



منظمة الأغذية
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联合国
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l'agriculture

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para la
Agricultura
y la
Alimentación

COMMISSION ON PHYTOSANITARY MEASURES

First Session

Rome, 3 – 7 April 2006

Establishment of a Subsidiary Body for Dispute Settlement under the CPM

Agenda Item 6.2 of the Provisional Agenda

I. Introduction

1. At its third session in 2001, the Interim Commission on Phytosanitary Measures (ICPM) decided to establish a Subsidiary Body on Dispute Settlement (hereafter ICPM-SBDS) under the ICPM. The ICPM also adopted Terms of reference (TOR) for the ICPM-SBDS. With the coming into force of the new revised text of the IPPC on 2 October 2005, the FAO Conference and the ICPM cease to be the governing bodies of the IPPC and are replaced by the Commission on Phytosanitary Measures (CPM).

II. Establishment of a subsidiary body for dispute settlement under the CPM

2. The draft ROP of the CPM (see CPM 2006/5) provides that “*The Commission may establish such subsidiary bodies as it deems necessary for the accomplishment of its functions*”. In order to continue the work programme on dispute settlement under the CPM, the CPM may find it necessary to establish a subsidiary body on dispute settlement and may wish to consider the arrangements made for the ICPM-SBDS. The CPM may find it also beneficial to name this subsidiary body on dispute settlement “Subsidiary Body on Dispute Settlement” in order to use well-established terminology and to avoid confusion.

3. If the CPM decides to establish a subsidiary body on dispute settlement, the CPM should also adopt TOR and ROP for its dispute settlement body. Draft TOR and ROP based on the TOR and ROP of the ICPM-SBDS are provided in Annex 1.

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4. If the CPM decides to establish a subsidiary body on dispute settlement, the CPM should also confirm members for its dispute settlement body. Members for the dispute settlement body should be nominated by the FAO regions and confirmed by CPM-1. FAO regions may wish to consider using the expertise acquired over the last years. Annex 2 lists the members of the ICPM-SBDS.

5. The CPM is invited to:

1. *Establish* a subsidiary body on dispute settlement and naming it the ‘Subsidiary Body on Dispute Settlement’
2. *Consider* the draft TOR and ROP proposed in Annex 1 and, as appropriate, *adopt* them.
3. *Confirm* the membership of the subsidiary body on dispute settlement.

Annex 1

**DRAFT TERMS OF REFERENCE AND RULES OF PROCEDURE FOR THE CPM
SUBSIDIARY BODY ON DISPUTE SETTLEMENT****Terms of Reference****1. Scope of the Subsidiary Body on Dispute Settlement**

The Subsidiary Body on Dispute Settlement manages the dispute settlement functions of the CPM and provides assistance to the CPM with regard to dispute settlement in the WTO and other organizations.

2. Objective

The main objective of the Subsidiary Body on Dispute Settlement is the oversight, administration and support of the IPPC dispute settlement procedures.

3. Structure of the Subsidiary Body on Dispute Settlement

The Subsidiary Body on Dispute Settlement consists of 7 members, one member drawn from each of the FAO Regions.

Members of the Subsidiary Body on Dispute Settlement serve for terms of two years, with a maximum of six years.

The subsidiary body elects its Chairperson from among its membership.

4. Functions of the Subsidiary Body on Dispute Settlement

The Subsidiary Body on Dispute Settlement has the following functions:

1. Provide guidance to the Secretariat and disputing parties in selecting appropriate dispute resolution methods and may assist in conducting or administering consultation, good offices, mediation, or arbitration.
2. Propose nominations for independent experts using Expert Committee procedures (see the report of the second session of the ICPM, Appendix IX, Section 4 and the report of the third session of the ICPM, Appendix XI, Section H, paragraph 27b) where the disputing parties cannot agree on experts proposed by the Secretariat.
3. Approve reports of Expert Committees including verification of all points in Expert Committee procedures (see the report of the second session of the ICPM, Appendix IX, Section 4 and the report of the third session of the ICPM, Appendix XI, Section F); and
4. Undertake other functions as directed by the CPM, which may include:
 - a) assist the Secretariat with requests from WTO or other organizations;
 - b) report on IPPC dispute settlement activities as well as dispute settlement activities undertaken or completed by other organizations that have implications for the phytosanitary community;
 - c) assist in identifying appropriate experts (e.g. for WTO dispute settlement);
 - d) assist in review and maintenance of expert rosters; and
 - e) identify appropriate training opportunities.

5. IPPC Secretariat

The Secretariat provides administrative, technical and editorial support as required by the Subsidiary Body on Dispute Settlement. The Secretariat is responsible for reporting and record keeping regarding the dispute settlement activities.

Rules of procedure

1. Except as indicated below, the rules of procedure of the CPM will apply *mutatis mutandis* to the subsidiary body.
2. Meetings. The subsidiary body meets at least once per year, preferably at the occasion of the regular session of the CPM. Other meetings shall be set by the Chairperson of the subsidiary body as needed, in particular, for the review and approval of Expert Committee reports and the development of reports for the CPM. The subsidiary body will normally work by mail, facsimile and e-mail, and in the most cost-effective manner within the available resources.
3. Observers. Meetings of the subsidiary body are generally open according to Rule VII of the Rules of Procedure for the CPM, but 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.
4. Language. The working language of the subsidiary body will be English.
5. Decision-making. The subsidiary body strives for consensus on all decisions but may vote where necessary using a 2/3 majority to take decisions. Decisions shall include dissenting opinions where requested.
6. Amendments. Amendments to the functions and procedures of the subsidiary body will be promulgated by the CPM as required.
7. Confidentiality. The subsidiary body shall exercise due respect for confidentiality where sensitive information is identified by disputing parties.

Annex 2

MEMBERS OF THE ICPM SUBSIDIARY BODY ON DISPUTE SETTLEMENT

FAO Region	Country	Name
Africa	Algeria	Ali MOUMEN
Asia	Republic of Korea	Jin-Seong KIM
Europe	Netherlands	Mennie GERRITSEN
Latin America and Caribbean	Dominican Republic	Pedro Julio JIMÉNEZ ROJAS
Near East	Jordan	Mohammad R. KATBEH-BADER
North America	USA	John GREIFER
Southwest Pacific	New Zealand	John HEDLEY