

ADMISSION, RIGHTS AND RESPONSIBILITIES OF OBSERVERS AT OFFICIAL SESSIONS AND SIDE EVENTS OF THE INTERNATIONAL TROPICAL TIMBER COUNCIL

Background Paper

Decision 3 (L)

ITTC(LI)-Kuala Lumpur 16-21 November 2015

Background and scope

- Observers have always played an important role in ITTO.
- In ITTA 2006 the admission of observers is regulated by Article 16 and the procedure has been generally applied smoothly.
- In few occasions, however, as the last 50th Council session in November 2014, members were unable to reach a consensus on the admission of certain observers.

Background and scope

- The Council requested the ED to review the participation of observers in a way consistent with the ITTA 2006 in order to enhance the Council's engagement with observers.
- Decision 3 (L) requested the ED to compile a background paper on the procedures followed in relevant international organisations regarding the admission, rights and responsibilities of observers at official sessions, establish a working group of 3 representatives each for consumers and producers plus representatives of TAG and CISAG and report to the present Council session in order to develop guidelines.
- After a general overview, the background paper will make preliminary proposals in order to enhance Council's engagement with observers for consideration and prepare the discussion at the present Council session.

Introduction

Observer status is a privilege granted by some organisations to non-members to give them the ability to participate in the organisation's activities. It is often granted by intergovernmental organisations to non-member sovereign states and non governmental organisations (the latter may or may not have international status) that have an interest in the activities of the organisation concerned. Observers have limited ability to participate in debates. They lack the ability to propose resolutions and are excluded from financial and budgetary matters and voting.

Introduction

This is the generally accepted definition of observers in UN organisations, in which the observer status is normally granted by the supreme body of the organisation concerned.

If agreement is reached among all parties according to the procedures, the granting of observer status is easy and may represent a valuable contribution to the debates.

If the agreement or consensus cannot be reached due to a different appreciation among members of an applicant's political status or the activities it pursues, the debates may become difficult.

Introduction

- Most approaches followed by organisations are quite similar and there is not a single formula for avoiding debates or impasses.
- The majority of the organisations scrutinised have introduced special rules serving as guidance for codified transparent procedures.
- A common problem is in most cases the length of time required to resolve the question of eligibility: two or more years in some cases!

Procedures in relevant international organisations

- Most of the international or intergovernmental organisations examined are commodity organisations with some exceptions;
- The legal provision for the admission of observers is normally based on arrangements, resolutions and decisions adopted by the supreme bodies;
- For **ITTO** the legal provisions are relatively minimal: all is based on Art.16 of ITTA 2006 integrated by Rule 4 of the Rules of Procedure .

Procedures in relevant international organisations

In ITTO:

- Observers have no vote , but they can make oral or written statements.
- The admission is by consensus, but if any member objects, a decision may be taken by simple majority vote.
- Except the vote, no other provision exists in case of disagreement.
- In ITTO the Council has never voted for the admission of observers.

Procedures in relevant international organisations

The international organisations examined apart from **ITTO** have been the following:

**UNCTAD – FAO – WTO – IUCN – ICCO – ICO- ISO - IOC –
ICAC – IJSG – ASEANPOL – IPBES – UNFCCC – CERN**

and several lessons can be learned from their experience

Comments to Procedures

- All bodies seek to admit observers.
- The procedures applied to States and UN family organisations are relatively simple but the rules are much more strict for civil-society and NGOs.
- Although the procedural steps are often similar, a single formula for the final granting of observer status does not exist.
- Some organisations have rigid rules others « softer ».

