



**INTERNATIONAL TROPICAL
TIMBER COUNCIL**

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

**BACKGROUND PAPER
[Decision 3(L)]**

(Item 17 of the Provisional Agenda)

Content

1. Executive summary
2. Background and scope
3. Introduction
4. Provisions and procedures regarding the admission of observers in relevant international organizations
5. Possible alternative procedures on the admission of observers to the International Tropical Timber Council
6. Conclusions
7. Annex: Decision 3(L) of 8 November 2014

1. Executive summary

Observers have played an important role in the International Tropical Timber Organization (ITTO), and its Council, since the Organization's inception in 1986. The admission of observers, considered in the International Tropical Timber Agreement (ITTA) 2006, has generally been smooth. Nevertheless, occasions have arisen when the International Tropical Timber Council has been unable to reach agreement on the admission of certain observers and, for this reason, the Council, at its 50th session, adopted Decision 3(L) (included in this paper as an annex) requesting the Executive Director to review the participation of observers in official sessions and side-events. This background paper is an outcome of that decision.

The paper examines the procedures in force in relevant international organizations on the admission, rights and responsibilities of observers and provides proposals by which ITTO may enhance the involvement of observers and members of civil society and avoid long debates on the issue.

The analysis shows that, while the procedural steps are often similar, a single formula for the final admission of observers does not exist among international organizations. No system is ideal or exempt from failure, and, when there is divergent opinion on the admission of an applicant, voting is usually the last resort.

The existing transparent procedures for the admission of observers to the International Tropical Timber Council enable the very large participation of observers. However, no procedure offers a failsafe approach when there is a lack of consensus on the admission of particular observers.

Based on the positive experiences of other fora, it is considered that a complementary methodology – based on the direct appointment of observers by the Executive Director, with the assistance of national focal points – may be most effective.

This solution has the advantage of being in full compliance with the ITTA 2006. The recommendation, therefore, is to consider this option as a valid alternative to existing arrangements.

2. Background and scope

Observers have always played an important role in ITTO, bringing new issues and perspectives and promoting cooperation among stakeholders.

The admission of observers is considered by the ITTA 2006 in its Article 16 and, in general, the procedure has been smooth. On a few occasions, however, most recently at its 50th session in November 2014, the Council has been unable to reach consensus on the admission of certain observers.

For this reason, the Council adopted Decision 3(L) requesting the Executive Director to review the participation of observers in a way that is consistent with the ITTA 2006 and to develop guidelines for the activities of observers during Council sessions and at side-events. The decision further requests the Executive Director to present recommendations for enhancing the Council's engagement with observers.

Decision 3(L) requests the Executive Director to compile a background paper on the procedures of relevant international organizations regarding the admission, rights and responsibilities of, and activities undertaken by, observers at official sessions and side-events.

After a general overview, this background paper makes a preliminary proposal to enhance the Council's engagement with observers for further consideration, in order to prepare for discussion at the 51st Council session.

3. Introduction

“Observer status is a privilege granted by some organizations to non-members to give them the ability to participate in the organization's activities. It is often granted by intergovernmental organizations to non-member sovereign states and non-governmental organizations (the latter may or may not have international status) that have an interest in the activities of the organization 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.”

The above is a generally accepted definition of observers in UN organizations, in which observer status is normally granted by the supreme body of the organization concerned.¹ In any organization, if agreement on the admission of observers is reached among all parties according to the organization's procedures, the granting of the privilege of observer status is an easy matter and may represent a valuable contribution to debates.

Sometimes, however, the body responsible for decisions on the admission of observers cannot reach agreement or consensus on a particular applicant. This may be due to a different appreciation among members of an applicant's political status or the activities it pursues.

The overview that follows shows that this issue is common to all international fora, and there is no single formula or procedure for avoiding potentially embarrassing debates or, worse, impasses that can paralyse a session. Most existing procedures are similar; the development of “ad hoc” procedures is feasible as long as it is compatible with the legal status of the organization.

Although most approaches are quite similar in form, they are sometimes different in process. Some organizations follow only the provisions present in their charters; others (the majority) have agreed on and introduced special rules serving as guidance for a codified, transparent procedure.

A common problem in most cases is the length of time required to resolve the question of eligibility for a particular applicant: it may take two or more years when, in many occasions, the interest of an applicant to participate in a forum pertains to a particular item on the agenda of an upcoming session. This can add to the frustration of applicants, notably non-governmental organizations (NGOs).

Depending on the nature of the applicant, the status of “permanent” observer may be granted, which ensures that eligibility does not need to be assessed on each occasion. This status is most applicable to States or bodies related to the UN system and less applicable to NGOs, for which the situation may be more difficult due to the wide variation in the objectives pursued by such organizations, the methodologies used for achieving their objectives, the diversity of membership, and, in some cases, a lack of transparency.

The next section examines the procedures in various international organizations.

¹ The supreme body of the UN, for example, is the General Assembly. The supreme body of ITTO is the International Tropical Timber Council.

