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Convention

REPORT

TENTH SESSION OF THE STRATEGIC PLANNING GROUP MEETING (SPG)

**VIRTUAL MEETING
19 AND 21 OCTOBER 2021**

IPPC SECRETARIAT

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1. Opening of the Meeting

- [1] Mr John GREIFER, SPG Chairperson, opened the meeting and welcomed all participants, underlining the critical role of the SPG as IPPC subsidiary body to strategic discussion. He recalled the SPG agenda is touching upon a number of very important items. He underlined the high attendance to the SPG this year, with more registered IPPC contracting parties and participants than ever.
- [2] Mr Avetik NERSISYAN, IPPC Secretary Officer-in-Charge for daily matters, welcomed all participants and noted the broad participation to this year's session of the Strategic Planning Group (SPG-10). He recalled the positive engagement and participation by the IPPC community at the fifteenth session of the Commission on Phytosanitary Measures (CPM) and encouraged all SPG participants to engage one another in strategic discussions. He underlined the SPG role as the space for long-term strategic discussions and supporting the IPPC community to push the boundaries of our daily matters to adapt to a changing international environment.

2. Meeting Arrangements

2.1 Adoption of the Agenda

- [3] The SPG Chairperson noted the IPPC Secretariat's request to add an item under Any Other Business (AOB) to update SPG participants on the CPM-16 arrangements and Japan asked to receive an update on the IPPC Secretary selection process. Mr GREIFER added these two items under AOB.
- [4] The Agenda was adopted without modifications and is attached to this report as [Annex 1](#).

2.2 Election of the Rapporteur

- [5] Ms Tanya STAFFEN (CANADA) was elected as Rapporteur for SPG-10.

3. Administrative Matters

3.1 Documents list

- [6] The List of Documents was circulated and is attached to this report as [Annex 2](#).

3.2 Participants list

- [7] The List of Participants is attached to this report as [Annex 3](#).

4. Monitoring the IPPC Strategic Framework: Discussion items from CPM Focus Groups (FGs)

4.1 Preliminary outcomes and recommendations from the CPM FG on Pest Outbreak Alert and Response Systems

- [8] Ms Mirelle MARCOTTE, Chairperson of the CPM FG on Pest Outbreak Alert and Response System (POARS)¹, presented the preliminary outcomes of the CPM FG, such as the necessary components to build such systems. She highlighted the suggestions on definition of the term "emerging pests", considerations related to the pest reporting information systems and necessary tools to be available through POARS. The potential governance model and budgetary requirements were presented, inviting the SPG to discuss the considerations made, and to provide strategic direction to the CPM FG on POARS.
- [9] The SPG noted the excellent work done by the CPM FG on POARS and commended them for the thorough preliminary outcomes. Several SPG participants raised some concerns about the inclusion and use of National Reporting Obligations (NRO) data, suggesting that it may be complemented or

¹ Paper [04 SPG 2021 Oct](#)

improved before it can be reliably used; the role of Regional Plant Protection Organizations (RPPOs), which may provide support, could be better identified. In addition, SPG members suggested to revise the use of the verb “to enforce” as it would not be indicated in the context of RPPO’s role. It was also noted that the POARS management is better suited at the national level.

[10] Some SPG participants appreciated the proposal to establish an emergency response fund in line with CPM-14 (2019) request and suggested to involve National Plant Protection Organizations (NPPOs) more in the dialogue on this matter. One SPG participant recalled the Bureau request for the IPPC Secretariat to avoid engaging in field work directly (i.e., pest response control or eradication programs), noting that some elements in the preliminary outcomes may entail working in the field.

[11] The SPG expressed concerns regarding the suggestion to establish an additional subsidiary body as well as the sustainability of the proposed governance mechanism, underlining that the Regular Programme budget should keep supporting the IPPC core activities primarily. Several SPG participants agreed that the FG could consider alternatives, where for example the FG could transition to a steering group reporting to IC or to the bureau as a potential interim step. The steering group could develop a resource mobilisation plan and focus on identifying donors. The SPG suggested the CPM FG to include in the document lessons learnt from the FAO/IPPC Fall Armyworm Technical Working Group and the IC Team on *Fusarium oxysporum* f. sp. *cubense* Tropical Race 4, and to liaise with FAO units dealing with this topic. One SPG participant suggested to that the FG consider whether a pest of longstanding concern be included in the system in accordance with the IPPC contracting parties’ needs.

[12] The SPG:

- (1) *Thanked* the CPM FG for the outstanding preliminary outcomes and report.
- (2) *Noted* that the full report covering all activities of the CPM Focus Group on Pest Outbreak Alert and Response Systems will be published in early 2022.
- (3) *Discussed* the considerations made by the CPM Focus Group on Pest Outbreak Alert and Response Systems and *Requested* this Focus Group to consider the following issues when revising their report and preparing their recommendations to CPM-16 (2022):
 - concerns about the long-term impact and funding implications and challenges of establishing a new CPM Subsidiary body and the need to take into account the potential benefits and the return on investment;
 - potential alternatives, such as the establishment of a steering group and activities it could undertake such as identifying potential sources of funding, in particular for response activities
 - consider further the pest reporting obligations of NPPOs and how to incentivise them to report.
 - providing further information on the role of RPPOs, recognising the differences amongst them and that some degree of flexibility is necessary on roles, keeping in mind that NPPOs are the closer to the outbreak and response circumstances in their regions and should be provided with advice and capacity development;
 - clarifying further that the IPPC Secretariat would not be directly involved in on-site field activities, but rather focus on providing advice and engaging with FAO competent authorities as needed; and
 - seek lessons learned from the FAO FAW group and the IC Team on TR4 and include them in the report.

4.2 Implementation of the Strategic Framework 2020 – 2030 Development Agenda

[13] Mr Peter THOMSON, Chairperson of the CPM FG on the Implementation of the IPPC Strategic Framework 2020 – 2030 Development Agenda Items (SFDAI), presented the outcome² of the first three meetings while also thanking the IPPC Secretariat for coordinating the delivery of essential information within a very short period of time. Mr THOMSON shared the suggested milestones and timeline, elaborated by the CPM FG, underlining that the current planning would need to take into consideration

² [05_SPG_2021_Oct](#)

the IPPC Secretariat's work as well as the other CPM FG work relevant to the IPPC SF 2020 – 2030 DAI implementation. He noted that the CPM FG on SDAI will not be able to provide a comprehensive report until March of 2023 due to the fact that its work overlaps with the work of various other CPM FGs. He concluded that the work of the CPM FGs on the Implementation of the SFDAI and on Communications is intertwined, specifically because linking the IPPC Communication Strategy to the sequencing and prioritisation of the IPPC SF 2020 – 2030 DAI may also function as an extremely effective advocacy document and resource mobilisation plan.

[14] The SPG congratulated the CPM FG for the methodical and logical approach that it has managed to adopt within six weeks from its first meeting. One SPG participant appreciated this approach and underlined that it will provide the support to sequence and prioritise the implementation of the SFDAIs effectively while also helping to identify and leverage other partners and institutions that may be willing to provide additional resources to implement some of the development agenda initiatives. There was a suggestion to maintain a certain degree of flexibility in the implementation plan to address new unforeseen, urgent plant health issues which may arise.

[15] The SPG

- (1) *Thanked* the CPM FG on SFDAI for its work.
- (2) *Suggested* that the CPM Focus Group on the Implementation of the IPPC Strategic Framework 2020 – 2030 Development Agenda liaise with other CPM FGs as relevant and in coordination with the IPPC Secretariat and CPM Bureau.
- (3) *Encouraged* the CPM Focus Group on Implementation of the IPPC Strategic Framework to sequence and prioritise work to avoid overwhelming IPPC Secretariat, including the identification of relevant future partners to support various development agenda items.
- (4) *Encouraged* the CPM Focus Group on Implementation of the IPPC Strategic Framework to complete as much work as possible for the interim report to be presented to CPM 16 and complete full report by CPM 17.

4.3 Climate Change and Phytosanitary Issues: update on the Study on the Impact of Climate Change on Plant Pests

[16] Mr Christopher DALE, Chairperson of the CPM FG on Climate Change and Phytosanitary Issues (CCPI), reported on the activities that have been carried out in the CPM FG's four meetings in the past six weeks³. Mr DALE recalled the composition of the CPM FG, highlighting the different profiles of its members, and the three key outcomes of the IPPC's Action Plan on Climate Change as well as an initial set of proposed activities.

[17] The SPG welcomed the update, noting with satisfaction that the CPM FG is on the right track to deliver it work within its allotted time.

[18] The SPG

- (1) *Thanked* the CPM FG on Climate Change and Phytosanitary Issues for its work.

4.4 Communications

[19] Lihong ZHU, Chairperson of the CPM FG on Communications, outlined the initial work delivered by the CPM FG during its first three meetings in the past six weeks and thanked the work done by the IPPC Secretariat in supporting this group. She highlighted the main items that have been identified to compose the IPPC Communication Strategy⁴.

[20] Some SPG participants commented extremely positively on the suggested approach while suggesting to include actions to mainstream plant health messaging in relevant international fora as an additional

³ [06_SPG_2021_Oct](#)

⁴ The presentation on this item may be found at this [location](#).

objective, particularly those that deal with biodiversity, climate change and the environment, and also to ensure a active coordination with RPPOs and NPPOs by the IPPC Secretariat.

[21] The SPG

(1) *Thanked* the CPM Focus Group on Communications for its work.

