

codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 8

CX/GP 04/20/8

JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON GENERAL PRINCIPLES

Twentieth Session

Paris, France, 3 - 7 May 2004

REVIEW OF THE PRINCIPLES CONCERNING THE PARTICIPATION OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN THE WORK OF THE CODEX ALIMENTARIUS COMMISSION

BACKGROUND

1. The Codex Alimentarius Commission, at its 26th session, Rome, 30 June – 7 July 2003, in connection with consideration of the Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO work on food standards, requested the Committee on General Principles to revise the Principles Concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission (hereinafter the Principles), by 2005. The question of a possible revision of the Principles was considered by the Commission and referred by the latter to the Committee on General Principles, as part of a number of interrelated issues emerging from the joint FAO/WHO Evaluation, concerning the procedure for granting observer status and the rights of participation to be enjoyed by observers.

2. As a result of the aforementioned decision by the Commission, the Secretariat submitted a number of documents to the Nineteenth (extraordinary) session of the Committee on General Principles, held in Paris on 17-21 November 2003. Particular reference is made to document CX/GP 03/19/3-Add.1, entitled “Review of Rule VII.5 of the Rules of Procedure of the Codex Alimentarius Commission” as well as to document CX/GP 03/19/5, entitled “Review of the Principles Concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission”.

CONSIDERATION OF THE MATTER BY THE COMMITTEE ON GENERAL PRINCIPLES

3. At its Nineteenth (extraordinary) session, the Committee on General Principles considered the two documents referred to in the previous paragraph. Document CX/GP 03/19/3-Add.1 focused on the possible amendment of Rule VIII.5 of the Rules of Procedure with regard to the participation of international non-governmental organizations (hereinafter INGOs). The Committee was of the view that Rule VIII.5 could be amended to provide that observer status to INGOs would be granted by the Directors-General of FAO and WHO upon the advice of the Executive Committee. The Committee requested the Legal Counsels of FAO and WHO to prepare a document setting forth the proposed amendment to Rule VIII.5 for its regular session in May 2004. The proposals of the Legal Counsels are set forth in document CX/GP 04/20/3.

4. Document CX/GP 03/19/5 recalled that the legal basis for the granting of observer status to INGOs rest on paragraphs 4 and 5 of Rule VIII, which reflected the status of the Codex Alimentarius Commission as a joint subsidiary body of FAO and WHO. The document also recalled the adoption by the Commission at its 23rd session in 1999 of a set of self-standing Principles to implement in detail with regard to NGOs the general provisions of Rule VIII. The Principles distinguish between two categories of INGOs eligible for observer status: those which already enjoy status or official relations with either FAO or WHO and which are granted observer status on request; and other organizations which are granted observer status by the

Directors-General once they are satisfied that those organizations meet certain criteria. The document suggested a few areas where the criteria for eligibility set out in the Principles could be tightened or clarified.

5. During the discussion of the document, a number of delegations agreed on the usefulness of a clarification of some of the criteria, and on the need to apply stricter criteria with particular regard to the requirement that an INGO be international in structure and scope of activity. A preference was also expressed for granting observer status to large organizations rather than smaller INGOs which are members thereof. At the same time, some delegations and observers noted that the application of numerical criteria as a criterion for eligibility was inappropriate and that the sole requirement should be whether INGOs participated and contributed actively in the work of Codex. The Committee noted the forthcoming report by the Secretariat to the Commission on international organizations in observer status, which should include a list of observer INGOs. Such a list would enable the Commission to consider whether measures would be warranted to ensure that only INGOs which are willing and able to contribute to the work of Codex would retain observer status.

6. The Committee, while recognizing that it was premature to agree on revised principles, requested the Codex Secretariat, in cooperation with the Legal Counsels of FAO and WHO, to prepare a general document outlining the possible main areas of improvement of the Principles for consideration at its forthcoming regular session, both in the light of the decision to revise Rule VIII.5, as well as with regard to the criteria for eligibility of INGOs. The present document is submitted to the Committee in response to that request.

