

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Fifty-fifth meeting of the Standing Committee
The Hague (Netherlands), 2 June 2007

Strategic and administrative matters

COOPERATION WITH THE WORLD TRADE ORGANIZATION

1. This document has been prepared by the Secretariat, in consultation with the Chairman of the Standing Committee.

Background

2. At its 54th meeting (SC54, Geneva, October 2007), the Standing Committee requested its Chairman to send a letter to WTO asking it to accord full and permanent observer status to the Convention and to report to the Committee at future meetings any response received from or relevant action taken by WTO.

Developments

3. On 8 March 2007 the SC Chairman wrote to WTO asking "that CITES be given full and permanent observer status in WTO thus enabling it to participate in all of WTO's technical and decision-making bodies". A copy of his letter is attached as Annex 1 (English only).
4. In a letter dated 27 March 2007, WTO responded to the SC Chairman explaining that "any request for observer status by an international organization is considered on a case-by-case basis and is subject to a consensus decision by Members in the WTO body to which the request is submitted". WTO noted that "[f]or the last seven years, however, there has been a political deadlock over the issue of observer status in the General Council. As a result, the consideration of requests for observer status in all subsidiary bodies of WTO has been blocked." A copy of the reply is attached as Annex 2 (English only).
5. In its letter, WTO pointed out that CITES, through its *ad hoc* observership to the WTO Committee on Trade and Environment in Special Session (CTESS), "was able to make a valuable contribution to the ongoing environmental negotiations of the Doha Round, and to have access to all relevant WTO documents". It said that the SC Chairman's letter would be transmitted to the Chairman of CTESS, H.E. Ambassador Toufiq Ali, to inform him of CITES's "continued interest in obtaining permanent observer status in his group".

Additional information

6. During informal consultations with the WTO Secretariat, the CITES Secretariat has learned that the broad request made by CITES for full and permanent observer status to all WTO bodies does not conform to the usual practice in WTO. Rather, WTO requires that such requests indicate the specific WTO bodies to which observer status is sought. Each WTO body is then left to take its own decision, by consensus, as to whether to grant the request. As mentioned in document SC54 Doc. 11, WTO criteria for granting observer status to international intergovernmental organizations are set out in Annex 3 of the 1996 Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council. All WTO bodies are bound by these Rules of

Procedure but their implementation practices apparently vary. This practical variance has also characterized the way in which different WTO bodies have dealt with requests for observer status made after the political deadlock began in 2000. Some WTO bodies have made interim provision for the granting of *ad hoc* observer status (in several instances on a meeting-by-meeting basis) but other bodies, including the General Council, have not done so. The latter bodies apparently record the requests that have been submitted and treat them as pending. Some organizations (e.g. the International Monetary Fund and the World Bank) have been granted observer status in the context of a cooperative agreement with WTO.

7. The criteria and procedures for granting observer status were elaborated in the context of the 1995 global arrangement concluded between the United Nations as a whole and WTO through an exchange of letters. This arrangement is based on a 1976 arrangement concluded between the UN and the General Agreement on Tariffs and Trade (GATT), but it is not identical to it. Reciprocal representation is a key element in both arrangements. The UN-GATT arrangement made broad provision for reciprocal representation, without any conditions and with equal application to regional commissions and other UN organs. The UN-WTO arrangement provides for 'reciprocal representation in accordance with the decisions of the competent bodies of the respective organizations' (emphasis added).
8. In 1999 the secretariats for UNEP and WTO decided to build on the UN-WTO arrangement and identified 'elements of cooperation' which were made public in a press release. Reference was made in the press release to WTO's observer status in the Governing Council of UNEP and UNEP's observer status in the Committee on Trade and Environment. There was also reference to the participation of MEA secretariats, where feasible, in cooperative and collaborative activities of the UNEP and WTO secretariats. The elements of cooperation identified by UNEP and WTO have not been formally agreed, however, and do not address the issue of observer status for MEAs.
9. UNCTAD (on behalf of the United Nations) and WTO have jointly sponsored the International Trade Centre since 1968. In 2003 UNCTAD and WTO signed a Memorandum of Understanding on technical assistance cooperation, but this MoU does not address the issue of observer status. It seems that UNCTAD has obtained observer status in virtually all WTO bodies by requesting and being granted such status.

Considerations

10. Since 1996 the UN, regional commissions, UNCTAD, UNDP, UNEP and UNEP-administered MEAs have been submitting separate requests for observer status to WTO bodies. Requests submitted before 2000 seem to have been granted in many or all cases, perhaps after the submission of supporting information. Requests submitted after 2000 have been treated in various ways. For example, UNCTAD has observer status in two bodies established by the Trade Negotiations Committee (following adoption of the Doha Ministerial Declaration in 2001) and is invited to observe two other TNC bodies on an *ad hoc*/meeting-by-meeting basis. UNEP has *ad hoc* observer status on a meeting-by-meeting basis in the Committee on Trade and Development. CITES is invited to observe the Committee on Trade and Environment in Special Session on an *ad hoc*/meeting-by-meeting basis. Other requests for observer status remain pending before the relevant WTO bodies.
11. The timing of particular requests has resulted in UNCTAD having observer status in the General Council while requests from both UNDP and UNEP are still pending. UNCTAD also has observer status in the Council for Trade-related Aspects of Intellectual Property Rights, the Committee on Agriculture, the Committee on Sanitary and Phytosanitary Measures and the Committee on Technical Barriers to Trade while CBD requests for observer status in those bodies are still pending.
12. The Secretariat is not certain of the practice throughout the entire UN system regarding reciprocal representation with WTO but believes that WTO is generally allowed to be represented as an observer at any UN meeting in which it expresses an interest (see WTO document TN/TE/S/2/Rev.2 on 'Existing Forms of Cooperation and Information Exchange between UNEP/MEAs and the WTO', 16 January 2007). In view of this likely UN practice, the commitment to reciprocal representation contained in the UN-WTO arrangement (as well as the earlier UN-GATT arrangement) and the seven years of political deadlock in WTO, it seems surprising that the General Council and several other

