# DRAFT TERMS OF REFERENCE AND RULES OF PROCEDURE FOR DISPUTE SETTLEMENT OVERSIGHT BODY

The International Plant Protection Convention (IPPC) provides non-binding dispute settlement assistance to contracting parties.

CPM-12 (2017) agreed that the National Reporting Obligations Advisory Group (NROAG), Triennial Review Group (TRG) and Subsidiary Body on Dispute Settlement (SBDS) be dissolved with their functions and procedures transferred to the Implementation and Capacity Development Committee (IC).

CPM-16 (2022) adopted revised IPPC Dispute Settlement Procedures and transferred oversight of the dispute settlement process from the IC to the CPM Bureau, recognizing the need to consider how best to institutionalize this oversight function on a more permanent basis. CPM requested the Bureau to consider whether the newly adopted IPPC Dispute Settlement Procedures could be simplified, be more user-friendly (including a diagram of the procedures), analyze this question of long-term oversight, and present its options and recommendations to the CPM17 (2023).

The CPM-17 approved the recommendations of the CPM Bureau to have the IPPC secretary as primary intake point for IPPC dispute submission. The CPM also approved the establishment of a non-permanent sub-body of the CPM Bureau, composed of three bureau members, to function as the Dispute Settlement Oversight Body under CPM Bureau oversight.

In June 2023, the CPM Bureau reviewed raft Terms of reference and Rules of procedure for the Dispute Settlement Oversight Body (DSOB) with the technical support of the FAO legal Office.

During that meeting, the Bureau agreed to consider the draft Terms of reference and Rules of procedure for the Dispute Settlement Oversight Body, modified as discussed at the June 2023, at their meeting in October 2023, for subsequent consideration by the SPG. The Bureau also requested the IPPC secretariat ensure that the IPPC Dispute Settlement Procedures are available on the IPP[[1]](#footnote-1).

The modifications agreed on the DSOB Terms of reference as well as on the Rules of procedures have been applied and are presented in Appendix 1. Deletions are indicated using struck out text and additions are indicated using underlined text.

The CPM Bureau and the SPG is invited to:

1. *Review and agree* the draft Terms of reference and Rules of procedures of the Dispute Settlement Oversight Body as presented in Appendix 1;

# Appendix 1: Draft Terms of Reference and Rules of Procedure for the Dispute Settlement Oversight Body

**TERMS OF REFERENCE**

**1.** Objective

The Dispute Settlement Oversight Body (DSOB) administers and oversees the IPPC dispute settlement process in close collaboration with the IPPC Secretary.

**2.** Structure of the Dispute Settlement Oversight Body

The DSOB is composed of three CPM Bureau members without the need for regular meetings ~~(~~except when a dispute settlement case is occurring~~)~~.

Members of the DSOB must be free from any real or perceived conflict of interested relating to the parties involved in a dispute or the topic of a dispute.

**3.** Functions of the Dispute Settlement Oversight Body

The DSOB has the following functions:

1. Provide guidance to the Secretariat and disputing parties in selecting appropriate dispute resolution mechanisms and may assist in conducting or administering consultation, conciliation, good offices, mediation, or arbitration according to the IPPC Dispute Settlement Procedures.
2. When the conciliation (expert committee) process is chosen, the DSOB will:
   1. Propose nominations for independent members of an expert committee;
   2. Assist the disputing parties develop Terms of Reference for an expert committee;
   3. Check that expert committee reports accurately reflect the outcome of the discussion once they have been reviewed by the IPPC Secretary. ~~and FAO legal Office~~
3. Undertake other functions as directed by the CPM. ~~which may include:~~
4. ~~assist the Secretariat with dispute settlement requests from WTO or other organizations;~~
5. ~~report to CPM on IPPC dispute settlement activities as well as dispute settlement activities undertaken or completed by other organizations that have implications for the phytosanitary community;~~
6. ~~provide advice on the clarification of ISPMs.~~

**4.** IPPC Secretariat

The Secretariat provides administrative and technical ~~and editorial~~ support as required by the DSOB. The Secretariat is responsible for reporting and record keeping regarding the dispute settlement activities.

1. **Amendments**

Amendments to the terms of refence of the DSOB will be approved by the CPM.

RULES OF PROCEDURE

### Rule 1. Membership

The Dispute Settlement Oversight Body (DSOB) is composed of three CPM Bureau members selected by the Bureau. The DSOB 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.

~~Members of the DSOB are taken from the CPM Bureau.~~ Since the DSOB is convened to support the resolution of a specific dispute case, members serve for the duration of that case but not beyond the duration of their term as CPM Bureau member.

### Rule 2. Replacement of members

A member of the DSOB will be replaced by the CPM Bureau if the member resigns from the Bureau or is unable to attend two consecutive meetings of the DSOB.

### Rule 3. Chair

The DSOB shall select its Chairperson from among its membership.

### Rule 4. Meetings

Timing of meetings to ~~accomplish~~ deliver the functions of the DSOB in relation to an active dispute, ~~in particular for the review and approval of Expert Committee reports and the development of reports for the CPM~~, shall be set by the DSOB in consultation with the Secretariat as required.

The disputing parties will cover the costs of the dispute settlement process and will be notified accordingly at the beginning of the procedure.

The DSOB will work in the most cost-effective manner, in person or in virtual mode, within the available resources.

A meeting of the DSOB shall not be declared open unless there is a quorum. The presence of a majority of the members of the DSOB is necessary to constitute a quorum.

### ~~Rule 5. Observers~~

~~Meetings of the DSOB are generally open according to Rule VII of the Rules of Procedure for the CPM, but the DSOB may determine that certain meetings, parts of meetings or business need to be conducted without observers, in particular where confidential or controversial information is involved.~~

### Rule 5. Decision-making

The DSOB shall strive 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.

### Rule 6. Amendments

Amendments to the rules of procedures of the DSOB will be approved by the CPM ~~as required~~.

### Rule 7. Confidentiality

The DSOB shall exercise due respect for confidentiality of sensitive information provided by disputing parties.

1. IPPC Dispute Settlement Procedures : <https://www.ippc.int/en/publications/92515/> [↑](#footnote-ref-1)