

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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Agenda Item 5

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON GENERAL PRINCIPLES

Nineteenth (extraordinary) session

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 and to complete the guidelines on the relations between the Commission and international intergovernmental organizations in a manner that is consistent with the revised Rule VII.5, by 2005.*”

2. It should be pointed out at the outset that the question of a possible revision of the Principles Concerning the Participation of International Non-Governmental Organizations in the Work of the Codex Alimentarius Commission (the Principles) has been referred to the Committee on General Principles by the Codex Alimentarius Commission 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. The questions of principle to be considered by the Committee in this connection are analyzed in detail in document CX/GP 03/19/3-Add.1 concerning the review of Rule VII.5 of the Rules of Procedure of the Codex Alimentarius Commission. That document, in particular, makes it clear that most of the questions concerning observer status have arisen in the practice of Codex with specific regard to international non-governmental organizations. Since document CX/GP 03/19/3-Add.1 deals in some detail with the situation of international non-governmental organizations, the present report will not repeat considerations contained therein but will complement and refer to them and should thus be read in conjunction with the aforementioned document.

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CURRENT PROVISIONS AND PRACTICE AT THE CODEX ALIMENTARIUS COMMISSION

3. As document CX/GP 03/19/3-Add.1 observes, the legal basis for the granting of observer status to international non-governmental organizations lies in paragraphs 4 and 5 of Rule VII of the Codex Rules of Procedure. The arrangements described in those provisions reflect the fact that the Codex Alimentarius Commission is a joint subsidiary body of FAO and WHO and that the procedures for granting observer status to international non-governmental organizations in Codex, as well as the rights enjoyed by them in that capacity, have to be in accordance with the applicable procedures and provisions of both organizations.

4. The Commission adopted at its 23rd session in 1999 a set of self-standing Principles describing more in detail the purpose of establishing relationship with international non-governmental organizations, the criteria for eligibility of those organizations, the procedures to be followed for the granting of observer status, the privileges and obligations of international non-governmental organizations as well as criteria and procedures for the review of their observer status. The Principles, as noted in paragraphs 8 and 9 of document CX/GP 03/19/3-Add.1, identify two categories of international non-governmental organizations eligible for obtaining observer status: those which already enjoy status or official relations in either FAO or WHO in accordance with their respective provisions; and other international non-governmental organizations which are considered by the Directors-General as meeting certain criteria and are accorded observer status by them. International non-governmental organizations falling within the first category are granted observer status, either on a general or on an *ad hoc* basis, at their request. The granting of observer status to the latter category, besides being consistent with procedures in force in FAO, conforms to the principle contained in Rule VII.5 in its present form, according to which the relations between the Commission and international organizations “*shall be handled by the Directors-General of FAO or of WHO as appropriate.*”

5. What should be underlined in the present report is that the Principles implement and spell out in detail, with specific regard to international non-governmental organizations, the more general principles and provisions contained in Rule VII.4 and 5 of the Rules of Procedure. Rule VII and the Principles should thus be seen as complementary and interrelated.

6. As noted in paragraph 14 of document CX/GP 03/19/3-Add.1, it is the views of the Directors-General that the implementation of the Principles, in particular the granting of observer status to international non-governmental organizations not having status or official relations with FAO and WHO, has proceeded in a satisfactory manner. The secretariats of the parent organizations carefully scrutinize each application in the light of the criteria laid out in the Principles, and seek clarifications or additional information from the applicants when the data submitted by them do not appear sufficient. Several applications have been rejected either because the structure of the organizations concerned did not meet the minimum requirements indicated in Section 3 of the Principles, or because they were not concerned with matters of relevance for Codex or otherwise did not appear to be *bona fide* international non-governmental organizations.

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

7. As noted in paragraph 10 of document CX/GP 03/19/3-Add.1, the issue of the relationship between the Commission and international non-governmental organizations has been under consideration in the Commission and the CCGP for some time, and has recently been considered in the context of the joint FAO/WHO Evaluation. In the latter regard, it should be repeated here that, as reported by the Secretariat to the 26th session of the Commission (ALINORM 03/26/11 Add.4), the Evaluation Report recommended that “*Codex should review its principles and procedures for observer status as required by the Procedural Manual and should consider applying stricter criteria to ensure that observers are genuinely international. New rules should apply to existing observers as well as future “applicants” and the credentials of Codex observers should be approved individually by the Executive Board.*” The growing number of international non-governmental organizations applying for observer status, and a general concern that international non-governmental organizations should be genuine *bona fide* institutions which may contribute to the work of Codex in their specific field of activity, may have prompted those recommendations.