4.5 Sea Containers draft Terms of Reference

[22] Mr Dominique PELLETIER, IC Chairperson, recalled the recent events that led to the discussion on the possible creation of a CPM FG on Sea Containers⁵, particularly the recent CPM-15 (2021) discussion on the best way to move this topic forward, noting that the work of the Sea Container Task Force ends its mandate in 2021 after six years. He also recalled the CPM Bureau decision to remove the organization of a Sea Container International Workshop from the CPM FG Terms of Reference, as per the request from the IC and agreements of the CPM Bureau. Mr Greg WOLFF, Sea Container Task Force Chairperson, clarified that an informal steering committee was established by the IPPC Secretariat to begin the workshop preparation. He also clarified that the CPM FG is expected to report back to CPM-17 in 2023.

[23] The ToRs for the new Focus Group were discussed by SPG.. Several SPG participants commented on the draft ToRs⁶, including suggestions that: the selection criteria for experts be modified to increase NPPO representatives for a more balanced membership and including information on timeframe; types of expertise needed on the FG; industry participation; risk assessment vs risk management expertise needed; consider, whether new supply chain issues need to be considered. Overall, the SPG appreciated the presented work, thanking the Task Force Chair and members for the five years of focused efforts in addressing the complex sea container topic.

4.6 ePhyto

[24] The IPPC Secretariat updated⁷ the SPG on the status of the ePhyto solution, specifying that through 30 September 2021, the system is exchanging an average of 100,000 ePhyto certificates per month and reported the involvement of additional countries approaching the platform. The SPG was reminded that the call for experts to join the CPM Focus Group on ePhyto Sustainable Funding is currently open.

[25] One SPG participant highlighted that the ePhyto solution is an IPPC top strategic initiative with high returns on the initial investment, particularly important during the COVID-19 pandemic. The SPG was also informed that Australia, New Zealand and the Asia and Pacific Plant Protection Commission (APPPC) have created an ePhyto coordinator position to help support countries in the region develop an ePhyto solution and that the summary of this experience may be shared with the IPPC community upon request.

[26] Overall, the SPG noted the continued advances being made with implementing the ePhyto solution with many looking forward to the recommendations to be developed and presented to CPM-16 on future long term funding options.

5. Other Emerging Strategic Topics

5.1 IPPC and “One Health”

[27] The IPPC Secretariat introduced the paper⁸ on the IPPC Secretariat involvement in activities related to One Health by showcasing the linkages with the CPM FG on POARS and the inclusion in the

⁵ [18 SPG 2021 Oct](#)

⁶ Revised draft TORs is provide as [Annex 4](#) to this report

⁷ [17 SPG 2021 Oct](#)

⁸ [08 SPG 2021 Oct](#)

Programme Priority Area 3 (One Health) of the new FAO Strategic Framework 2022 – 2030⁹ as well as its role in the FAO working group on Antimicrobial Resistance (AMR). The IPPC Secretariat also recalled that the discussion on the One Health approach has already occurred with other institutions, also within FAO, and made efforts to keep the plant health component alive within said approach. It was also explained that there is demand for relevant information and data regarding plant health and partner organisations are very much willing to cooperate with the IPPC Secretariat on this matter.

- [28] New Zealand presented its views on the One Health approach¹⁰, underlining the importance of striking a balance between the concrete contribution and benefits in relation to the current IPPC priorities and available resources that the IPPC community may provide to – and receive from – the One Health approach, particularly in light of the CPM Bureau conclusion suggesting that these appear to be very small. New Zealand suggested that a wider involvement by the CPM Bureau and the IPPC Secretariat is not currently justifiable, but that the IPPC community should remain available for future discussions on the role of plant health in the One Health approach. New Zealand considered it is more likely that benefits will be delivered through engagement at a national level in the One Health approach among academics, researchers and NPPO officers in contracting party countries, rather than engagement among International Standard Setting Bodies.
- [29] Argentina explained its views on this matter¹¹ but also noted a convergence of positions on this item, underlining the important role of plant health in the One Health approach and thus the IPPC community role.
- [30] The SPG discussed the three papers and noted that several SPG participants already agreed on the fact that the IPPC Secretariat should continue to monitor the discussions and be involved in One Health dialogues within FAO and in other relevant contexts only when it contributes concretely to the advancement of the IPPC mission. One SPG participant clarified that the European Food Safety Agency is currently mapping the gaps in the One Health approach, which can be shared once finalised.
- [31] The SPG agreed that there are clear linkages between plant health and nutrition, environment animal health, but that the discussion is fluid and changing, underlining how the One Health discussion focused on antimicrobial resistance only as early as four years ago whilst today's discussion focuses on environmental issues predominantly. The SPG concluded that the IPPC Secretariat should continue participating in the One Health dialogue but intervene and commit IPPC resources only when the link to the IPPC work is clear and the benefit is tangible. The SPG suggested that the IPPC Secretariat follows a similar approach as per other groups, such as the biodiversity liaison group, and drafts a consolidated version aligning the three papers on One Health while also considering the potential involvement of the CPM FG on Communications to help convey the long-standing role and contributions that plant health authorities and programmes contribute to food security, production, nutrition and environmental health.
- [32] The SPG concluded that the situation requires the passive participation by the IPPC Secretariat to the One Health discussions aiming at providing its contribution as appropriate and on topics relevant to the IPPC.
- [33] The SPG:
- (1) *Agreed* that the IPPC Secretariat should continue monitoring and participating in the FAO One Health discussions and reporting back to the SPG and Bureau, while ensuring any work or commitments are strictly aligned with the IPPC work and strategic priorities.
 - (2) *Asked* the IPPC Secretariat to draft a new paper on One Health that considers the SPG viewpoints as well as the papers presented by Argentina and New Zealand, as an update to CPM-16.

⁹ <http://www.fao.org/3/ne577en/ne577en.pdf>

¹⁰ [14 SPG 2021 Oct](#)

¹¹ [20 SPG 2021 Oct](#)

5.2 IPPC Partnership strategy, including industry engagement

- [34] The IPPC Secretariat introduced the topic¹² to the SPG, highlighting the review of the current IPPC partners and sought strategic guidance to finalise it for CPM discussion. The SPG noted that the paper reviewed the standing partnerships, also containing detailed information on the general approach to developing new partnerships.
- [35] Several SPG participants expressed the need to proceed cautiously when approaching partnerships keeping in mind the differences that occur in different geographic areas. The SPG highlighted the different experiences that may take place in different countries while one SPG participant underlined the importance to make the criteria and benefits of being an IPPC partner explicit, if going on this path on formalizing the process.
- [36] Some SPG participants underlined the successful approach of establishing advisory groups, which may include industry involvement as per the case for ePhyto and sea containers. One SPG participant recalled that the IPPC had already developed a stakeholder engagement manual¹³, which may support the partnership process. Several SPG participants noted the need to balance the need for flexibility with the need to ensure that there is a process which is acceptable to CPs. Some SPG participants noted that CPM may consider the inclusion of a case-by-case approach with respect to the involvement of industry or other external groups in the work of the IPPC, depending on their need and merit.
- [37] The SPG agreed that the IPPC Secretariat should include an update on the IPPC Partnership Strategy at CPM-16 and update into an IPPC Partnership Framework, to be presented at SPG-11.
- [38] The SPG:
- (1) *Asked* the IPPC Secretariat to deliver an update on the status of the IPPC Partnership Strategy at CPM-16 and update the current document into an IPPC Partnership Framework by SPG-11.
 - (2) *Suggested* including in the update for CPM suggestions on what defines a high value partner, simplified criteria to help determine what a partnership is and a review of whether there should be a strategy or framework (or both) for partnerships as well as indicate clear criteria to help identify potential partners.

5.3 Other strategic topics submitted by contracting parties

- *Certification, prepared by New Zealand*¹⁴

- [39] New Zealand introduced the discussion suggesting modifications to the International Standard for Phytosanitary Measure (ISPM) 12 for the inclusion of non-phytosanitary matters on phytosanitary certificates. The proposal aims to align with the Trade Facilitation Agreement¹⁵ (TFA) of the World Trade Organization to minimise the incidence and complexity of import, export and transit formalities and to decrease and simplify import, export and transit documentation. New Zealand also discussed the wider trend of consolidating and digitalising trade documentation to increase border clearance efficiencies.
- [40] New Zealand concluded that ISPM-12 could be revised to include – on a bilateral and voluntary basis – the insertion of additional government-to-government assurances. In addition, with the move to electronic certificates, the IPPC community should consider a more flexible and pragmatic approach. New Zealand also suggested that the IPPC Secretariat could engage more in an active programme of cooperation with *Codex Alimentarius* and OiE to ensure maximal alignment of principles and templates. Particularly, New Zealand discussed the benefits of harmonisation between *Codex Alimentarius*, OiE

¹² [09_SPG_2021_Oct](#)

¹³ [Manual on Managing Relationships with Stakeholders](#)

¹⁴ [15_SPG_2021_Oct](#)

¹⁵ https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm

and the IPPC through a platform such as the ePhyto to achieve an SPS certification in the long run that focuses on the content rather than the format.

[41] Mr Ezequiel FERRO, Chairperson of the Standards Committee (SC), reminded the SPG that the ISPM-12 has been one of the most revised standards since its adoption in 2001 and that changes to the ISPM must follow the proper process. The IPPC Secretariat welcomed the proposal as it is addressing the reality of the world today where there is a need to harmonise and digitalise certifications globally.

[42] Several SPG participants expressed appreciation for the discussion generated by New Zealand's proposal on the implementation of the single window¹⁶ and electronic certification and the increased cooperation with *Codex Alimentarius* and OiE. Although some SPG participants suggested benchmarking ISPMs within the IPPC community first before attempting to harmonise certifications amongst the three sisters¹⁷. Many SPG participants also highlighted the far-reaching impacts of opening up the certificate to include other government assurances could have for NPPOs (with respect to certifying statements that are not within the competence and legal authority of the NPPO itself) as well as the IPPC. Several suggested further exploring the idea of using the IPPC hub to provide the additional assurances rather than opening up the certificate.

