



**Report
of the
Fourth Meeting
of the
Subsidiary Body on Dispute Settlement
(SBDS)**

29 & 30 March 2006

**Rome,
Italy**

Fourth Meeting of the ICPM Subsidiary Body for Dispute Settlement

Date: 29 & 30 March 2006

Present: Mr Kim (Korea), Mr Katbeh-Bader (Jordan), Ms Gerritsen (The Netherlands), Mr Hedley (New Zealand – chairperson), Mr Greifer (USA), Mr van der Graaff (Secretariat), Mr Ivess (Secretariat), Mr Kedera (Chairman, ICPM Bureau), Mr Lopian (ICPM Bureau) and Ms Baast-Tjeerde (ICPM Bureau) and Mr Nowell (Secretariat).

Apologies: Mr Moumen (Algeria).

The fourth meeting of the SBDS was held on the last Wednesday and Thursday before the First Session of CPM.

1. Opening of the Session and Welcome Address

Mr Hedley opened the meeting and welcomed everyone to Rome.

2. Adoption of Agenda

The agenda was adopted as it had been circulated.

3. Matters arising from the previous report

The SBDS requested that the Secretariat make the SBDS report available as a CRP paper at the CPM annually. The report of the Third Meeting of the SBDS was distributed at CPM 1 (2006).

NAPPO is still reviewing the regional dispute under discussion. The Secretariat could formally request a brief report to the IPPC SBDS for information – the Secretariat would need to contact NAPPO in this regard and they will have to contact the disputing parties. The meeting also suggested that it may be useful to contact Mr McNamara with regard his experiences in dispute settlement in North America.

The meeting adopted the 2005 SBDS report.

4. Report of IPPC Secretariat on Dispute Settlement Activities

The Secretariat noted no dispute settlement activities had arisen through the IPPC system in the past 12 months. There had again been inquiries about the procedures from the Pacific region, but no formal requests for assistance. The Secretariat will be holding discussions with the relevant parties during CPM 1.

If no disputes by the end of 2011, the SBDS recommends that the SBDS be suspended. In the meantime, the SBDS and CPM needs to promote the IPPC Dispute Settlement process. An option would be to highlight this process in the SPS Committee as an alternate process to the WTO to solving disputes efficiently and quickly using a Power Point presentation.

The Secretariat needs to devise an advocacy programme for the next 12 months. This could included presentations to:

- SPS Committee
- SC
- regional consultations (draft ISPMs and others).

5. Dispute Settlement Manual

The SBDS Dispute Settlement Manual is now final and will be distributed at CPM 1 as a draft for comment. Adjustments will be made based on feedback over a 30 day period and any changes to the Rules of Procedure that may arise.

The advice request form asked for in ICPM 7 133.2 is now incorporated in SBDS dispute manual.

The manual will be available through the IPP and will not be printed in paper format unless there is a specific request for copies. The SPTA recommended that the document only be available in English until further resources become available for translation. This was agreed by the SBDS.

Donors are required to allow the document translated. The translations will be an important part of any awareness or promotional campaign.

6. Dispute Settlement advocacy document

This document is to be finalised after CPM and translated should resources still be available. The Secretariat will know in May 2006 whether this can be published in languages and colour.

The focus in this document at present is on trade but will refer to environment aspects in future.

7. Update on the Expert Rosters

The Secretariat noted no nominations for experts had been received.

8. Advice on ISPMs

The SBDS will not be dealing with interpretations, as this is a function of the CPM. Inclusion of this option in the IPPC Dispute Settlement Manual is at ICPM 7 request has been met. The heading for Appendix 2 will be:

**“Form for
Advice on Phytosanitary Issues Concerning the IPPC and ISPMs
(generally issues not to be taken to dispute settlement)**

This advice can be associated with informal consultations between parties (see section 4.1.1 and 4.3.2 of the Dispute Settlement Manual). It is recommended both or all parties are made aware of the request for this advice. This advice is not meant to take the place of recommendations of an expert committee of the IPPC Dispute Settlement system.”

Clarification/s will usually relate to a specific circumstance rather than a general clarification of an ISPM i.e. a general clarification would usually be an interpretation for all situations. Therefore, a footnote needed: this clarification is done for these specific parties under the specific time and circumstances under discussion and should not be used in any other situation. Need to request FAO LEG to develop the appropriate text for Annex 2 in the dispute settlement manual.

The translation options for “clarifications” in non-English FAO languages will be checked.

9. Non-compliance

The subject and background paper was introduced by Mr Hedley. ICPM 7 requested the SBDS examine this topic and make recommendations back to the CPM.

Mr. Hedley noted there are other Conventions that are in the process of developing compliance mechanisms. He suggested we use the term “compliance” as this is positive and this could promote a better understanding of the mechanism. The development of an IPPC compliance system would allow the CPM to assess real needs and address specific issues. This would then allow informed decisions to be made and ensure IPPC resources are utilized effectively. It would be useful to obtain feedback from WTO, governments and industry on IPPC implementation at present and medium term. The consideration of the outputs of the formal IPPC evaluation could be worthwhile as the evaluation could collect appropriate information. Mr Hedley suggested that a Working Group could develop the concept and generate more data in the context of regional and global needs, and look at compliance in terms of the overall IPPC strategic plan.

Mr Stannard reported on compliance procedures under the International Treaty on Plant Genetic Resources for food and agriculture. A paper had been developed for the first meeting of parties (CGRFA: Background Study Paper No. 20) that identified the procedures that a compliance mechanism may require and what is being done by other institutes & organizations. Mr Stannard summarised section 3 subsections of the reference paper. It is anticipated that the budget for this treaty’s Compliance Committee would come from the core budget – other resources that may be needed would be solicited or provided as and when needed.

IPPC compliance primary objectives would be:

- solve problems
- implement standards
- target technical assistance
- prioritize areas of compliance.

In general it was noted that this was an interesting concept that needed considerable further exploration and development before definitive recommendations could be made to the CPM.

10. Other business

Election of a SBDS Vice-Chairperson: Ms Mennie Gerritsen was elected.

11. Closure

The meeting was closed on 30 March 2006 at 12:15

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