

TERMS OF REFERENCE AND RULES OF PROCEDURE FOR THE SUBSIDIARY BODY ON DISPUTE SETTLEMENT

Terms of Reference

1. Scope of the Subsidiary Body on Dispute Settlement

The Subsidiary Body on Dispute Settlement manages the dispute settlement functions of the CPM and provides assistance to the CPM with regard to dispute settlement in the WTO and other organizations.

2. Objective

The main objective of the Subsidiary Body on Dispute Settlement is the oversight, administration and support of the IPPC dispute settlement procedures.

3. Structure of the Subsidiary Body on Dispute Settlement

The Subsidiary Body on Dispute Settlement consists of 7 members, one member drawn from each of the FAO Regions.

4. Functions of the Subsidiary Body on Dispute Settlement

The Subsidiary Body on Dispute Settlement has the following functions:

1. Provide guidance to the Secretariat and disputing parties in selecting appropriate dispute resolution methods and may assist in conducting or administering consultation, good offices, mediation, or arbitration.
2. Propose nominations for independent experts using Expert Committee procedures (see the report of the second session of the ICPM, Appendix IX, Section 4 and the report of the third session of the ICPM, Appendix XI, Section H, paragraph 27b) where the disputing parties cannot agree on experts proposed by the Secretariat.
3. Approve reports of Expert Committees including verification of all points in Expert Committee procedures (see the report of the second session of the ICPM, Appendix IX, Section 4 and the report of the third session of the ICPM, Appendix XI, Section F); and
4. Undertake other functions as directed by the CPM, which may include:
 - a) assist the Secretariat with requests from WTO or other organizations;
 - b) report on IPPC dispute settlement activities as well as dispute settlement activities undertaken or completed by other organizations that have implications for the phytosanitary community;
 - c) assist in identifying appropriate experts (e.g. for WTO dispute settlement);
 - d) assist in review and maintenance of expert rosters; and
 - e) identify appropriate training opportunities.

5. IPPC Secretariat

The Secretariat provides administrative, technical and editorial support as required by the Subsidiary Body on Dispute Settlement. The Secretariat is responsible for reporting and record keeping regarding the dispute settlement activities.

Rules of procedure

1. Except as indicated below, the rules of procedure of the CPM will apply *mutatis mutandis* to the subsidiary body.
2. Membership. Members of the Subsidiary Body on Dispute Settlement serve for terms of two years, with a maximum of six years.

3. Chair. The subsidiary body elects its Chairperson and Vice-Chairperson from among its membership.
4. Qualifications of subsidiary body members. Experts should have:
 - a) experience in phytosanitary systems;
 - b) familiarity with the IPPC and International Standards for Phytosanitary Measures;
 - c) experience with regulations/legislation; and
 - d) preferably some form of dispute settlement or conflict resolution knowledge, qualifications and/or experience.
5. Meetings. The subsidiary body meets at least once per year, preferably at the occasion of the regular session of the CPM. Other meetings shall be set by the Chairperson of the subsidiary body as needed, in particular, for the review and approval of Expert Committee reports and the development of reports for the CPM. The subsidiary body will normally work by mail, facsimile and e-mail, and in the most cost-effective manner within the available resources.
6. Observers. Meetings of the subsidiary body are generally open according to Rule VII of the Rules of Procedure for the CPM, but the subsidiary body may determine that certain meetings or business need to be conducted without observers, in particular where confidential or controversial information is involved.
7. Language. The working language of the subsidiary body will be English.
8. Decision-making. The subsidiary body strives for consensus on all decisions but may vote where necessary using a 2/3 majority to take decisions. Decisions shall include dissenting opinions where requested.
9. Amendments. Amendments to the functions and procedures of the subsidiary body will be promulgated by the CPM as required.
10. Confidentiality. The subsidiary body shall exercise due respect for confidentiality where sensitive information is identified by disputing parties.