[43] One SPG participant expressed great concerns regarding the proposal as it may result in importing countries requesting non-phytosanitary information within the certificate, which may in turn create unnecessary barriers to trade for those countries unable to comply with such requests. Other SPG participants also noted that providing government-to-government assurances may dilute NPPO's role if additional clearance becomes necessary to issue phytosanitary certificates.

[44] Several SPG participants expressed reservations and concerns on the presented concept, ranging from operational to accountability (NPPO's responsibility in issuing non-plant-health related assurances on phytosanitary certificates), as well as legal implications, dilution of the phytosanitary certification process or any other unintended consequences. Some SPG participants suggested that the matter may be addressed by the emergence of the single window application at the national level.

[45] The SPG:

- (1) *Welcomed* the strategic discussion on certification, noting however that it is a long-term discussion that may require an in-depth revision of the IPPC text itself.
- (2) *Suggested* continuing the discussion on this matter within the IPPC community, keeping in mind the potential future role of the IPPC hub for electronic certification exchange, particularly in providing a government-to-government assurance.
- (3) *Agreed* that further collaboration with *Codex Alimentarius* and OiE should be strengthened.
- (4) *Asked* New Zealand to reflect on the feedback provided and draft a revised discussion paper which might outline a mechanism for further exploring discussion on e-phyto and coordination with CODEX and OiE for CPM-16.

- *Expanding the use of the phytosanitary capacity evaluation (PCE) tool, prepared by Australia and New Zealand*¹⁸

[46] Australia introduced the paper expressing the wish to engage the SPG on this topic to make sure that the Phytosanitary Capacity Evaluation (PCE) remains a significant and accessible tool. Australia and New Zealand raised concerns regarding the Phytosanitary Capacity Evaluation (PCE) tool and its accessibility, particularly regarding costs and complexity for conducting full, formal, comprehensive evaluations. Australia suggested the adoption of a more open access mechanism without the need to engage through a project arrangement that is external to the contracting party.

¹⁶ More information on the single window may be found in [Article 10, Section 4 of the WTO TFA](#)

¹⁷ IPPC, *Codex Alimentarius* and OiE are often referred to as *the three sisters*,

¹⁸ [16 SPG 2021 Oct](#)

- [47] Australia and New Zealand are of the opinion that PCEs are out of reach for many and, therefore, the full potential of the tool is not being realised in terms of identifying and addressing gaps and issues in phytosanitary systems of contracting parties. Australia and New Zealand suggested a desk study of the tool's accessibility aiming to improve the accessibility and ease of use, as well as ensure regional sensitivity of application to make the PCE recommendations regionally appropriate. It was also noted that it might be desirable to recognise different status for PCEs to meet the needs of contracting parties that might at times desire a less formal and total review (i.e., a "lite PCE").
- [48] The IPPC Secretariat welcomed the observations and underlined that PCEs are an IPPC foundational tool, highlighted in the IPPC SF 2020 – 2030 and under the IC oversight. The IPPC Secretariat indicated that the tool is flexible enough to take into account the national and regional specificities, either legal or technical. As evidence, the IPPC Secretariat has implemented PCEs in more than seventy countries over the last twenty years, improving the legal frameworks and the strategies in different regional contexts. One such example is Nicaragua, which updated its legislation within three months of a PCE. Furthermore, in the last two years, the PCE was implemented in nine countries, and further requests are in progress, which is proof that IPPC CPs recognize the PCE as a significant tool.
- [49] The IPPC Secretariat managed a project funded by the STDF, evaluated by Ms Lois RANSOM, to train PCE facilitators from 2014-2018. This project allowed PCE facilitators to not only gain phytosanitary knowledge but also a better understanding and mastery of the PCE process and its methodological tools. The IPPC Secretariat highlighted the desk study findings on the widespread recognition and support for the PCE as a management tool by the IPPC Community and that the PCE is under resourced and needs adaptation. The IPPC Secretariat recalled the CPM Bureau decision to allocate additional resources from the 2020 savings to improve the PCE tool, which the IC PCE Team is using to produce a policy for certified PCE facilitators, a confidentiality agreement, it is currently considering the development of users requirements, with assistance from the UN International Computer Centre (UNICC), for an improved PCE platform.
- [50] The IPPC Secretariat recalled that PCEs also provide additional benefits to the revision of the phytosanitary legislation and the drafting of a National Phytosanitary Capacity Development Strategy, such as a better dialogue with stakeholders in understanding the NPPO's role in the national context, staff capacity development opportunities, better understanding and dissemination of IPPC guides and training materials, clearer national phytosanitary priorities and related necessary resources.
- [51] The NEPPPO representative, having implemented the PCE in a few countries, indicated that the process is quite complex and that the countries have benefited from the help of a facilitator. He noted that during PCE process, the tool enhanced the process of communication and coordination with all relevant stakeholders.
- [52] The representative from Nicaragua shared all the benefits the PCE brought to the country. This included the revision of the Phytosanitary law, the building of an enhanced dialogue with stakeholders and clarity gained on priorities and the capacities within the NPPO.
- [53] The SPG agreed that the PCE is an excellent tool of the IPPC Secretariat but noted that there are issues related to its applicability, including a general lack of information amongst IPPC CPs, which are the ones who must evaluate the outcomes of the desk study.
- [54] The SPG:
- (1) *Asked* the IPPC Secretariat to include considerations related to accessibility and flexibility of the PCE to the ongoing desk study and to present the main conclusions and proposals for the way forward to CPM-16 in 2022.
 - (2) *Agreed* that Australia would work with the IPPC Secretariat to ensure that the terms of reference for this evaluation of the PCE take into account their suggestions about accessibility, especially with respect to exploring the feasibility of developing a PCE lite version

6. International Year of Plant Health Legacies

6.1 International Plant Health Conference

- [55] The IPPC Secretariat updated the SPG regarding the ongoing preparation of the first ever International Plant Health Conference (IPHC), noting it is one of the major legacies of the International Year of Plant Health (IYPH), which ended on 1 July 2021. The IPPC Secretariat recalled that the IPHC was postponed due to the COVID-19 pandemic and is currently engaged in negotiations with a potential host country, which may provide a formal decision on the matter in the coming weeks.
- [56] The IPPC Secretariat specified that the IPHC dates may be 9 – 11 May 2022, in the hope to plan activities and initiatives for the first International Day of Plant Health (IDPH) for May 12th, 2022, if approved by the United Nations General Assembly. The IPPC Secretariat recalled that the IYPH International Steering Committee (ISC) presented a detailed programme in which it outlined the four main themes which were selected during the fifth meeting of the IYPH Steering Committee (StC, now IYPH Technical Advisory Board - TAB). The IPHC's objective is to provide a forum to discuss global scientific, technical and regulatory plant health issues. The main outputs from the conference would be scientific and technical information on plant health issues, which would be published electronically and with selected publications in book format.
- [57] The IPPC Secretariat also clarified that the negotiations with the potential host country are focusing on logistics and that the content is still under the purview of the IYPH TAB, which needs to be converted into the IDPH ISC. The IPPC Secretariat reported about the informal option to provide additional resources to the IPHC once the potential host country has formally communicated its final decision.
- [58] The Republic of Korea reminded the SPG about its donation of USD 40 162 to the IPPC Secretariat for IPHC and announced its availability to support the IPHC once a formal communication is shared.
- [59] The European Commission recalled that it is still committed to provide up to EUR 300 000 to the IPPC Secretariat through its co-funding mechanism, which would support participation from developing countries and should be made available upon confirmation of the potential host country.
- [60] The IPPC Secretariat thanked the Republic of Korea and the European Commission for their commitments towards the IPHC and reminded that the United Kingdom has also allocated USD 77 586 approximately to the IPPC Secretariat for the Conference.
- [61] The SPG:
- (1) *Welcomed* the update on the International Plant Health Conference.
 - (2) *Thanked* the Republic of Korea, the European Commission and the United Kingdom for their financial contribution to the IPPC Secretariat for the International Plant Health Conference.

6.2 International Day of Plant Health

- [62] The IPPC Secretariat updated the SPG on the establishment of the International Day of Plant Health¹⁹, which was supposed to be tabled at the Second Committee of the General Assembly of the United Nations (UN). The IPPC Secretariat noted that the Second Committee Bureau did not allow any resolution from United Nations organizations and specialised agencies regarding the establishment of international observances due to the current COVID-19 situation. This situation has introduced some uncertainty about whether or not the UN will approve this international day proposal. This remains a fluid situation.
- [63] The IPPC Secretariat summarised the steps leading to the FAO Director-General, Mr QU Dongyu, forwarding the FAO Conference Resolution asking for the IDPH establishment on 12 May each year to the UN Secretary-General Director-General, Mr Antonio GUTERRES. The IPPC Secretariat invited

¹⁹ [11_SPG_2021_Oct](#)

the SPG to find potential alternative methods to table the request at the General Assembly of the United Nations.

[64] The SPG underlined the importance of avoiding the use of celebration and to keep the focus on raising awareness and supporting plant health internationally. Several SPG participants highlighted the linkages between the International Day of Plant Health and the CPM Focus Group on Communications.

[65] The SPG:

- (1) *Noted* the update on the establishment on the International Day of Plant Health and requested that a further update be provided at CPM 2022;
- (2) *Agreed* that the CPM Focus Group on Communications should consider alternative promotional activity in lieu of the International Day of Plant Health, if the General Assembly of the United Nations does not received such a request at its seventy-sixth session.

