Category : SUBSTANTIVE</i> (15) Eritrea (19 Jul 2018 3:24 PM)
9	The IC Sub-group will take the necessary measures to avoid any conflicts of interest that may arise from the operations of the IC Sub-group <u>Sub-group and its members.</u>	P	<i>Category : SUBSTANTIVE</i> (3) Sierra Leone (30 Jun 2018 9:01 AM)
16	4. Identify cases studies and lessons learned from publically-publicly available disputes to be used in the development of guidance materials for dispute avoidance.	P	<i>Category : EDITORIAL</i> (11) Caribbean Agricultural Health and Food Safety Agency (13 Jul 2018 4:26 PM)
16	4. Identify eases-case studies and lessons learned from publically available disputes to be used in the development of guidance materials for dispute avoidance.	P	<i>Category : EDITORIAL</i> (8) Caribbean Agricultural Health and Food Safety Agency (9 Jul 2018 12:14 PM)
16	4. Identify cases studies and lessons learned from publically-publicly available disputes to be used in the development of guidance materials for dispute avoidance.	P	<i>Category : EDITORIAL</i> (4) Sierra Leone (30 Jun 2018 9:02 AM)
18	6. Undertake other functions related to dispute avoidance as directed by the IC. <u>7. Identify areas that repeatedly trigger disputes and recommend remedies.</u>	P	<i>Category : SUBSTANTIVE</i> (39) United States of America (31 Aug 2018 4:09 PM) A common practice for dispute avoidance.
20	7. Oversee the revision of the CPM adopted procedures, as needed.	C	<i>Category : SUBSTANTIVE</i> (40) United States of America (31 Aug 2018 4:09 PM) What is the meaning of this task?
21	8. Review nominations of independent experts based on the relevant CPM procedures and make recommendations to the IC.	C	<i>Category : SUBSTANTIVE</i> (41) United States of America (31 Aug 2018 4:10 PM) Are these experts nominated to provide their expert opinion on the disputed issues?
22	9. Identify areas that repeatedly trigger disputes and recommend remedies.	C	<i>Category : SUBSTANTIVE</i> (34) Kenya (29 Aug 2018 2:11 PM) Identify areas that trigger disputes, analyze matters of disputes from contracting parties and come up with recommendations for consideration by the I.C

24	11. Undertake other functions related to dispute settlement as directed by the IC. <u>12. Monitors the implementation of dispute settlement recommendation.</u>	P	Category : <i>TECHNICAL</i> (5) Sierra Leone (30 Jun 2018 9:03 AM)
26	The IC Sub-group reports to the IC annually <u>IC half yearly</u> and if necessary, upon request.	P	Category : <i>SUBSTANTIVE</i> (6) Sierra Leone (30 Jun 2018 9:04 AM)