REVISION OF THE PROCEDURE FOR GRANTING AND TERMINATING OBSERVER STATUS

7. As noted in paragraph 3 above, the Secretariat has proposed in document CX/GP 04/20/3 a possible revision of Rule VIII.5 based on a request from the Committee at its 19th session. The proposal concerning participation of INGOs in the work of the Commission is contained in a proposed new paragraph 6, which is reproduced below for ease of reference:

“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”.

8. If the amendment in question is approved by the Commission, the Secretariat proposes that the granting of observer status to INGOs enjoying status or official relations with the parent organizations should remain as currently envisaged in the Principles. As regards other INGOs, it is proposed that the Directors-General will, upon receipt of an application, perform an initial screening to verify its receivability and completeness in the light of the information requested in the Annex to the Principles as well as the criteria listed in section 3. The Directors-General shall then submit the applications which meet the relevant requirements to the Executive Committee, either at each session, or as otherwise decided by the Committee. The Executive Committee may wish to either consider the application in a plenary meeting or to establish a sub-committee to perform that task and report back to the Committee. The Directors-General will take into account the advice of the Executive Committee in deciding whether or not to grant observer status to the applicant organizations or to seek additional information from the organization concerned.

9. It is proposed that the advice of the Executive Committee be sought also in case the Directors-General wish to terminate arrangements for observer status. In this case, the Directors-General should preliminarily inform the NGO in question and give it an opportunity to present its observations, which would be submitted to the Executive Committee for its advice. If this course of action is considered acceptable, the Secretariat proposes that the first paragraph of section 6 of the Principles be amended accordingly and that the possibility for an INGO to appeal the termination of its observer status be deleted.

10. The Committee on General Principles has stated that the Commission, on the basis of the report by the Secretariat mentioned in paragraph 5 above, may wish to review the general situation concerning INGOs in observer status to ensure that only INGOs which are willing and able to contribute to the work of Codex would retain observer status. In this connection, it should be noted that Section 6 of the Principles foresee that an INGO which has not shown any interest and has not attended any meetings during a period of four years may be deemed not to have sufficient interest to warrant the continuation of relations with the Commission. The Committee may wish to consider whether this provision could be strengthened in the light of its foregoing statement. For example, the period of non-participation could be shortened to three years;

moreover, it could be provided that, after such period has elapsed, the Codex Secretariat would inform the INGOs concerned of their impending termination and, unless they furnish satisfactory information by a short deadline, their observer status would be terminated. INGOs whose observer status has been terminated would not be eligible to re-apply for observer status for a certain period of time, e.g. 2 years.

11. Finally, the Committee may wish to consider the introduction of a review mechanism similar to that applied to INGOs in official relations with WHO. The WHO Executive Board reviews every year the state of cooperation with one-third of the NGOs in official relations, on the basis of information supplied by the NGOs by means of a short form provided by the Secretariat. The INGOs are requested, in particular, to communicate any change in the data they provided in their application for official relations. The Board may either continue or discontinue official relations, or defer consideration e.g. in case an INGO has not yet submitted the relevant form. Should the Committee on General Principles be willing to explore this option, the Executive Committee could serve as the reviewing body. The Codex Secretariat could draw on the form used in WHO to prepare an appropriate form to be sent to INGOs in observer status. At the same time, the Committee should also take into account the possible resource implications of this proposal in the light of the additional work for both the Executive Committee and the Codex Secretariat.

REVISION OF THE CRITERIA FOR GRANTING OBSERVER STATUS

12. During the discussion in the Committee on General Principles at its 19th session, differing views were expressed as to the adequacy and clarity of the existing criteria, with some delegations advocating their tightening to ensure that only active NGOs would remain in observer status and other delegations preferring more flexible criteria which would not risk reducing the contribution of civil society organizations to the work of Codex. A common concern, highlighted also by a number of observers, was to ensure that the central criterion should remain a determination of whether the organization “is in a position to make a significant contribution in advancing the purposes of the Codex Alimentarius Commission”. The question in this case is how to ensure that this not be a somewhat subjective determination but be tied as much as possible to objective and verifiable indicators. It is submitted that attendance to Codex meetings and the submission of comments in preparation therefore is an essential indicator to measure cooperation with a standard-setting programme such as Codex, hence the proposals made in the previous section concerning termination and review of observer status.