7. Other issues for strategic SPG input

7.1 Revised IC TOR and ROP

[66] The IPPC Secretariat recalled the process that led to the revision of the Terms of Reference (TOR) and Rules of Procedure (ROP) of the Implementation and Capacity Development Committee. The revised IC TOR and ROP were presented for adoption during CPM-15 (2021). At the time, some CPs and one regional plant protection organization (RPPO) asked for more time and the revised IC TOR and ROP were deferred for consideration to a future session of the CPM.

[67] In July 2021, the IPPC Secretariat liaised with the European Union (EU) member states and the Comité de Sanidad Vegetal del Cono Sur (COSAVE) to try to get a better understanding of their concerns regarding the proposed IC TOR and ROP. The COSAVE's member countries responded that they no longer had any concerns. The EU informed the Secretariat they would provide a paper to the SPG to explain their position..

[68] The IPPC Secretariat submitted the proposed revisions of the IC TOR and ROP to the SPG²⁰. The EU also submitted a paper²¹ to the SPG.

[69] The European Commission (EC) presented the EU paper The EC raised a point on the IC membership suggesting that a composition of twelve members with relevant skills and experience in implementing phytosanitary related instruments and/or capacity developments. Out of these, seven should be representatives of each of the FAO regions while five should be experts. Representatives of RPPOs and the SC should be nominated as permanent observers. The second point considered was the oversight of the dispute settlement function removed from the TOR and this function transferred to the CPM Bureau because the EU Member States believe this function is outside the mandate of the IC, and that the CPM Bureau is better placed to carry out this function.

[70] Several SPG participants supported the review of the IC Terms of Reference and the SPG agreed on recommending that dispute settlement be removed from the IC TOR, while noting that the dispute avoidance should remain within the IC mandate. One SPG participant highlighted that most of the functions regarding the IPPC dispute settlement process are carried out by the IPPC Secretary.

[71] The SPG discussed the roles of the representatives from the Standards Committee and Regional Plant Protection Organizations (RPPOs) and agreed that they should be full-fledged IC members but not be eligible to take on the roles of the Chairperson or Vice-chairperson.

[72] The SPG:

²⁰ [12 SPG 2021 Oct](#)

²¹ [19 SPG 2021 Oct](#)

- (1) *Recommended* that the Representatives from RPPOs and SC be considered members but not eligible to take on the roles of the Chairperson or Vice-chairperson.
- (2) *Recommended* that dispute settlement be removed from the IC Terms of Reference, noting that the dispute avoidance should remain within the IC mandate.
- (3) *Recommended* the revised Terms of Reference for the IC Committee be submitted to CPM-16 (2022).

7.2 Framework for Standards and Implementation

[73] The IPPC Secretariat summarised the recent developments²² of the Framework for Standards and Implementation, which was updated at the IC June 2021 virtual meeting and the SC July 2021 virtual focused meeting. The Framework presents a comprehensive overview of the existing or proposed standards and tools for implementation according to the IPPC Strategic Framework 2020-2030 Strategic objectives and specific key result areas. As such, it helps identify gaps capturing the CPM priorities to guide the inclusion of submitted topics into the list of topics for IPPC standards or Implementation and Capacity Development topics.

[74] The SPG appreciated the effort in compiling and maintaining all the information in one document but some SPG participants highlighted that the IPPC Secretariat, the SC and IC spend a considerable amount of time on it. The SPG discussed the usefulness of the Framework and concluded that a simplified listing of completed and draft ISPMs together with implementation projects would be useful for awareness and tracking of these core IPPC materials, rather than the current complex matrix and format. The SPG suggested that the IPPC Secretariat propose a less onerous approach for producing and maintaining such a list..

[75] The SPG:

- (1) *Recommended* the Framework for Standards and Implementation for endorsement by CPM-16 (2022).
- (2) *Asked* the IPPC Secretariat to prepare a paper for CPM-16 (2022) on an alternative way of presenting the content of the Framework for Standards to streamline the process for compiling and maintaining the list that would improve its usability and reduce costs.

7.3 IPPC Dispute Settlement Procedure

[76] The IPPC Secretariat recalled the history of how the IPPC Dispute Settlement Procedure was developed and used since it was adopted by the CPM²³ noting that the FAO Legal Office had advised the Secretariat that the IPPC DSP should be revised to remove inconsistencies. The need for this revision was previously noted by the SPG but requested this revision be delayed until the end of the IYPH. In June 2021, the Bureau allocated resources and through the FAO Legal Office, a legal consultant was hired to revise the IPPC DSP..

[77] The FAO legal consultant provided a summary of the proposed revisions to the IPPC DSP. The SPG discussed the proposed revisions and proposed minor edits and shifted text. There was general support from SPG for removing the reference to the complementary WTO Process from the Applicability Section as similar terminology appears already in Article XIII.6 of the IPPC and the WTO DS is well equipped to deal with technical SPS disputes. There was also support from the SPG to increasing the number of experts with IPPC experience to two for the Expert Committee. One SPG participant informed the IPPC Secretariat that its legal office had reviewed the proposal and expressed a concern regarding the inclusion of the complementary WTO process in the applicability section.

[78] Some other SPG participants noted the lack of sufficient time to review the proposed revision to the IPPC DSP in depth and suggested that more time be given. The IPPC Secretariat informed the SPG that

²² [13 SPG 2021 Oct](#)

²³ [21 SPG 2021 Oct](#)

this proposed revision would be recommended to CPM-16 (2022) for adoption, where IPPC CPs may submit further comments for consideration by the CPM.

[79] The SPG:

- (1) *Agreed* to recommend the proposed revision of the IPPC Dispute Settlement Procedure to the CPM with the inclusion of the modifications as recommended by SPG (Presented in Appendix xx)

8. Any Other Business

- *Update on virtual CPM-16*

[80] The IPPC Secretariat informed the SPG of the CPM Bureau decision to hold CPM-16 virtually. The SPG was also informed that a procedure similar to what led to the successful virtual CPM-15 session is being established by the IPPC Secretariat, including a virtual poll²⁴ for IPPC contracting parties to express their position on this matter until 30 November 2021. The IPPC Secretariat specified that a qualified majority of IPPC CPs of one hundred and twenty-three is necessary for CPM-16 to take place virtually.

[81] The SPG:

- (1) *Encouraged* IPPC contracting parties to express their position on holding CPM-16 virtually by the 30 November deadline.

- *Update on the IPPC Secretary Selection process*

[82] The IPPC Secretariat updated the SPG on the status of the IPPC Secretary selection process, specifying that over two hundred applications were received and that the final interviews took place on 21 October 2021. The IPPC Secretariat further specified that the outcome of this selection process may be communicated by the end of 2021 and reassured the SPG that the IPPC community was involved.

[83] One SPG participant underlined the relevance of the IPPC Secretary position for the IPPC work, since it allows increased visibility and high-level communication, noting that the continued delay in this appointment threatens to damage the IPPC community.

[84] The SPG:

- (1) *Noted* the update and expressed its hope that an IPPC Secretary is appointed by the end of 2021.

9. Next Meeting

[85] The next SPG is scheduled on 11 -14 October 2022.

10. Close of the Meeting

[86] The SPG expressed its deepest appreciation for the work of Mr Brent LARSON, lead of the Implementation and Facilitation Unit of the IPPC Secretariat, and wished him all the best in his future endeavours.

[87] The SPG Chairperson expressed his gratitude to Mr LARSON too and thanked all SPG participants for the active participation and positive engagements, closing the meeting.

²⁴ The poll is accessible to IPPC contracting parties through [this link](#).

Appendix 01 - Agenda

AGENDA ITEM		DOCUMENT NO.	PRESENTER / IPPC Secretariat support
1.	Opening of the Meeting		IPPC Secretary John GREIFER
2.	Meeting Arrangements		John GREIFER
2.1.	Adoption of the Agenda	01_SPG_2021_Oct	
2.2.	Election of the Rapporteur	--	
3.	Administrative Matters		Avetik NERSISYAN
3.1.	Document lists	02_SPG_2021_Oct	
3.2.	Participant list	03_SPG_2021_Oct	
4.	Monitoring the IPPC Strategic Framework: Discussion items from CPM Focus Groups (FGs)		
4.1.	Preliminary outcomes and recommendations from the CPM FG on Pest Outbreak Alert and Response Systems	04_SPG_2021_Oct	CPM FG Chairperson Mireille MARCOTTE
4.2.	Implementation of the Strategic Framework 2020 – 2030 Development Agenda	05_SPG_2021_Oct	Peter THOMSON
4.3.	Climate Change and Phytosanitary Issues: update on the Study on the Impact of Climate Change on Plant Pests	06_SPG_2021_Oct	Christopher DALE
4.4.	Communications	07_SPG_2021_Oct	Lihong ZHU
4.5.	Sea Containers draft Terms of Reference	18_SPG_2021_Oct	Dominique PELLETIER
4.6.	ePhyto	17_SPG_2021_Oct	Craig FEDCHOCK
5.	Other Emerging Strategic Topics		
5.1.	IPPC and “One Health”	08_SPG_2021_Oct 14_SPG_2021_Oct 20_SPG_2021_Oct	Sarah BRUNEL Lucien KONAN KOUAME Peter THOMSON NEW ZEALAND Diego QUIROGA ARGENTINA
5.2.	IPPC Partnership strategy, including industry engagement	09_SPG_2021_Oct	Craig FEDCHOCK Riccardo MAZZUCCHELLI
5.3.	Other strategic topics submitted by contracting parties	15_SPG_2021_Oct 16_SPG_2021_Oct	Peter THOMSON NEW ZEALAND Gabrielle VIVAN-SMITH AUSTRALIA
6.	International Year of Plant Health Legacies		
6.1.	International Plant Health Conference	10_SPG_2021_Oct	Riccardo MAZZUCCHELLI
6.2.	International Day of Plant Health	11_SPG_2021_Oct	Riccardo MAZZUCCHELLI
7.	Other issues for strategic SPG input		John GREIFER