WTO bodies have not yet adopted a means for allowing UN or UN-administered bodies with pending requests for observer status to observe their meetings on an *ad hoc* (and perhaps meeting-by-meeting) basis.

13. The WTO Secretariat has suggested that another letter be sent on behalf of the Convention requesting observer status in the General Council and perhaps other specific WTO bodies deemed relevant to CITES (e.g. Council for Trade in Goods, Committee on Market Access, Committee on Technical Barriers to Trade and Committee on Trade and Development). Such a letter could again be sent to the Director General of WTO, this time requesting that he communicate it to the chairpersons of the appropriate WTO bodies. It would apparently be helpful to provide the rationale for each request. In view of the current political deadlock, it might also be useful to request that observer status be granted to the Convention on an *ad hoc* (and perhaps meeting-by-meeting) basis. At the very least, such a letter would ensure that the request for observer status is a matter of record.
14. Among the potential indicators of achievement of Objective 3.3 of the draft Strategic Vision for the period 2009-2013, one is that: "CITES has observer status in the formal trade negotiating forum of the WTO and a Memorandum of Understanding on cooperation has been concluded between the two bodies". Should the revised Strategic Vision be adopted, it would seem appropriate for the Chairman of the Standing Committee to advise the WTO Secretariat of this development and to seek a meeting to discuss how the two bodies might make progress on the fulfilment of the above-mentioned indicator.

Recommendations

15. The Secretariat recommends that the Standing Committee request its Chairman to write again to WTO requesting observer status for CITES in the General Council and any other WTO bodies which the Committee deems relevant for CITES.
16. The Secretariat further recommends that the Standing Committee, with the support of the Secretariat, work with WTO to develop a cooperative Memorandum of Understanding between CITES and WTO for signature by the Director General of WTO and the Secretary-General of CITES.



Our ref.: MDY/wto.SCchairletter
Your ref.:

Mr Pascal Lamy, Director General
World Trade Organization
Centre William Rappard
Rue de Lausanne 154
CH-1211 Geneva 21

Geneva, 8 March 2007

Dear Mr Lamy,

At its 54th meeting (Geneva, 2-6 October 2006), the Standing Committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) considered the nature and extent of cooperation that has existed between CITES and WTO over the past few years. During its discussions, the Committee noted that cooperation between the two organizations could be enhanced if there were reciprocity regarding their ability to observe and participate in each other's technical and decision-making bodies.

CITES has observer status in the Committee on Trade and Environment (CTE) but not in CTE special sessions. By contrast, WTO has observer status in all of the Convention's technical and decision-making bodies.

The Committee therefore requested me to write to you asking that CITES be given full and permanent observer status in WTO thus enabling it to participate in all of WTO's technical and decision-making bodies. I understand that the United Nations, the United Nations Conference on Trade and Development, the Food and Agriculture Organization of the United Nations, and the Organisation on Economic Co-operation and Development already have such permanent observer status. As you are aware, the CITES Secretariat is provided by the United Nations Environment Programme.

For your additional information, I have been asked by the Committee to report on this matter at its 55th meeting which will take place in The Hague, The Netherlands, on 2 June 2007.

Yours sincerely,

Cristian Maquieira
Chairman, CITES Standing Committee



WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

SC55 Doc. 9 Annex / Anexo / Annexe 2
(English only / únicamente en inglés / seulement en anglais)

Pascal LAMY
Director-General

27 MAR 2007

Dear Mr. Maquieira,

I refer to your letter dated 8 March 2007 in which you request, on behalf of CITES Standing Committee, that the organization be granted full and permanent observer status in all WTO bodies.

In the WTO, any request for observer status by an international organization is considered on a case-by-case basis and is subject to a consensus decision by Members in the WTO body to which the request is submitted. For the last seven years, however, there has been a political deadlock over the issue of observer status in the General Council. As a result, the consideration of requests for observer status in all subsidiary bodies of WTO has been blocked. In view of this situation, a number of WTO bodies have reverted to granting observer status to international organizations on an ad hoc basis. This has been the case in the CTE in Special Session, for instance, where CITES has been invited to attend meetings as an ad hoc observer.

Through its adhoc observership to the CTESS, CITES was able to make a valuable contribution to the ongoing environmental negotiations of the Doha Round, and to have access to all relevant WTO documents. So this system has provided a practical solution to the observership question and worked relatively well, pending a more definitive solution.

Having said that, I will certainly transmit your letter to the Chairman of the CTE in Special Session, H.E. Ambassador Toufiq Ali, to inform him of your continued interest in obtaining permanent observer status in his group.

With my best regards,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Pascal Lamy', with a horizontal line extending to the right.

Pascal Lamy

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