

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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Agenda Item 6

CX/GP 04/21/7

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

Twenty-first (Extraordinary) Session
Paris, France, 8-12 November 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 (CCGP) to revise the Principles Concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission (the Principles), by 2005. The question of revising the Principles was considered by the Commission and referred by the latter to the CCGP as part of a number of interrelated issues emerging from the Joint Evaluation, concerning the procedure for granting observer status and the rights of participation to be enjoyed by observers.

CONSIDERATION OF THE MATTER BY THE CCGP

2. At its 19th (extraordinary) session in November 2003, the CCGP considered two documents submitted by the Secretariat on the question of participation by international non-governmental organizations (INGOs) in the work of Codex, namely, SC/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 document CX/GP 03/19/5, which bore the same title as the present document. Concerning the first document, the CCGP 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 to prepare a document setting forth the proposed amendment for its 20th session.

3. The second document recalled the most salient aspects of the Principles and suggested a few areas where the criteria for eligibility of INGOs could be tightened or clarified. The CCGP, while recognizing that it was premature to agree on revised principles, requested the Codex Secretariat, in cooperation with the Legal Counsels, to prepare a general document outlining the possible main areas of improvement of the Principles for its 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.

4. At its 20th session in May 2004, the CCGP considered document CX/GP 04/20/3, entitled "Proposed amendment to Rule VIII.5 (Observers) of the Rules of Procedure", as well as a document containing relevant parts of the report of the Seventy-Sixth session of the FAO Committee on Constitutional and Legal Matters. The document proposed that Rule VIII be amended by revising its paragraph 5 and adding a new

paragraph 6, thus distinguishing between the admission of international intergovernmental organizations and INGOs. As far as the latter were concerned, their relations "shall be handled by the Directors-General of FAO or WHO, as appropriate, on the advice of the Executive Committee." The CCGP agreed to recommend to the Commission that Rule VIII of the Rules of Procedure be amended as proposed in document.

5. The Commission considered the proposed amendments at its Twenty-Seventh session in June-July 2004, but could not adopt them due to the lack of the required quorum. They will be submitted again to the 28th session of the Commission in July 2004.

6. The CCGP also considered document CX/GP 04/20/8, which bore the same title as the present document. On the basis of the requests made by the CCGP at its 19th (extraordinary) session, the Secretariat, in cooperation with the Legal Counsels, made a number of substantive observations and proposals concerning the procedure for admission of INGOs into observer status and its termination - taking into account the forthcoming amendment to Rule VIII - as well as criteria for eligibility of INGOs. After a rich discussion in which a number of both Members and observers participated, the Committee requested the Secretariat, in cooperation with the Legal Counsels of FAO and WHO, to prepare draft revised Principles and submit them to the 21st (extraordinary) session of the CCGP. The Committee also agreed to recommend to the Commission that the applicability of the amendments to Rule VIII to INGOs seeking observer status with the Commission, to be adopted at its 27th session, be deferred until the adoption of the revised Principles.

7. The present document is submitted in response to the requests made by the CCGP at its 20th session. A proposed revised text of the relevant sections of the Principles is attached to this document as Appendix I. As far as the deferred applicability of the amendments to Rule VIII is concerned, this proposal has become moot in view of the inability of the Commission to adopt them at its 27th session. It may be anticipated that the Commission will adopt both the amendments in question as well as the revised Principles at its 28th session in July 2005, thus ensuring that both will enter into force at the same time.

RELEVANT CONSIDERATIONS CONCERNING THE REVIEW OF THE PRINCIPLES

8. As noted by the Secretariat in its report to the 19th (extraordinary) session of the CCGP, it is the view of the Directors-General that the implementation of the Principles has proceeded in practice in a rather satisfactory manner; problems have been by and large limited and mostly consisted of difficulties in evaluating INGOs applying for observer status whose legal status or factual situations were unclear or insufficiently supported by information and documents attached to their applications. The proposals by the Secretariat for possible improvements, and the debates in the CCGP, have concentrated on a few specific topics rather than on the general philosophy underling the Principles. Topics discussed included the procedure for admission in, and termination of, observer status; criteria for eligibility of INGOs seeking observer status; how to avoid over-representation of virtually the same interests; and implications of the revision of the Principles for INGOs currently in observer status. There have been no suggestions that other aspects of the Principles be revised, for example their purpose; the admission into observer status of INGOs already having status or official relations with either of the parent organizations; or the rights and obligations of INGOs in observer status. Consequently, the Secretariat proposes that the revision of the Principles be limited to the sections dealing with the aspects referred to above, with one minor exception concerning Section 5.2, and has set out its specific textual suggestions in Appendix I accordingly.