AGENDA ITEM		DOCUMENT NO.	PRESENTER / IPPC Secretariat support
7.1.	Revised IC TOR and ROP	12_SPG_2021_Oct 19_SPG_2021_Oct	Brent LARSON Roman VAGNER <i>European Commission</i>
7.2.	Framework for Standards and Implementation	13_SPG_2021_Oct	Brent LARSON
7.3.	IPPC Dispute Settlement Procedure	21_SPG_2021_Oct	Brent LARSON Marta PARDO Joel VILLASECA
8.	Any Other Business		John GREIFER
9.	Next Meeting		John GREIFER
10.	Close of the Meeting		John GREIFER

Appendix 02 – Document list

DOCUMENT NO.	AGENDA ITEM	DOCUMENT TITLE (PREPARED BY)	DATE POSTED / DISTRIBUTED
01_SPG_2021_Oct_Rev_01	02.1	Agenda - link	2021-10-06
02_SPG_2021_Oct	03.1	Documents List - link	2021-10-06
03_SPG_2021_Oct	03.2	Participants List - link	2021-10-05
04_SPG_2021_Oct	04.1	Preliminary outcomes and recommendations from the CPM FG on Pest Outbreak Alert and Response Systems - link	2021-10-05
05_SPG_2021_Oct	04.2	Implementation of the Strategic Framework 2020 – 2030 Development Agenda - link	2021-10-04
06_SPG_2021_Oct	04.3	Climate Change and Phytosanitary Issues: update on the Study on the Impact of Climate Change on Plant Pests - link	2021-10-04
07_SPG_2021_Oct	04.4	Communications - link	2021-09-30
08_SPG_2021_Oct	05.1	IPPC and “One Health” - link	2021-09-30
09_SPG_2021_Oct	05.2	IPPC Partnership strategy, including industry engagement - link	2021-09-30
10_SPG_2021_Oct	06.1	International Plant Health Conference - link	2021-09-29
11_SPG_2021_Oct	06.2	International Day of Plant Health - link	2021-09-30
12_SPG_2021_Oct	07.1	Revised IC TOR and ROP - link	2021-09-30
13_SPG_2021_Oct	07.2	Framework for Standards and Implementation - link	2021-09-24
14_SPG_2021_Oct	05.1	IPPC and One Health - <i>New Zealand</i> - link	2021-09-30
15_SPG_2021_Oct	05.3	Other strategic topics – Certification - <i>New Zealand</i> - link	2021-09-30
16_SPG_2021_Oct	05.3	Other strategic topics - Expanding the use of the Phytosanitary Capacity Evaluation (PCE) tool - <i>New Zealand and Australia</i> - link	2021-09-30
17_SPG_2021_Oct	04.6	ePhyto update - link	2021-09-30
18_SPG_2021_Oct	04.5	Terms of Reference for CPM Focus Group: Sea Containers - link	2021-09-30
19_SPG_2021_Oct	07.1	Revised IC TOR and ROP – <i>EU</i> - link	2021-10-04
20_SPG_2021_Oct	05.1	IPPC and “One Health” – <i>Argentina</i> - link	2021-10-04
21_SPG_2021_Oct	07.3	IPPC Dispute Settlement Procedure - link	2021-10-06
IPP LINKS:			
SPG October 2019 Report			
SPG October 2020 Report			

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Appendix 04 – IPPC Dispute Settlement Procedure (proposed revision)

Prepared by the FAO Legal Services with input from the IPPC Secretariat

1. Introductory Note

- [1] Two sets of dispute settlement procedures (DSPs) under the International Plant Protection Convention (IPPC) were developed and adopted by the Interim Commission on Phytosanitary Measures (ICPM). The first version of the DSPs (1999) were adopted by the ICPM at its 2nd Session in 1999. At that Session, the ICPM also mandated the further elaboration of certain aspects of the 1999 DSPs. As a result, at its 3rd Session in 2001, the ICPM adopted specific procedures (2001 DSPs) set forth in Section F to N of Appendix XI to the Report of the 3rd Session of the ICPM.
- [2] At its 6th Session in 2006, the ICPM established the Subsidiary Body on Dispute Settlement (SBDS) and mandated them to develop an IPPC Dispute Settlement Procedural Manual. A draft Manual was developed by the SBDS drawing upon the 1999 and 2001 DSPs. The Manual was never formally submitted to the CPM for information, endorsement or adoption.
- [3] In 2019, the Strategic Planning Group (SPG), a subsidiary body of the Commission on Phytosanitary Measures (CPM), reviewed a document outlining the difficulties with the 1999 and 2001 DSPs.
- [4] Based on the SPG review, it was agreed that the inconsistencies found in the 1999 and 2001 DSPs should be worked on but this work was postponed until the end of the International Year of Plant Health (IYPH) in June 2021.
- [5] The IPPC Secretariat requested the FAO Legal Office to help develop an updated DSPs. In further discussions with the CPM Bureau, it was felt that the process might benefit from comments from the SPG and agreed to submit the revised DSPs to the SPG in October 2021. It should be noted that the CPM Subsidiary Body on Implementation and Capacity Development Committee (IC) was assigned with the oversight responsibility of dispute avoidance and settlement, after the SBDS was dissolved in 2017.
- [6] The FAO Legal Office drafted the attached DSPs using as basis the 1999 and 2001 DSPs and the Dispute Settlement Manual developed by the SBDS in 2006 and having in mind the need to remove any inconsistencies in the 1999 and 2001 DSPs (which were not significant) as well as making the process clear and simple. Certain elements from the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (as well as other precedents) were also brought in to clarify the process. The source of each clause in the attached DSPs is explained in the footnotes (which will be removed after adoption).
- [7] The attached DSPs are presented to SPG for strategic advice and will be reviewed and revised as needed and then submitted to the CPM for adoption. Upon its adoption, all prior dispute settlement procedures relating to the IPPC, including the 1999 and 2001 DSPs and the 2006 Dispute Settlement Manual, shall be deemed repealed and superseded.
- [8] The SPG is invited to:
 - (2) *review and discuss* the proposed revision of the IPPC Dispute Settlement Procedures, providing strategic direction
 - (3) *agree* to recommend the revised Dispute Settlement Procedures to the CPM for adoption

IPPC DISPUTE SETTLEMENT PROCEDURES

Rome, Italy, (proposed revision) [October] 2021

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Annex 1 Terms of Reference for the Expert Committee**[ACRONYMS]**

CPM	Commission on Phytosanitary Measures
DSPs	Dispute Settlement Procedures
IC	Implementation and Capacity Development Committee
IC Sub-group on DAS	IC Sub-group on Dispute Avoidance and Settlement
ICPM	Interim Commission on Phytosanitary Measures
IPPC	International Plant Protection Convention
ISPMs	International Standard for Phytosanitary Measures
SBDS	Subsidiary Body on Dispute Settlement
WTO	World Trade Organization

1. Introduction

Article XIII of the International Plant Protection Convention (IPPC) (1997) serves as the basis for the dispute settlement procedures:

“1. If there is any dispute regarding the interpretation or application of this Convention, or if a contracting party considers that any action by another contracting party is in conflict with the obligations of the latter under Articles V and VII of this Convention, especially regarding the basis of prohibiting or restricting the imports of plants, plant products or other regulated articles coming from its territories, the contracting parties concerned shall consult among themselves as soon as possible with a view to resolving the dispute.

2. If the dispute cannot be resolved by the means referred to in paragraph 1, the contracting party or parties concerned may request the Director-General of FAO to appoint a committee of experts to consider the question in dispute, in accordance with rules and procedures that may be established by the Commission.

3. This Committee shall include representatives designated by each contracting party concerned. The Committee shall consider the question in dispute, taking into account all documents and other forms of evidence submitted by the contracting parties concerned. The Committee shall prepare a report on the technical aspects of the dispute for the purpose of seeking its resolution. The preparation of the report and its approval shall be according to rules and procedures established by the Commission, and it shall be transmitted by the Director-General to the contracting parties concerned. The report may also be submitted, upon its request, to the competent body of the international organization responsible for resolving trade disputes.

4. The contracting parties agree that the recommendations of such a committee, while not binding in character, will become the basis for renewed consideration by the contracting parties concerned of the matter out of which the disagreement arose.

5. The contracting parties concerned shall share the expenses of the experts.

6. The provisions of this Article shall be complementary to and not in derogation of the dispute settlement procedures provided for in other international agreements dealing with trade matters.”

2. Applicability

2.1 These DSPs shall apply to any dispute regarding the interpretation or application of the IPPC, or, if a contracting party considers that any action by another contracting party is in conflict with the obligations of the latter under the IPPC, especially regarding the basis of prohibiting or restricting the imports of plants, plant products or other regulated articles coming from its territories.²⁵

2.2 These DSPs shall be limited to issues falling within the scope of the IPPC and its associated standards and shall complement the WTO process by providing options for dispute settlement procedures for phytosanitary issues affecting trade. These DSP are primarily aimed at evaluating the technical aspects of phytosanitary disputes. Contracting parties are encouraged to resolve disputes at a technical level whenever possible.²⁶

3. General principles

3.1 The use of these DSPs should not be intended or considered as contentious acts. In case of dispute, all disputing parties will engage in these procedures in good faith in an effort to resolve the dispute.²⁷

²⁵ IPPC, Article XIII, paragraph 1.

²⁶ 1999 DSP, General Considerations (GC) paragraph 3.

²⁷ New. From WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (WTO DSU), Article 3, paragraph 10.

