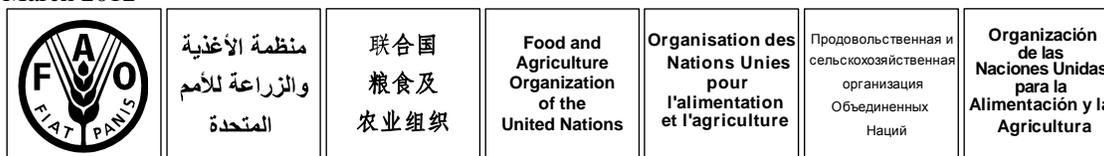


March 2012



# COMMISSION ON PHYTOSANITARY MEASURES

## Seventh Session

Rome, 19 - 23 March 2012

### CPM Rules of Procedures on Observers - Guidelines for Participation of Observers in CPM and Subsidiary Bodies

#### Agenda item 5.3 of the Provisional Agenda

## I. Background

1. The IPPC Secretariat is currently facing an outstanding number of requests from organizations asking to be invited as observers at sessions of the Commission on Phytosanitary Measures (CPM). CPM rules are not comprehensive enough concerning how to proceed in some cases, as well as on the rights and obligations of observers.
2. The status of observers at CPM sessions is governed by the 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 CPM Rules of Procedure (Rule VII para. 5) and by 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).
3. This document analyzes existing provisions on the conditions under which a country, a regional plant protection organization (RPPO), or an international organization (both intergovernmental and non-governmental) can participate in CPM sessions and subsidiary bodies' meetings.
4. With a view to clearly describe existing rules, a distinction should be made between the granting of observer status to 1) countries; 2) RPPOs; and 3) international organizations; and between public and private meetings.

## II. Granting of Observer Status in Public Meetings

### A. Granting of Observer Status of Country

5. The relevant provisions for granting observer status to countries in public meetings can be found in Paragraph 1 and 5 of CPM Rule VII which refers to the Basic Texts of the Organization under 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).

6. 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 CPM Rule VII). What these observers are permitted to do is contemplated partly in the CPM Rules of Procedure i.e. submit memoranda and participate in discussions without a vote. More comprehensive provisions are included in Part I of Volume II of the Basic Texts on “*Statement of Principles Relating to the Granting of Observer Status to Nations*” whereby it is stipulated that observers from nations admitted to meetings of the Organization may be permitted, i) to participate in the discussions, subject to the approval of the Chairman of the particular meeting and without the right to vote; ii) to receive the documents other than those of a restricted nature, and iii) submit written statements on particular items of the agenda.

7. 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 CPM Rule VII). What these observers are permitted to do is contemplated partly in the CPM Rules of Procedure i.e. submit memoranda and participate in discussions without a vote. More comprehensive provisions are included in Part I of Volume II of the Basic Texts on “*Statement of Principles Relating to the Granting of Observer Status to Nations*” whereby it is stipulated that observers from nations admitted to meetings of the Organization may be permitted, i) to participate in the discussions, subject to the approval of the Chairman of the particular meeting and without the right to vote; ii) to receive the documents other than those of a restricted nature, and, iii) submit written statements on particular items of the agenda.

8. Any country that is not a Member of the Organization, or a member of the United Nations, any of its specialized agencies or the International Atomic Energy Agency is not be permitted to send observers to any meeting of the Organization.

9. Contracting parties which are not current members of CPM subsidiary bodies (either because membership in the concerned body is limited to selected members of the Commission or because the subsidiary body is composed of individuals appointed in their respective capacity) may attend subsidiary body meetings as an observer, upon request to the Secretary of the IPPC (paragraph 5 of CPM Rule VII). Paragraph 5 is silent regarding what these observers may be permitted to do as such and therefore, general rules concerning observer status of countries apply (Rule XXV.8(c) of the GRO and the “*Statement of Principles Relating to the Granting of Observer Status to Nations*” included in Part I of Volume II of the Basic Texts). Thus, they will be permitted, i) to participate in the discussions, subject to the approval of the Chairman of the particular meeting and without the right to vote; ii) to receive the documents other than those of a restricted nature, and iii) submit written statements on particular items of the agenda.

### B. Granting of Observers Status to regional plant protection organization

10. Representatives of RPPOs shall be invited to attend all sessions of the Commission and its subsidiary bodies as observers. Thus, they may submit memoranda and participate in discussions without a vote (CPM Rule VII, paragraph 2).

### C. Granting of Observer Status to International Organization

11. 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 CPM 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 (except for RPPOs) to attend subsidiary body meetings as observers.

12. 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, in particular, "*Guiding Lines regarding Relationship between FAO and Intergovernmental Organizations*" included in Part K of Volume II, "*Granting of Observer Status in respect of International Governmental and Non-Governmental Organizations*" included in Part N of Volume II, and, "*FAO Policy Concerning Relations with International Non-Governmental Organizations*", included in Part M of Volume II), as appropriate.

13. As provided for by paragraphs 3 and 4 of CPM Rule VII, such relations shall be dealt with by the Director-General, taking into account guidance given by the Commission. The CPM has not established yet guidance on this issue.

#### a) International intergovernmental organizations (IGOs)

14. The criteria for recognizing the intergovernmental character of an organization is established in the "*Guiding Lines regarding Relationship between FAO and Intergovernmental Organizations*" included in 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.

15. Under the current rules, the status of observers of IGOs depends on whether they have established formal relations with FAO or not.

16. 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.

17. 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]*" (as established in Part N of Volume II on "*Granting of Observer Status in respect of International Governmental and Non-Governmental Organizations*"). 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)

18. 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 their 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.

19. 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.

20. 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.

21. 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).

22. Regarding INGOs having liaison status, the Director-General of FAO 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).

23. In practice, a system has been 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 of FAO may decide to invite them.

### **III. Granting of Observer Status in Private Meetings and Bureau Meetings**

24. 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.

25. 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.*”

26. Regarding Bureau meetings, the interpretation given to the CPM Rules of Procedure is that observers are not allowed. Rule II of the CPM Rules of Procedure, 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.