8. It may also be of some interest to emphasize a number of broader concerns which impact upon the relationship between the Codex Alimentarius Commission and international non-governmental organizations. Thus, there is an awareness that a number of developments regarding the relationship between international non-governmental organizations and the organizations of the United Nations system have occurred and that they should be reflected in the relevant procedures of the concerned organizations. In the context of both FAO and WHO, a reflection on the matter is under way. This has been under consideration by the Commission and the Committee on General Principles for the past six years.

9. A possible revision of the Principles is closely linked to the revision of Rule VII.5 of the Rules of Procedure which, as noted in document CX/GP 03/19/3-Add.1, has in any case been discussed in the Commission and the CCGP with particular reference to international non-governmental organizations. Should the Commission decide, upon the recommendation of the CCGP, to revise Rule VII.5, the corresponding provisions of the Principles shall be revised accordingly. The Secretariat, therefore, is not in a position to make specific proposals at this stage.

10. At the same time, it should be noted that option (a) in paragraph 14 of document CX/GP 03/19/3-Add.1 foresees the maintenance of the *status quo* combined with stricter application of relevant criteria. The criteria for eligibility of international non-governmental organizations not having status or official relations with FAO and WHO are set out in Section 3 of the Principles, while the information required of organizations requesting observer status are listed in the Annex to the Principles. While those criteria and information may be seen as generally sufficient to enable the Directors-General to appropriately evaluate applications by international non-governmental organizations, the Committee may wish to consider the following suggestions, whether or not Rule VII.5, and consequently the admission procedure envisaged in the Principles, are revised:

- Section 3 of the Principles request that international non-governmental organizations be “international in structure and scope of activity”. The Directors-General have been confronted on a few occasions with applications from organizations which had members and were active in a very limited number of countries, sometimes only two. Doubts could be raised as to the genuinely international nature of such organizations, but in the absence of specific guidance in the Principles the Directors-General did not deem it appropriate to reject those applications. The Committee may wish to recommend tightening that criterion, for example by indicating that an applicant should be active in at least four or five countries, or else by explicitly empowering the Directors-General to consider whether international non-governmental organizations of this nature satisfy the aforementioned criterion;
- One of the concerns voiced by the joint FAO/WHO Evaluation appears to be the *bona fide* nature of the international non-governmental organizations applying for observer status, in other words, the fact that the organizations concerned should be “real” organizations, carrying out activities and functions at the international level in representation of the interests of its members. Applicant organizations should thus not be established for the sole purpose of becoming observers in Codex meetings. It can be argued that only in the former case would an international non-governmental organization be able to fulfil the purpose of the Principles, namely, “*to secure for the Codex Alimentarius Commission, expert information, advice and assistance and to enable organizations which represent important sections of public opinion and are authorities in their fields of professional and technical competence to express the views of their members and to play an appropriate role in ensuring the harmonizing of intersectoral interests among the various sectoral bodies concerned in a country, regional or global setting*”. Also in this case, the Directors-General were confronted with a few applications by organizations which appeared to have just been established. The Committee may wish to recommend that the Principles be amended to require that an applicant for observer status should have been established a certain number of years preceding its applications, and should be able to demonstrate that it is in effect carrying out substantive activities;
- The Principles address the problem of international non-governmental organizations that are members of larger organizations (“umbrella organizations”), to avoid an inappropriate over-representation of virtually the same interests. Thus, Section 4.2 provides that “*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.*” The Principles, however, do not address the case of an umbrella organization applying for observer status when some of its members

already enjoy that status in Codex. The Directors-General recently received a request of this nature, which however was not eventually pursued by the organization concerned. The Committee may recommend amending section 4.2 to also address the case just referred to.

POSSIBLE ACTION BY THE COMMITTEE

11. The Committee is invited to review the present document and provide such guidance to the Secretariat and the Legal Counsels of FAO and WHO as deemed appropriate. More specifically, the Committee is invited to consider the possible revision of Rule VII.5 also in the light of the considerations contained in the present document. The Committee is also invited to consider the possible revision of the criteria proposed in paragraph 10 above.