3.2 In any phase of the DSPs, the disputing parties shall be treated with equality and each disputing party shall be given a full opportunity to present its case.²⁸

3.3 The settlement should be conducted as expeditiously as possible.²⁹

3.4 The aim of the DSPs is to secure a positive solution to a dispute and reaching a solution that is mutually acceptable to the disputing parties and consistent with the IPPC and the ISPMs is clearly to be preferred.³⁰

4. Modes for dispute settlement

4.1 Article XIII of the IPPC describes the use of an expert committee for resolving disputes. This is basically a conciliation procedure for dealing with technically-based problems, under which one or both disputing parties may request the Director-General of FAO to appoint a committee of experts to consider the issues in dispute.

4.2 However, contracting parties should take note of Section 6 of *General Considerations* in Appendix IX of the report of ICPM-2, which provides:

“Art XIII does not preclude contracting parties from using any form of dispute resolution, including mediation or other procedures provided that the parties agree to them, and does not limit the contracting parties to the Expert Committee procedures described in Article XIII.2. Contracting parties are encouraged to consult with the IPPC Secretariat or others concerning the range of dispute settlement procedures that may be appropriate for the dispute in question.”

The *General Considerations* then list a number of options:

“Options include but are not limited to:

Consultation, Good Offices, mediation, or arbitration - Contracting parties are encouraged to pursue options such as Good Offices and mediation as alternatives to the Expert Committee procedure provided in Article XIII. These procedures may be conducted or administered with assistance from the IPPC Secretariat and/or a Subsidiary Body designated by the ICPM.

Supplementary Agreements - Dispute settlement procedures may be agreed under Article XVI (Supplementary Agreements). Such procedures may be binding, but are only binding for the parties to the agreement.

Expert Committee (Article XIII) - The outcome of the Expert Committee procedure initiated under Article XIII is non-binding (Article XIII.4).”

4.3 Parties may consult with the IPPC Secretariat in order to decide which is the most appropriate procedure for the dispute. If parties cannot agree on a procedure, the initiating party may decide to use the IPPC expert committee process or to initiate another mode of settlement.

4.4 In general, the modes of dispute settlement available to the parties are as described in paragraphs 4.5 through 4.10 below.

4.5 Consultations

Consultations could be informal or formal. Informal consultation is when the contracting parties consult between themselves, without necessarily involving third parties (e.g., an expert) and the IPPC Secretariat and without having to agree on procedures and other conditions for the consultation. On the other hand, for formal consultation to begin, one or both contracting parties shall have to notify the IPPC Secretariat of their interest in dispute settlement procedures under the IPPC and they have to mutually agree on the procedure, location, facilitator (if requested), confidentiality and other conditions for the consultation. The contracting parties

²⁸ New. From UNCITRAL Model Law on International Commercial Arbitration, Article 18.

²⁹ 1999 DSP, GC paragraph 8.

³⁰ New. From WTO DSU, Article 3, paragraph 7.

concerned may, of course, develop other arrangements for consultations as appropriate to their needs. Where consultations are intended to obtain a resolution, they might take the form of negotiations. On many occasions, consultations often achieve a greater understanding of the points of concern and this may prevent a dispute arising or avoid actions leading to a dispute.³¹

4.6 *Good offices*

This term refers to the assistance provided by a body, persons or person widely believed to be able to supply fair and impartial support for discussions among parties, with some prestige that allows successful intervention in situations where others have not succeeded. This assistance usually takes the form of encouragement to the parties to negotiate when they are unwilling to do so. It may even extend to facilitating dialogue by the passing of messages back and forth – particularly when no diplomatic channel exists between the parties. The supplier of good offices is usually on good terms with both parties but not closely aligned to either party. The essence of good offices is the facilitation of negotiation but the third party facilitator does not get involved in the substance of the dispute. Good offices could also include the provision of advice in the nature of clarification of technical issues or points within the IPPC or ISPMs. An example of such facilitation could be the IC Sub-group on DAS providing advice on the clarification of ISPMs.³²

4.7 *Conciliation*

Conciliation is a procedure that uses an impartial body to resolve a dispute but does not provide a binding decision. The procedure described in Article XIII of the IPPC, which uses an expert committee as an impartial body and does not have a binding result, is a form of conciliation. The Expert Committee process will be discussed in more detail in the following section.³³

4.8 *Mediation*

In contrast with good offices, a mediator may become involved in the content and substance of the discussions. More frequently, the mediator discusses the position of each party with that party separately. The mediator may advise each party during the course of the dispute settlement process or bring proposals for the consideration of parties. A result from this process depends on the agreement of the parties, since no decision is imposed on the parties. Therefore mediation may or may not lead to a settlement of the dispute. The basic difference between mediation and conciliation is based on the role played by the third party who is selected by the parties seeking a settlement, in consensus. In mediation, the mediator acts as a facilitator who helps the parties in agreeing. Conversely, in conciliation, the conciliator is more like an interventionist who provides probable solutions to the parties concerned, to settle disputes.³⁴

4.9 *Arbitration*

Arbitration involves the establishment or selection, by the relevant parties, of an impartial body to resolve a dispute in a *quasi*-judicial proceeding. In some cases, arbitration may occur pursuant to an existing convention or agreement that sets forth rules and procedures for arbitration. Alternatively, parties may develop an agreement between themselves with respect to a particular dispute, which specifies the relevant rules and other matters for the arbitration process. In either case, the rules may address procedural matters such as the appointment of arbitrators, expertise, representation of parties, the scope of the issues under review, languages, documentation, costs, witnesses, the nature of the award and so forth. A key element is to establish procedures so that each party has a fair and equal opportunity to present its side of the case. The status of the award is

³¹ Consultations are mentioned in 1999 DSP, GC paragraph 6. Description is new.

³² Good offices is mentioned in the 1999 DSP, GC paragraph 6. Description is largely based on 2006 Dispute Settlement Manual.

³³ Ibid.

³⁴ Ibid.

usually made clear in the relevant terms of reference or rules of procedure of the arbitration. An arbitral tribunal normally consists of an odd number of members to facilitate a final decision. Most arbitrations follow a series of rules set up by the institution under which the arbitration is being carried out. One of the recognized international standards is that provided by United Nations Commission on International Trade Law (UNCITRAL). Although the arbitration results are binding and final, the results may not be enforceable unless the framework under which the arbitration is conducted has special allowance for this. Institutions with legally-binding mechanisms, that might be available to countries that are contracting parties to the IPPC, include the International Court of Justice and the dispute settlement procedure of the WTO (as applicable to individual countries). Each of these is governed by its own set of rules and procedures regarding jurisdiction and other matters.³⁵

4.10 Supplementary agreements

Article XVI of the IPPC provides for supplementary agreements “...for the purpose of meeting special problems of plant protection which need particular attention or action, Such agreements may be applicable to specific regions, to specific pests, to specific plants and plant products, to specific methods of international transportation of plants and plant products, or otherwise supplement the provisions of this Convention.” Therefore, supplementary agreements may be used by contracting parties to establish an agreement to resolve a dispute concerning an issue relating to the IPPC. The characteristic of this form of agreement that could interest some contracting parties is that such an agreement could provide additional dispute settlement procedures (e.g., arbitration) between those parties, and could be made binding on the parties if they agreed to this. Such an agreement would be binding only for the parties to that agreement. For contracting parties to use such a procedure, the rules of operation would have to be drawn up and agreed to before such a procedure could begin, in line with the provisions of the IPPC. It is recommended that the parties contact the IPPC Secretariat in the event they wish to consider such an approach.³⁶

5. The Expert Committee Process under the IPPC

5.1 Consultations

Article XIII of the IPPC (1997) requires, as a pre-condition to using the Expert Committee process, that the disputing parties first consult among themselves with a view to resolving the dispute. The consultation may be informal or formal. Each disputing party undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another disputing party concerning the interpretation or application of the IPPC.

5.2 Informal consultation

An informal consultation is that where the disputing parties consult among themselves, without the involvement of any third party, including the IPPC Secretariat, to resolve a technical phytosanitary dispute. Parties are recommended to consider this approach in the first instance.³⁷

5.3 Formal consultation

5.3.1 Any disputing party wishing to institute formal consultation proceedings shall address a written request to that effect to the IPPC Secretariat which shall promptly send a copy of the request to the other party(ies) to the dispute.³⁸

³⁵ Ibid.

³⁶ Ibid.

³⁷ Based on the 1999 DSP, paragraph 1).

³⁸ Based on the 1999 DSP, paragraph 2).

5.3.2 The request for formal consultation shall contain information concerning disputing parties, the issues in dispute, and the legal basis for the complaint, including any phytosanitary measures at issue.³⁹

5.3.3 The party to whom the request is made shall, unless otherwise mutually agreed, reply to the request within 15 days after the date of receipt thereof and shall enter into formal consultation in good faith within a period of no more than 30 days after the receipt of the request, with a view to reaching a mutually satisfactory solution. If the party to whom the request was made does not respond within 15 days after the date of receipt of the request, or does not enter into formal consultation within a period of 30 days or a period otherwise mutually agreed, then the disputing party who requested the formal consultation may have to resort to other modes of dispute settlement, as described in Section 4 above.⁴⁰

5.3.4 The IPPC Secretariat shall discuss with all disputing parties the possibility for progress through further consultation and the most appropriate procedure to be used.⁴¹

5.3.5 Should the disputing parties agree on the formal consultation process, the IPPC Secretariat shall register the request for formal consultation and shall forthwith notify the disputing parties of the registration.⁴²

5.3.6 The disputing parties, with the assistance of the IPPC Secretariat, will mutually agree on the procedure, location, facilitator (if requested), confidentiality, the possibility to obtain advice from independent experts, distribution of costs, and other conditions for the formal consultation.⁴³

5.3.7 For consultations to succeed, the parties must have the will to resolve the problem and the flexibility to cooperate and make compromises when necessary. This is frequently possible if the consultations consider only technical issues. If some political aspects are included into the discussions, the possibility of compromise diminishes as does the likelihood of resolving the issue.⁴⁴

5.3.8 If the consultation fails to resolve the dispute, either by one party failing to cooperate fully in the consultation process or by the parties failing to reach a mutually agreed resolution, then any of the parties may decide to initiate another mode of dispute settlement as described in Section 4 above, including the Expert Committee process described in more detail starting in Section 5.5 below.⁴⁵

5.3.9 Without prejudice to the scope of confidentiality agreed to by the disputing parties, the IPPC Secretariat shall keep records and inform the IC Sub-group on DAS on the conduct and outcome of formal consultations.⁴⁶

5.4 Dispute avoidance

The IPPC Secretariat or the IC Sub-group on DAS may be able to suggest suitable dispute avoidance actions. Often, just the clarification of the nature of the problem is helpful, particularly if one of the parties had a misconception over the intent of the other party. On many occasions the experience of the IPPC Secretariat staff can be helpful in considering informal action and critical aspects of the dispute can be resolved at an early stage.⁴⁷

5.5 The Expert Committee Process

³⁹ New. Based on the WTO DSU, Article 4, paragraph 4.