9. *Revision of the procedure for granting and terminating observer status.* The Secretariat, in its document submitted to the 20th session of the CCGP, proposed that the procedure for granting and terminating observer status to INGOs should be revised in the light of the amendment of Rule VIII that the Commission was expected to approve at its 27th session. The CCGP had no objection to that proposal. Even though that amendment was eventually not approved for lack of quorum, it was of a consensual nature and it can be anticipated that it will be approved at the 28th session of the Commission. Consequently, it is proposed that the revision of the procedure in question be based on the amendment to Rule VIII in the light of the discussion held at the 20th session of the CCGP.

10. If the foregoing is acceptable, the admission into observer status of INGOs already having status or official relations with either parent organization will remain unchanged. As far as other INGOs are concerned, the Directors-General will submit their applications to the Executive Committee after performing an initial assessment of whether they meet the minimum formal requirements foreseen in the Principles and the Annex thereto. The Directors-General will then take a decision taking into account the advice of the

Executive Committee. It is also proposed that the same procedure will be followed in case of termination of observer status. In this case, the Directors-General will preliminarily inform the INGOs being considered for termination and give it an opportunity to present its observations, which will be submitted to the Executive Committee for its advice. In view of this additional safeguard, it is proposed to delete from the Principles the possibility of an appeal by an INGO against the decision to terminate its observer status.

11. As far as the criteria for terminating observer status are concerned, firstly, it is proposed that the Directors-General continue to enjoy the discretion they already have under the current version of the Principles in order to appreciate whether to seek termination of arrangements "which are no longer considered necessary or appropriate in the light of changing programmes or other circumstances". Secondly, the CCGP at its 20th session considered what criteria may be considered at the same time objective, fair and flexible to reach a determination whether an INGO is willing and able to contribute to the work of Codex. In this connection, it was observed that attendance at Codex meetings would not be fair as the sole criterion, and that INGOs contribute to the work of Codex in other ways. Consequently, it is proposed that INGOs that have not attended any Codex meeting or that have not submitted any written comment for four years will be considered for termination in accordance with the procedure summarized in the previous paragraph. INGOs whose observer status has been terminated will not be eligible to re-apply for two years from the date of their termination.

12. *Review of INGOs currently in observer status.* Two particular issues were raised at the 20th session of the CCGP, namely, whether to introduce a regular review mechanism of INGOs in observer status, similar to that applied by the Executive Board of WHO; and whether to apply revised eligibility criteria to INGOs currently in observer status, as recommended by the Joint FAO/WHO Evaluation. No particular comments were made on the first point; in view of the resource implications of a regular review mechanism, it is proposed that this be not pursued. The possibility of terminating observer status for INGOs which do not participate in the work of Codex or in other relevant situations could be considered an acceptable alternative to a regular review.

13. As to the second point, general support was expressed concerning the appropriateness and fairness of reviewing the situation of INGOs in observer status, while at the same time taking into account the limited resources available to the Codex Secretariat. In this connection, it is the view of the Secretariat that a realistic solution should be considered, particularly in the light of the extremely limited financial and staffing resources of the Codex Secretariat and the need to prioritize their use for programmatic activities. Given the high number of INGOs in observer status, any review of their eligibility would have to be staggered over a considerable period of time. The Secretariat can be expected to commence the examination of whether INGOs currently in observer status fulfil the revised criteria. This exercise could be completed in a few years, depending on the availability of resources. The Secretariat will report to the Commission in due course.

14. *Criteria for eligibility of INGOs for admission into observer status.* This point was discussed quite thoroughly both at the 19th and 20th sessions of the CCGP. There was general agreement that the paramount criteria for admitting and maintaining INGOs in observer status, in the light of the overall purpose of the collaboration between the Commission and INGOs, should be the significance of their contribution in advancing the purposes of the Codex Alimentarius Commission, their ability to represent important sections of public opinion as well as transparency concerning the interests that they represent. The central question to be addressed in a review of the Principles was how to use criteria which would be at the same time objective - thus avoiding reliance on subjective and possibly arbitrary perceptions on the part of the Secretariat - and flexible so as to accommodate different situations.

15. The issues discussed in more details concerned the requirement that the INGO be "international in structure and scope of activity"; that it be a genuine INGO carrying out activities and representing the interests of its members; and the particular case of participation in meetings by both "umbrella organizations" and INGOs which are members thereof. The criteria proposed in the Appendix are those which, in the view of the Secretariat, have gathered more support in the CCGP.