13. The Secretariat wishes to draw again the attention of the Committee to the three points raised in document CX/GP 03/19/5, on which clarifications were felt to be desirable and on which some proposals can be made also in connection with a possible revision of the procedure for the granting of observer status:

- Whether the requirement of being international in structure and scope of activity is satisfied for NGOs which have members and are active in a very limited number of countries, e.g. two. The Secretariat is of the view that, even though setting numerical thresholds may be somehow arbitrary, it remains important that NGOs participating in Codex have a large enough geographical basis with regard to their structure and/or scope of activity to ensure that they “represent important sections of public opinion and ... play an appropriate role in ensuring the harmonizing of intersectoral interests”, as mentioned in section 1 of the Principles¹. The Secretariat wishes to draw the attention of the Committee to the following possible alternatives:

¹ It should be mentioned, by way of reference, that NGOs qualify as “international” for the purpose of their admission into official relations if they have members and /or activities in at least two of the WHO regions. If they do not, they are considered “regional NGOs” for the purpose of establishing official or working relations with the relevant regional office of WHO.

1. To introduce in the Principles a requirement that an INGO applying for observer status should have members and carry out activities in at least three countries;
 2. To require, following the approach used in WHO, that an INGO should have members and/or activities in at least two of the geographic locations of Codex to qualify as international under the Principles. INGOs which do not meet this criterion may still be eligible for observer status, but as regional INGOs, representing regional interests and sections of public opinion. As such, their participation would be limited to Regional Coordinating Committees;
 3. Since the Executive Committee would, if the admission procedure is revised as proposed in document CX/GP 04/20/3, consider applications by INGOs for the purpose of advising the Directors-General, the Principles could simply request the Executive Committee and the Directors-General to give particular attention to whether, in their appreciation, the limited geographical scope of an applicant organization would allow it to make a significant contribution in advancing the purposes of the Codex Alimentarius Commission. This would allow for a case-by-case consideration of potentially very different situations.
- Whether it should be required that an INGO applying for observer status should have been established a certain number of years preceding its application and should demonstrate in its application that it has been carrying out substantive activities rather than being purely a means to enable certain individuals or groups to gain access to Codex meetings and documents. The Secretariat is of the view that introducing such a requirement would be useful and would provide a reasonable safeguard that the applicant INGO is in a position to contribute to the work of Codex within the general terms envisaged in section 1 of the Principles. The Committee may thus wish to consider adding a point in section 3 of the Principles to state that the INGO must have been established at least 3 years before the submission of its application and should be prepared to demonstrate that it has been actually carrying out substantive activities within its mandate;
 - The particular case of an “umbrella organization” applying for observer status at specific meetings for which also individual organizations that are its members have also applied. As noted in document CX/GP 03/19/5, this is the reverse of the situation envisaged in section 4.2 of the Principles. During the discussion at the 19th session of the Committee, different views were expressed as to whether it was preferable to limit observer status to larger organizations or instead to facilitate the representation of smaller organizations to allow a wider range of views and expertise. The Secretariat would thus appreciate the guidance of the Committee on this point. In any case, since the rationale of section 4.2 is to prevent an inappropriate over-representation of the same interests, the Committee may wish to consider a provision whereby observer status at specific meetings will be granted to larger organizations of a federated nature only if individual organizations which are its members and which have applied for observer status at the same meetings accept to be represented by the larger organization.

SUGGESTED ACTION BY THE COMMITTEE

14. The Committee is invited to review the suggestions and proposals contained in the present document and make such recommendations and provide such guidance to the Secretariat as it considers appropriate. It should be kept in mind that the Commission has expressed its intention to complete the revision of the Principles by 2005.