⁴⁰ New. Based on the WTO DSU, Article 4, paragraph 3.

⁴¹ From the 1999 DSP, paragraph 2)b).

⁴² New.

⁴³ From the 1999 DSP, paragraph 2)c).

⁴⁴ From 2006 Dispute Settlement Manual.

⁴⁵ Ibid.

⁴⁶ Based on the 1999 DSP, paragraph 2)f).

⁴⁷ Based on the 2006 Dispute Settlement Manual.

The Expert Committee process is a conciliation system meant to enable the parties to discuss technical matters that are being disputed, with the help of a panel of experts. This system is set forth in Paragraphs 2 to 5 of Article XIII of the IPPC. No party may initiate the Expert Committee process without first attempting to settle the dispute through consultation, whether formal or informal.⁴⁸

5.5.1 Initiating the Expert Committee Process

5.5.1.1 Any disputing party wishing to institute the Expert Committee process shall submit a formal written request to the IPPC Secretariat. The request shall provide a summary of the consultation(s) held between the parties, and contain information concerning disputing parties, the issues in dispute, and the legal basis for the complaint, including any phytosanitary measures at issue.⁴⁹

5.5.1.2 The IPPC Secretariat shall verify the information provided in the written request, including that mandatory consultations have occurred, and shall promptly register the request and send a copy to all other parties named in the request.⁵⁰

5.5.2 Terms of Reference of the Expert Committee

5.5.2.1 The written request for the institution of the Expert Committee process shall include a draft Terms of Reference for an Expert Committee, which must include all the information contained in Annex 1 to these DSP.⁵¹

5.5.2.2 The IPPC Secretariat shall promptly circulate the draft Terms of Reference to all parties named in the request and propose a schedule for the negotiation of the Terms of Reference. The final Terms of Reference shall be signed by the disputing parties and constitute the basis for the Expert Committee process.⁵²

5.5.2.3 If the parties fail to agree on the Terms of Reference of the Expert Committee within the time agreed by the parties, no Expert Committee can be established.⁵³

5.5.3 Establishment of the Expert Committee

5.5.3.1 Unless otherwise agreed between the disputing parties, the establishment of the Expert Committee shall be initiated by the IPPC Secretariat upon signature by the parties of the Terms of Reference of the Expert Committee.⁵⁴

5.5.3.2 The Expert Committee will consist of five members: one member selected by each side to the dispute and three independent members appointed by the Director-General of FAO (or his/her delegate) pursuant to paragraph 2 of Article XIII of the IPPC.⁵⁵

5.5.3.3 Where more than two disputing parties are involved, the parties to each side of the dispute shall consult with each other to choose one expert for their side, such that the number of members set forth in Section 5.5.3.2 above is maintained.⁵⁶

⁴⁸ Based on IPPC, Article XIII.

⁴⁹ Based on the 1999 DSP, paragraphs 4)a) and 4)b). Per IPPC Secretariat's request, instead of having the formal request sent to the Director-General of FAO, it will be sent to the IPPC Secretariat. This is not inconsistent with the IPPC, Article XIII, and is, therefore, acceptable.

⁵⁰ Based on the 1999 DSP, paragraph 4)b).

⁵¹ New. It clarifies how the initial draft of the Terms of Reference is prepared and refers to Annex 1 of these DSPs which describes the essential information to be included in the Terms of Reference. Here, the recommendation is for the party initiating the process to prepare the initial draft.

⁵² New. Clarificatory clause.

⁵³ From the 2001 DSP, paragraph 34.

⁵⁴ New. Clarificatory clause.

⁵⁵ From the 1999 DSP, paragraph 4)c) and the 2001 DSP, paragraph 26, harmonized.

⁵⁶ From the 2001 DSP, paragraph 26.

5.5.3.4 The three independent members of the Expert Committee shall be nominated by the IPPC Secretariat through a call for experts as described in Section 5.5.4 below. In case not enough experts are nominated to serve in the Expert Committee, the IPPC Secretariat may solicit nominations from contracting parties and the Regional Plant Protection Organizations.⁵⁷

5.5.3.5 The IPPC Secretariat will base its selection of the nominees to serve as the three independent experts on the following criteria:

- a) all nominees shall have scientific/technical background relevant to the subject of the dispute;
- b) all nominees shall be independent, i.e., no financial or other personal interest in the outcome of the dispute;
- c) all nominees must be able to serve in the Expert Committee in his/her individual capacity;
- d) at least one member shall be familiar with the IPPC and its associated ISPMs;
- e) citizens of contracting parties to the IPPC whose governments are disputing parties shall not serve on the Expert Committee, unless all disputing parties agree otherwise; and
- f) when a dispute involves at least one developing country, at least one nominee shall, if the developing country so requests, be from a developing country.⁵⁸

5.5.3.6 The IPPC Secretariat shall propose the nominees to the disputing parties, who may not oppose any of the nominations, except for compelling reasons.⁵⁹

5.5.3.7 Pursuant to paragraph 2 of Article XIII of the IPPC, the three independent experts shall be appointed by the Director-General of FAO (or his/her delegate), taking into account the recommendations of the IPPC Secretariat.

5.5.3.8 The Expert Committee shall be deemed to have been constituted on the date that the IPPC Secretariat notifies the disputing parties in writing that all of the selected experts have accepted the appointment.⁶⁰

5.5.4 Selection of Experts

5.5.4.1 To assist in the selection of independent experts, the IPPC Secretariat shall call for expert as needed. Phytosanitary experts and other individuals with expertise relevant to plant protection or the application of phytosanitary measures will be encouraged to respond to a call.⁶¹

5.5.4.2 Experts may be nominated by contracting parties, the Regional Plant Protection Organizations, and other organizations invited by the IPPC Secretariat to provide nominees.⁶²

5.5.4.3 Application for inclusion as an expert is made by submission to the IPPC Secretariat of a completed FAO Personal History Form (PHF) and/or Curriculum Vitae. Minimum information to be supplied includes:

- a) name, age and contact information;
- b) current position;
- c) nationality;
- d) language ability;
- e) period of availability;
- f) scientific and technical (including phytosanitary) background;
- g) professional background; and

⁵⁷ New. 1999 and 2001 DSPs refers to a roster of experts maintained by the IPPC Secretariat. According to the IPPC Secretariat, maintaining a roster is difficult and it becomes obsolete quickly.

⁵⁸ Based on the 1999 DSP, paragraph 4)(c) and the 2001 DSP, paragraph 27. Also drawn from the WTO DSU, Article 8, paragraphs 3 and 10.

⁵⁹ New. Based on the WTO DSU, Article 8, paragraph 9.

⁶⁰ New. Clarificatory clause.

⁶¹ New. See footnote 33.

⁶² Based on the 2001 DSP, paragraph 23. However, nomination from CPM members is not included.

- h) knowledge, experience or qualifications with dispute settlement procedures.⁶³

⁶⁴5.5.5 *Conduct of the proceedings*

5.5.5.1 The Expert Committee shall conduct its proceedings according to these DSPs and the Terms of Reference agreed pursuant to Section 5.5.2 above.⁶⁵

5.5.5.2 The Expert Committee shall elect a Chairperson from among the three independent experts.⁶⁶

5.5.5.3 The Chairperson of the Expert Committee shall, as soon as practicable and, whenever possible, within 15 days after its establishment, call for a meeting (including the use of virtual meeting tools) of the Expert Committee to fix the timetable for its proceedings based on the Terms of Reference agreed pursuant to Section 5.5.2 above. The Expert Committee shall set precise deadlines for written submissions by the disputing parties and the disputing parties shall cooperate in good faith with and respect the requests from and deadlines imposed by the Expert Committee.⁶⁷

5.5.5.4 All Expert Committee members shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. They shall not seek or receive instructions from any source with regard to the matter in dispute before the Expert Committee.⁶⁸

5.5.5.5 The Expert Committee shall take into account the special needs of developing countries where such countries are parties to the dispute.⁶⁹

5.5.5.6 The Expert Committee shall take into account any specific instructions and requirements outlined by the disputing parties.⁷⁰

5.5.5.7 The Expert Committee shall make an objective assessment of the matter before it, including an objective assessment of the facts of the dispute and the applicability of and conformity with the IPPC and any applicable ISPMs, and make such recommendations as will assist the disputing parties in solving the dispute. The Expert Committee shall consult regularly with the disputing parties and give them adequate opportunity to develop a mutually satisfactory solution.⁷¹

5.5.5.8 Deliberations of the Expert Committee shall be confidential.⁷²

5.5.5.9 All communications by any disputing party to the Expert Committee shall be copied to the IPPC Secretariat and the other disputing party(ies). Such communications shall be treated as confidential by all parties, including the Expert Committee and the IPPC Secretariat.⁷³

5.5.6 *Report of the Expert Committee*

5.5.6.1 Upon completion of the proceedings, the Expert Committee shall prepare a preliminary report in accordance with the Form of Expert Committee Report described in Annex 1.⁷⁴

⁶³ From the 2001 DSP, paragraph 24.