16. Concerning the specific situation of "umbrella organizations" and members thereof applying for observer status at specific meetings, the majority view in the CCGP was in favour of limiting in principle participation to the larger organization intending to represent its members. The question to be addressed in a review of the Principles is whether this approach should be limited to attendance to specific meetings or should be extended to admission into observer status. In other words, the CCGP should reflect whether, as a

policy, observer status should not be granted to INGOs which are members of a larger umbrella organization already enjoying observer status. A consequence of this approach would be that the observer status of the smaller organizations may have to be terminated if a larger organization of which they are members is granted observer status later on. Since this would represent a substantial change of policy from the current arrangements, and might be difficult to enforce in practice, the Secretariat has maintained the current text which favours participation by umbrella organizations in specific meetings. At the same time, the CCGP is invited to consider whether the revised Principles should instead opt for a more general approach to the problem in question.

CONCLUSIONS

17. The CCGP is invited to review the draft amendments to the Principles set out in Appendix 1, with a view to submitting them to the Commission at its 28th session, or alternatively to submitting a further draft revision to its 22nd session for its consideration. As noted above, the sections of the Principles where no amendments are proposed are not reproduced in the Appendix. Proposed draft amendments are set in boldface and proposed deletions are indicated with ~~strikeout~~.

**Draft revised Principles Concerning the Participation of
International Non-Governmental Organizations in the Work
Of the Codex Alimentarius Commission**

1. PURPOSE

No amendments proposed

2. TYPES OF RELATIONSHIP

No amendments proposed

3. ORGANIZATIONS ELIGIBLE FOR "OBSERVER STATUS"

1. The following shall be eligible for Observer Status:
 - International Non-Governmental Organizations in consultative status, specialized consultative status or liaison status with FAO;
 - International Non-Governmental Organizations having official relations with WHO; and
 - International Non-Governmental Organizations that:
 - (a) are international in structure and scope of activity, and representative of the specialized field of interest in which they operate;
 - (b) are concerned with matters covering a part or all of the Commission's field of activity;
 - (c) have aims and purposes in conformity with the Statutes of the Codex Alimentarius Commission;
 - (d) have a permanent directing body **and Secretariat**, authorized representatives and systematic procedures and machinery for communicating with its membership in various countries. Its members shall exercise voting rights in relation to its policies or action or shall have other appropriate mechanisms to express their views; **and**
 - (e) **have been established at least three years before they apply for observer status.**

2. For the purpose of paragraph (a), International Non-Governmental Organizations shall be considered "international in structure and scope of activity" if they have members and carry out activities in at least three countries. The Directors-General of FAO and WHO may, upon the advice of the Executive Committee, grant observer status to Organizations not meeting this requirement if it is clear from their application that they would make a significant contribution to advancing the purposes of the Codex Alimentarius Commission.

4. PROCEDURE FOR OBTAINING "OBSERVER STATUS"

4.1 INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS HAVING STATUS OR OFFICIAL RELATIONS WITH FAO AND WHO

No amendments proposed.

4.2 NON-GOVERNMENTAL ORGANIZATIONS NOT HAVING STATUS OR OFFICIAL RELATIONS WITH FAO AND WHO

Before any form of formal relationship is established with a Non-Governmental Organization, such Organization shall supply the Secretary of the Commission with the information outlined in the Annex to these Procedures. ~~The Secretary shall transmit this information to the Directors-General of FAO and WHO.~~

~~Upon confirmation that the Directors-General are satisfied that the applicant Organization is in a position to make a significant contribution in advancing the purposes of the Codex Alimentarius Commission, Observer Status shall be granted to the applicant Organization.~~

The Secretary of the Commission will verify the completeness of the information provided by the Organization, and will also perform an initial assessment of whether the Organization appears to meet the requirements indicated in Section 3 of these Principles. In case of doubts, he or she will consult with the Directors-General of FAO and WHO and may seek further information and clarifications from the Organization as appropriate.

Upon satisfactory completion of the verification and assessment referred to in the previous paragraph, the Secretary of the Commission will submit the application and all relevant information received from the applicant to the Executive Committee for its advice, pursuant to Rule VIII.6 of the Rules of Procedure of the Codex Alimentarius Commission. .

The Secretary of the Commission will transmit the application, together with all relevant information received from the applicant and the advice of the Executive Committee, to the Directors-General who will decide whether an Organization is to be granted observer status. In case of rejection of an application, a re-application by the same Organization shall not normally be considered until two years have elapsed since the Directors-General's decision on the original application.