4. Provisions and procedures regarding the admission of observers in relevant international organizations

Many of the UN bodies and international/intergovernmental organizations examined below are commodity organizations. In general, the legal basis consists of arrangements, resolutions and decisions adopted by the supreme bodies of the organizations concerned. The procedures, when present, are quite rigid.

4.1 ITTO

The legal provisions in ITTO are relatively minimal. The admission of observers is based on Article 16 of the ITTA 2006, integrated by Rule 4 of the Rules of Procedure approved by the International Tropical Timber Council.

The Council, as supreme body, has the right to invite any member or observer State of the UN not party to the ITTA or any organization referred to in Article 15 ("Cooperation and coordination with other organizations") interested in the activities of the Organization. Any member or observer State of the UN may request the Council to be authorized to attend. Invitations to the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Organization (UNIDO), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the Food and Agriculture Organization of the United Nations (FAO) are made on a regular and permanent basis.

Observers have no vote, but, on invitation from the Council, they may make oral or written statements.

Observers are admitted by consensus, but if any member objects, a decision may be taken by simple majority vote. The Council has never voted on the admission of observers, however.

Except for simple majority vote, no other provision exists on procedures for admitting observers in case of disagreement among members. In such cases, observer status is granted or refused only through (sometimes long) discussions, taking into account the scope and activities of the applicant. This is particularly the case for representatives of civil society and NGOs.

4.2 UNCTAD

The legal basis for the admission of non-member States or NGOs as observers in UNCTAD is contained in a UN General Assembly resolution, which gives the Trade and Development Board the power to make arrangements for accepting the participation, without vote, of representatives of NGOs concerned with matters related to trade and development. The participation of an NGO in the activities of UNCTAD, therefore, concerns those with special competence or interest.

NGOs granted observer status receive documentation for conferences and meetings, with their representatives entitled to attend without the right to vote. They may make oral or written statements on matters related to particular items on the agenda in which they have declared they have a special interest or competence.

Applications are received by the UNCTAD Secretary General and approved by the Trade and Development Board on the recommendation of the Bureau of the Conference. The Bureau is composed of ten elected members plus a president and a rapporteur, taking into account an equitable geographical distribution and a regular rotation.

As is the case in most other organizations, applications for observer status must be

accompanied by all necessary supporting documents and information. Applications must be received sufficiently in advance of the session at which they are to be considered to allow adequate time for scrutiny.

In assessing applications, the principle of mutual benefit must be considered by the UNCTAD Secretary General and by the Bureau.

The Bureau plays a particularly important role in the screening procedure because it gives advice to the UNCTAD Secretary General on whether a particular applicant should be, or should not be, accepted. In case of disagreement, the matter is to be put to the vote and decided by a majority of Bureau members. Any recommendation against acceptance is to be considered final and the application rejected.

4.3 FAO

In FAO, the Constitution and General Rules regulate the granting of observer status to international governmental and non-governmental organizations for the purpose of eliminating any legal ambiguity.

Organizations may have one of several forms of status in FAO: “consultative”, “specialized consultative” and “liaison”. In practice, FAO may establish different degrees of relationship with international NGOs in order to secure their advice and associate them with the work. This also facilitates the achievement of observer status.

The steps for achieving observer status depend on the degree of association. For “specialized consultative” and “liaison” status, the Director General grants observer status at his discretion, while for the achievement of the “consultative status” it is the FAO Conference that takes the decision upon proposals submitted by the Council regarding the organizations seeking the consultative status. In FAO, therefore, the Director General plays a very important role as arbiter at all stages of the procedure for granting observer status.

4.4 World Trade Organization

The procedure for the admission of observers to the World Trade Organization (WTO) distinguishes the request of governments from the requests of international intergovernmental organizations. For governments, observer status is granted in order to allow them to become better acquainted with the Organization for the purpose of initiating negotiations on possible accession.

Usually, the applicant government must address a communication to the Ministerial Conference if the scope is to attend that meeting, and the Conference may accord observer status. Similarly, if a government seeks observer status for the General Council, it must address a communication to that body.

Observer governments have access to the main documents and may be invited to speak, but they do not have the right to make proposals.

The purpose of observer status for international intergovernmental organizations is to enable them to follow discussions on matters of direct interest, with the exclusion of budgetary, financial and administrative subjects.

Requests for observer status must be addressed to the WTO body in which such status is sought, and that body takes the decision. It goes without saying that the nature of the applicant’s activities and its reasons for the interest must be relevant to the WTO work. Representatives of organizations may be invited to speak, but this right does not include the

right to circulate papers or to make proposals, unless the chair makes a precise invitation for it to do so.

4.5 International Union for Conservation of Nature

The process of admitting observers to the International Union for Conservation of Nature (IUCN) is regulated by the rules of procedure that assign to the Secretariat the task of approving who is eligible for observer status. The Bureau comes in at the second instance, whenever there is a doubt about an application. In this case, the Bureau decides on whether to reject or accept the application.