⁶⁴ Deleted per IPPC Secretariat. See footnote 33.

⁶⁵ Based on the 1999 DSP, paragraph 4(d), but clarifying that these DSPs also apply.

⁶⁶ From the 1999 DSP, paragraph 4(c).

⁶⁷ New. Based on the WTO DSU, Article 12, paragraph 3.

⁶⁸ New. Based on the WTO DSU, Article 8, paragraph 9.

⁶⁹ From the 1999 DSP, paragraph 4(d).

⁷⁰ New. Clarificatory clause.

⁷¹ New. Based on the WTO DSU, Article 11.

⁷² New.

⁷³ New.

⁷⁴ From the 1999 DSP, paragraph 4(e) and the 2001 DSP, paragraphs 21 and 36.d), harmonizing them.

5.5.6.2 The Expert Committee seeks to develop consensus among all its members on all points in the report. Where this is not possible, the Chairperson ensures that the draft report provides recommendations for the resolution of the dispute while adequately reflecting the dissenting views.⁷⁵

5.5.6.3 If the proceedings cannot be completed, the Chairperson ensures that a report is prepared on the proceedings up to the point of termination.⁷⁶

5.5.6.4 The first draft report may be made available by the Expert Committee to the disputing parties for informal consultation.⁷⁷

5.5.6.5 The draft report is then submitted to the IPPC Secretariat in English for review and to the FAO Legal Office for legal review. Any comments from these reviews are returned to the Expert Committee. The committee prepares a second draft report taking into account the review comments.⁷⁸

5.5.6.6 The second draft report is submitted to the IPPC Secretariat to be sent to the IC Sub-group on DAS for approval. Such communications shall be treated as confidential. The IC Sub-group on DAS verifies that all principles and requirements set forth in these DSP have been adhered to.⁷⁹

5.5.6.7 The final report is then signed by the members of the Expert Committee and submitted to the Director-General of FAO or his/her delegate) for distribution to the disputing parties, pursuant to paragraph 3 of Article XIII of the IPPC.⁸⁰

5.5.6.8 A report of the proceedings and the outcome of the Expert Committee process is submitted by the IPPC Secretariat to the CPM for information.⁸¹

6. Others

6.1 Observers

The disputing parties and the Chairperson of the Expert Committee shall agree on observers to be admitted to meetings of the Expert Committee and the applicable rules of conduct of observers. Where there is no agreement among the disputing parties on the number and type of observers, no observers shall be allowed. Where the presence of observers is agreed, but there is no agreement on the conduct of such observers, observers will only be allowed to attend but cannot participate.⁸²

6.2 Information from external sources

With the written consent from the disputing parties, the Expert Committee may seek additional information from other sources, as it deems necessary.⁸³

6.3 Financial considerations

Costs of the IPPC Secretariat, the IC Sub-group on DAS and the Expert Committee associated with any dispute brought under these DSPs shall be borne equally by parties to the dispute. Such costs shall include: (a) the IPPC Secretariat's expenses as registrar or the hiring of consultants to facilitate the process, (b) costs of

⁷⁵ From the 1999 DSP, paragraph 4)f) and the 2001 DSP, paragraph 21.a).

⁷⁶ From the 1999 DSP, paragraph 4)g).

⁷⁷ From the 2001 DSP, paragraph 21.b).

⁷⁸ From the 1999 DSP, paragraph 4)h) and the 2001 DSP, paragraph 21.c).

⁷⁹ From the 2001 DSP, paragraph 21.f).

⁸⁰ From the 1999 DSP, paragraph 4)k) and the 2001 DSP, paragraph 21.g).

⁸¹ New.

⁸² From the 2001 DSP, paragraph 30.

⁸³ From the 2001 DSP, paragraph 36.b).

transcriptions, recording, interpretation and translation, where necessary, and (c) travel and subsistence and fees of the members of the Expert Committee determined in accordance with FAO policy. Where the party that initiated the dispute settlement is a developed country and the other party is a developing country, it is encouraged to voluntarily cover all or part of these costs.⁸⁴

6.4 Role of Regional Plant Protection Organizations

Regional Plant Protection Organizations (RPPOs) may be requested, subject to agreement by the disputing parties, and in coordination with the IPPC Secretariat, to provide assistance in connection with any dispute settlement under these DSPs. Such assistance may be in the form of providing technical support or facilitating consultations among the disputing parties.⁸⁵

6.5 Amendment of these DSPs

Amendments to these DSPs may be adopted by a majority of the members of the CPM at any plenary meeting.⁸⁶

6.6 Repeal of prior dispute settlement procedures

Adoption of these DSPs by the CPM shall supersede and repeal all prior dispute settlement procedures issued pursuant to the IPPC, including those issued in 1999, 2001 and 2006.⁸⁷

⁸⁴ From the 2001 DSP, paragraphs 28 and 29, with modifications.

⁸⁵ Based on the 2001 DSP, paragraphs 32 and 33.

⁸⁶ New.

⁸⁷ New.

ANNEX 1**Terms of Reference for the Expert Committee⁸⁸****A. Identification of parties and issues**

1. All the parties to the conciliation must be identified. This includes:
 - (a) initiator(s),
 - (b) respondent(s),
 - (c) members of the Expert Committee, including Chairperson, and
 - (d) observers, if they are permitted.
2. The issue(s) under dispute should be clearly defined noting the points where the alleged conflicts with the IPPC or ISPMs occur. The disputing parties should expand on this and state their expectations of the Expert Committee by identifying tasks for the committee.

B. The conduct of the proceedings

3. It is extremely important to have all the following procedural matters agreed to among the disputing parties before the meeting of the Expert Committee begins.

Presentation of information: The disputing parties and the Expert Committee must agree on the way that technical information will be presented by disputing parties.

- (a) will there be documents, electronic, hard copy?
- (b) will there be verbal presentations?
- (c) will there be provision for the use of outside experts?, and
- (d) will the Expert Committee be able to ask for further information or advice?

Language(s): The disputing parties and the Expert Committee must agree on the language(s) to be used for the submitted documents, for verbal submissions and for discussion by the Expert Committee. The report must be presented in English.

Conduct of observers: Regarding observers, the disputing parties and the Chairperson of the Expert Committee should decide if observers will be allowed to attend and if they are, if they will be allowed to participate and their extent of participation. Where there is no agreement among the disputing parties on the number and type of observers, no observers shall be allowed. Where the presence of observers is agreed, but there is no agreement on the conduct of such observers, observers will only be allowed to attend but cannot participate. [Cross-reference Section 6.1 of DSPs]

Administrative Support and Costs: Costs of the IPPC Secretariat, the IC Sub-group on DAS and the Expert Committee associated with any dispute brought under these DSPs shall be borne equally by parties to the dispute. Such costs shall include: (a) the IPPC Secretariat's expenses as registrar or the hiring of consultants to facilitate the process, (b) costs of transcription, recording, interpretation and translation, where necessary, and (c) travel and subsistence and fees of the members of the Expert Committee. Where the party that initiated the dispute settlement is a developed country and the other party is a developing country, it is encouraged to voluntarily cover all or part of these costs. [Cross-reference Section 6.3 of DSPs]

Location and facilities: The disputing parties and Expert Committee should agree on the location, i.e., whether the committee will meet in the territory of one party or another, or in that of a third party. Acceptable facilities should be agreed on before proceedings commence in order to facilitate the process. Virtual meetings using modern technology may also be considered if both parties agree.

Timetable: A comprehensive timetable with dates should be drawn up. This will include dates and times for: the submission of information to the Expert Committee as well as documents or contributions from additional

⁸⁸ Based on the 2001 DSP, paragraph 36.

experts, if necessary; the schedule of meeting(s) of the committee; the completion and presentation of the report, etc.

C. Presentation of information

4. The Expert Committee shall solicit the submission of information from the disputing parties. Methods of presentation may include documents only, and/or verbal presentations as agreed in advance. The Expert Committee may seek additional information from the disputing parties or other sources, as it deems necessary, with the written consent from the disputing parties.

5. The disputing parties shall also agree on confidentiality issues relating to the proceedings, the information provided to the Expert Committee, the report and all other aspects of the process.

D. Evaluation of information and formulation of recommendations

6. The Terms of Reference will contain, as required by the disputing parties, specific instructions on the review of scientific and other information by the Expert Committee. The requirements of the parties regarding the assessment by the Expert Committee of the relationship of the issues and the information provided to it to any specified provisions of the IPPC and ISPMs should be made clear. Any other specifications regarding the form of the conclusions or recommendations required by the parties should be provided to the Expert Committee.

E. Form of Expert Committee Report

7. The disputing parties shall agree on the form of the report they would wish to receive from the Expert Committee. The following format is suggested:

Executive summary

- identification of the parties to the dispute
- statement of the issue(s) at dispute with appropriate background

Technical aspects of the dispute

- summary of the positions of the disputing parties
- summary of the analyses of the scientific and technical aspects as provided by the Expert Committee
- assessment of the relationship of the issue to the specified provisions of the IPPC and ISPMs
- conclusions of the Expert Committee

Recommendations

- proposal(s) for resolution of the dispute and options if appropriate

Attachments

- Terms of Reference of the Expert Committee
- a list of the members of the Experts Committee, and of observers, if any
- list of documents and source material, including other experts interviewed (if not confidential)
- other information deemed to be useful by the Expert Committee.