The Secretary of the Commission shall inform each Organization of the Directors-General's decision on its application, and shall provide the motivation of the Directors-General in case of rejection.

Observer Status at specific meetings will not normally be granted to individual organizations that are members of a larger organization authorized and that intends to represent them at these meetings.

5. PRIVILEGES AND OBLIGATIONS

5.1 PRIVILEGES OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN "OBSERVER STATUS"

No amendments proposed

5.2 OBLIGATIONS OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN "OBSERVER STATUS"

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(e) to promptly report to the Secretary of the Commission changes in its structure and membership, important changes in its secretariat as well as any other important changes in the information provided in accordance with the Annex to the present Principles.

6. REVIEW OF "OBSERVER STATUS"

The Directors-General may terminate arrangements for Observer Status which are no longer considered necessary or appropriate in the light of changing programmes or other circumstances. ~~and will report such action to the Commission. However, the international non-governmental organization concerned may appeal the termination of Observer Status~~ **Similarly, the Directors-General may terminate observer status if an Organization no longer meets the criteria that applied at the time it was granted observer status.**

Without prejudice to the preceding paragraph, an international non-governmental organization in Observer Status which has ~~not shown any interest and has not~~ **neither** attended any meetings **nor provided any written comments** during a period of four years ~~may~~ **shall** be deemed not to have sufficient interest to warrant the continuance of such relationship.

If, in the view of the Directors-General, the conditions indicated in the previous paragraphs materialize, they shall inform the Organization concerned accordingly and invite it to submit its observations. The Directors-General will seek the advice of the Executive Committee and will submit any observation received from the Organization to it. The Directors-General, taking into account the advice of the Executive Committee and any observation submitted by the Organization, shall decide whether to terminate its observer status. A re-application from the same Organization shall not normally be considered until two years have elapsed since the Directors-General's decision to terminate its observer status.

The Secretary shall report to the Codex Alimentarius Commission on the relations between the Codex Alimentarius Commission and international nongovernmental organizations established in accordance with the present Procedures and shall provide a list of organizations granted Observer Status, with an indication of the membership that they represent. **He or she shall also report to the Commission the termination of the observer status of any Organization.**

The Commission shall periodically review these principles and procedures and shall consider, as necessary, any amendments which may seem desirable.

ANNEX: INFORMATION REQUIRED OF NON-GOVERNMENTAL ORGANIZATIONS REQUESTING “OBSERVER STATUS”

- (a) Official name of the organization in different languages (with initials)
- (b) Full postal address, Telephone, Telex address, Facsimile and Email as appropriate
- (c) Aims and subject fields (mandate) of organization, and methods of operation. (Enclose charter, constitution, by-laws, rules of procedures, etc.). **Date of establishment**
- (d) Member organizations (name and address of each national affiliate, method of affiliation, giving number of members where possible, and names of principal officers. If the organization has individual members, please indicate approximate number in each country. **If the organization is of a federal nature and has international non-governmental organizations as members, please indicate whether any of those members already enjoy observer status with the Codex Alimentarius Commission**)
- (e) Structure (assembly or conference; council or other form of governing body; type of general secretariat; commissions on special topics, if any; etc.)
- (f) Indication of source of funding (e.g., membership contributions, direct funding, external contributions, or grants)
- (g) Meetings (indicate frequency and average attendance; send report of previous meeting, including any resolutions passed) that are concerned with matters covering all or part of the Commission’s field of activity
- (h) Relations with other international organizations:
 - UN and its organs (indicate consultative status or other relationship, if any)
 - Other international organizations
- (k) Expected contribution to the Joint FAO/WHO Food Standards Programme
- (l) Past activities on behalf of, or in relation to, the Codex Alimentarius Commission and the Joint FAO/WHO Food Standards Programme (indicate any relationship by national affiliates with the Regional Coordinating Committees and/or the National Codex Contact Points or Committees for at least the last three years preceding the application)
- (m) Area of activity in which participation as an observer is requested (Commission and/or Subsidiary Bodies). If more than one organization with similar interests is requesting observer status in any field of activity, such organizations will be encouraged to form themselves into a federation or association for the purpose of participation. If the formation of such a single organization is not feasible, the application should explain why this is so.
- (n) **Previous applications for observer status with the Codex Alimentarius Commission, including those made by a member organization of the applicant organization. If successful, please indicate why and when observer status was terminated. If unsuccessful, please indicate the reasons you were given.**