Analysis of procedures

1. A few organisations do not have a procedure, rather, they have an open approach with criteria aiming at achieving as wide a participation as possible;
2. In most organisations, including ITTO and its sister organisations as IOC, ICCO and ISO the procedures are insufficiently developed to avoid the risk of part of meetings devoted to achieving agreement on admission of observers;
3. Some organisations have introduced mechanisms making use of vote. Voting has helped with decisions taken by 2/3 of majority. **This does not avoid discussions at meetings.**

Analysis of procedures

4. Some organisations have assigned a key role to the higher responsible officer (Secretary General, Executive Director, Director general) with the duty to examine applications and the power to propose the grant or not of such a status. **In such a situation the chief's officer opinion influences the outcome simplifying and shortening the debates.**
5. An alternative mode involves assigning responsibility for observers to a Bureau in which a small set of organisation's members is represented. **The Bureau's opinion influences the outcome of the debates.**

What system for ITTO?

and for ITTO?

- Observers have been always important and their contribution has been significant;
- Their participation has been strengthened by the creation of TAG and CSAG plus the side events;
- No system is ideal or exempt from failure when full transparency is searched. Divergent opinions may occur.
- Some ITTO members consider that transparency and the freedom to speak at all levels during Councils should be allowed to **any** observer, but this view is not shared by all members;

What system for ITTO?

The procedures today in force for granting observer status seem still valid and can be considered as guidelines:

- i. Request in writing;
- ii. Description of the organisation, legal basis, reasons for interest;
- iii. Silent participation and presentation only of written or oral statements;
- iv. Exclusion from budgetary, financial and administrative discussions as well as from any vote ;
- v. Observer status known enough in advance of meetings.

From the analysis of procedures listed above the last two (number 4 and 5) may be suitable for ITTO as alternatives in order to escape vote.

What system for ITTO?

Procedure described in item 4

This procedure assigns the full process to the highest responsible officer, which in ITTO is the ED.

In this case, the ED would examine applications check their conformity with ITTO rules and propose to Council whether to grant or refuse observer status, explaining the reasons for full transparency.

In developing his opinion, the ED would also seek the views of *national focal points (nfp)*. In sharing opinions among *nfp* the ED would acquire sufficient elements to deny directly the observer status and the reasons explained to the Council.

Under such a process the need for lengthy discussions or voting would be unlikely

What system for ITTO?

PRO: Although the procedure in item 4 transfers the onus of responsibility to the ED, it has the advantage of transparency and is legally consistent with Article 14 of the ITTA 2006 as well as Rule 5 of the ITTO' Rules of Procedure regarding the *nfp*. No need for amendments. In addition, it might be reasonable to consider that members would trust the ED without any further request of debate or vote.

CONTRA: The ED receives an additional political power. However the ED is not alone but assisted by the *nfp* consulted as first step. If a negative opinion arises, it would be easier for him to deny admittance and justify the decision.

Fixing in advance detailed rules to guide the ED or to admit directly observers, would not provide a solution due to the difficulty to find a common ground and the approaches defended by members.

What system for ITTO?

Procedure described in item 5

The responsibility for admission of observers is assigned to a Bureau in which only a set of chosen members is represented. For ITTO the Informal Advisory Group (IAG) may be seen as a form of Bureau, similar in form, mandate and composition.

PRO: the competencies of IAG could be easily extended for admission of observers;

CONTRA: - the IAG is not a body created by the ITTA 2006;
- the IAG is an informal group created by the Council without legal character

If this approach is preferred, there is the need to agree on attributing the legal character to IAG as well as an extension of its mandate. This option requires further consideration.

CONCLUSIONS

- No miracle solution exists. The overview on scenarios offered by other international fora shows that any procedure may result in a lack of consensus.
- The ITTO' Council is committed to improving the procedures governing the activities of observers and thereby continuing the fruitful cooperation and exchange of experience.
- Do alternative options exist for ITTO? Yes
- Methodology described as option 4 would have the advantage that the ED gathers sufficient information to justify his decisions; furthermore it is in full compliance with the legal framework of ITTA with no **impact on ITTO's structures**.

At the present stage, this can be considered a viable proposal for conclusion of the present research

THANK YOU