

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
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Agenda Item 3

CX/GP 04/20/3

**JOINT FAO/WHO FOOD STANDARDS PROGRAMME  
CODEX COMMITTEE ON GENERAL PRINCIPLES  
Twentieth Session  
Paris, France, 3 - 7 May 2004**

**PROPOSED AMENDMENT TO RULE VIII.5 (OBSERVERS) OF THE RULES OF PROCEDURE**

**BACKGROUND**

1. The Codex Alimentarius Commission, at its Twenty-sixth Session, Rome, 30 June – 7 July 2003, in connection with the consideration of the Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO work on food standards, requested the “*FAO and WHO Legal Counsels and the Secretariat to prepare a preliminary paper on Rule VIII.5<sup>1</sup> of the Rules of Procedure of the Commission for consideration by the Committee on General Principles*”. The Commission requested further the Committee on General Principles to revise Rule VIII.5 on the basis of a paper to be presented by the Legal Counsels, and to submit its proposals to the Commission in 2004, if possible. Accordingly, document CX/GP 03/19/3 Add. 1, outlining a number of options, was prepared and reviewed by the Committee at its Nineteenth (Extraordinary) Session, held in Paris, France, 17-21 November 2003.

**CONSIDERATION OF THE MATTER BY THE COMMITTEE ON GENERAL PRINCIPLES**

2. At its Nineteenth Session, the Committee on General Principles considered document CX/GP 03/19/3 – Add.1 entitled “*Review of Rule VIII.5 of the Rules of Procedure of the Codex Alimentarius Commission*”. The document set forth preliminary proposals for a revision of that Rule, in accordance with the decision taken by the Commission, at its 26<sup>th</sup> Session, and in light of the recommendation by the Joint FAO/WHO Evaluation of the Codex Alimentarius, that the Executive Committee should be given a role in the granting of observer status to international non-governmental organizations. The document, from the outset, introduced a distinction between intergovernmental organizations and international non-governmental organizations for the purpose of reviewing Rule VIII.5, and focused on the latter. The document provided information on the procedures of FAO and WHO regarding admission of international non-governmental organizations as observers. In the particular case of FAO, the procedures in force involve, *inter alia*, three forms of status, i.e. consultative status, specialized consultative status and liaison status. In the case of WHO, there is only one procedure applicable for the admission of NGOs into formal relations with the Organization, i.e. the so-called official relations.

3. The document recalled the practice developed and followed by the Codex Alimentarius Commission whereby, in order for international non-governmental organizations to be able to participate in its work, they must be granted “*observer status*”. This status is given, upon request to that effect, to international non-governmental organizations having formal status or official relations with the parent organizations, as the case may be, or otherwise apply for observer status to the Secretary of the Commission. In the latter case,

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<sup>1</sup> Rule VII of the Rules of Procedure was re-numbered as Rule VIII after the amendment of the Rules of Procedure through the addition of Rule II on “*Member Organizations*”. The numbering followed in the present document has been changed accordingly.

observer status is granted by the Directors-General if they are satisfied that the applicant organizations meet certain requirements and are in a position to make a significant contribution in advancing the purposes of the Codex Alimentarius Commission.

4. The document presented and analyzed three possible options for the revision of Rule VIII.5, as follows:

- (a) maintaining the *status quo* combined with stricter application of relevant criteria;
- (b) giving authority for the granting of observer status to the Executive Committee, or to the Codex Commission acting on the advice of the Executive Committee; and
- (c) entrusting the Executive Committee with advisory functions with respect to the granting, by the Directors-General of FAO and WHO, of observer status to international non-governmental organizations.

5. In light of the observations made in the document, the Committee was of the view that an amendment to Rule VIII.5 of the Rules of Procedure could be considered on the basis of option (c), whereby the Executive Committee would be entrusted with advisory functions in respect of the granting by the Directors-General of FAO and WHO of observer status to international non-governmental organizations. The Committee was of the view that this option would improve the transparency and democratic base of Codex, while being in conformity with the status of the Commission in relation to its parent organizations, and with the new role assigned to the Executive Committee.

6. The Committee requested the Legal Counsels of FAO and WHO to prepare a document, setting forth the proposed amendments to Rule VIII.5, for its regular session in May 2004. The Committee noted that the Director-General of FAO would be seeking the views of the FAO Committee on Constitutional and Legal Matters (CCLM), at its session of March 2004, on the proposal. In that connection, the Committee was informed that the Director-General of FAO would bring to the attention of the CCLM the specific status and needs of the Codex Alimentarius Commission, as well as the particular nature of its work.

#### **PROPOSED AMENDMENTS TO RULE VIII OF THE RULES OF PROCEDURE OF THE CODEX ALIMENTARIUS COMMISSION**

7. Taking into account the above considerations, including the suggestion made to the Committee that intergovernmental organizations and international non-governmental organizations be dealt with separately, it is proposed that Rule VIII.5 of the Rules of Procedure be amended and a new Rule VIII.6 be added thereto. The new provisions could read as follows:

##### *Rule VIII Observers*

(...)

5. *Participation of intergovernmental 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 Constitutions of FAO or WHO, as well as by the applicable regulations of FAO or WHO, as appropriate; such relations shall be handled by the Director-General of FAO or WHO, as appropriate.*

6. *Participation of international non-governmental 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 of FAO or WHO, as well as by applicable regulations of FAO or WHO on relations with international non-governmental organizations. Such relations shall be handled by the Director-General of FAO or WHO, as appropriate, on the advice of the Executive Committee. The Commission shall develop and keep under review principles and criteria concerning the participation of international non governmental organizations in its work, consistent with the applicable regulations of FAO or WHO”.*

#### **CONSIDERATION OF THE PROPOSED AMENDMENTS BY THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS**

8. The proposed amendments to the Rules of Procedure of the Codex Alimentarius Commission were reviewed by the FAO Committee on Constitutional and Legal Matters, at its Seventy-sixth Session, held on 30 March 2004. A copy of the relevant extract of its report is presented in document CX/GP 04/20/3, Add. 1.

#### **SUGGESTED ACTION BY THE COMMITTEE**

9. The Committee is invited to review the proposed amendments to the Rules of Procedure, in light of all pertinent considerations, including the views of the FAO Committee on Constitutional and Legal Matters, and make such recommendations, as appropriate.