Because IUCN favours maximum transparency in its processes, the Secretariat and the Bureau is asked to regularly provide the plenary with a list of accepted observers, applications that are pending, and applications that have been rejected.

Ultimately, therefore, the Bureau determines the success or otherwise of an application for observer status. This process is similar to those of UN organizations, in particular UNCTAD.

4.6 International Cocoa Organization

Similarly to ITTO, the legal basis for granting observer status to the International Cocoa Organization (ICCO) is contained in the International Cocoa Agreement 2010 and elaborated in the Organization's administrative rules.

The International Cocoa Council may invite non-member countries and international organizations and NGOs to attend as observers. As in other fora, some organizations – such as the UN, UNCTAD and FAO – are considered permanent observer members; non-member countries may be allowed to attend meetings for periods of two years or more.

International organizations and NGOs receive invitations on a case-by-case basis, after debate in Council. No procedure is established in case of disagreement among members regarding a particular application, but the rules of the Agreement are applicable through vote. Requests beyond a silent participation are not allowed, unless the chair decides otherwise.

The case of ICCO is very similar to ITTO.

4.7 International Coffee Organization

In contrast to the case for ITTO and some other sister organizations, the Coffee Agreement 2011 (and its predecessors) does not have provisions for the admission of observers to the International Coffee Council; two articles in the Coffee Agreement refer to cooperation without any direct reference to observer status. Nevertheless, the Rules of the International Coffee Organization (ICO) provide a procedure regulating the admission of observers.

NGOs seeking observer status must address requests to the Executive Director, providing relevant information and indicating the item(s) of interest. The Executive Director circulates such requests to members with proposals for action. Members may provide comments and possible objections, but the International Coffee Council makes the final decision.

In the ICO, as in other international organizations, problems arise if the Council is unable to reach agreement due to differing opinions among members.

Observers have no voice in proceedings, unless specifically invited.

4.8 International Sugar Organization

The International Sugar Organization (ISO) has similar procedures to the ICCO.

4.9 International Olive Council

Procedures for the admission of observers to the International Olive Council (IOC) are similar to those of other commodity organizations, with the International Agreement on Olive Oil and Table Olives 2005 allowing observer status to UN members and UN specialized agencies such as UNCTAD, FAO and UNDP. International intergovernmental organizations or NGOs may be accepted only if they have an interest in the sector and may strive to provide funds for the common benefit. A voting procedure for overcoming impasses exists in which observer status is granted if at least 50% of the members representing 82% of the shares agree.

4.10 International Cotton Advisory Committee

The International Cotton Advisory Committee (ICAC) has no established policy on the admission of observers. Admission is informal and decided by the Executive Director, and the policy is liberal with a view to facilitating the widest possible attendance.

4.11 International Jute Study Group

The International Jute Study Group, which was dissolved recently, had no provision for the granting of observer status. The Council had the power only to make rules for granting eligibility to “associate members”.

4.12 ASEANPOL

Although ASEANPOL (an association of police among ASEAN countries) differs in nature from commodity organizations and UN agencies, its procedures may offer a valid approach to the admission of observers (countries, intergovernmental organizations and NGOs). Applications for observer status are submitted to the Secretariat, which circulates them, with comments, to all Chiefs of ASEAN police forces, seeking their approval.

Applications are accepted if approved by all Chiefs. In parallel, the decision is forwarded to all Heads of Delegation for their endorsement.

If there is no consensus on an application among Chiefs, the Secretariat forwards the application to the Heads of Delegation, seeking their views and possible endorsement. If consensus is still unavailable, the applicant is informed of the unfavourable result.

Thus, ASEANPOL has a clear procedure that helps avoid lengthy debates within the forum itself and possible impasses. The entire process takes place in advance of meetings.

4.13 Intergovernmental Platform on Biodiversity and Ecosystem Services

The process for the admission of observers to the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) is similar to those of many other organizations. Applications are submitted to, and screened by, the Secretariat. If in doubt, the Secretariat requests the IPBES Bureau to scrutinize and accept or reject applications.

The case of IPBES is interesting because it gives full control of the procedure to the Secretariat and the Bureau, in which the members are represented.

4.14 United Nations Framework Convention on Climate Change

The legal basis for the admission of intergovernmental organizations and NGOs as observers to the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) is established in the convention itself. Admission is granted unless at least one-third of parties object. Requirements and procedures are similar to others.

The COP plays a key role, and it is important to note that when the threshold of at least one-third of objections is reached, the application is rejected automatically.

4.15 European Organization for Nuclear Research

The procedure for the admission of observers to the European Organization for Nuclear Research (CERN) is similar to that of the UNFCCC: a two-thirds majority of member States is necessary to admit observers from non-member States and other organizations.

Many other international and intergovernmental organizations could be included in this review, but the result is unlikely to change significantly because the procedures applied are very similar in most cases.

5. Possible alternative procedures on the admission of observers to the International Tropical Timber Council

5.1 Analysis of procedures

Several lessons can be learned from the experiences of the international fora and organizations examined above. All international and intergovernmental bodies seek to admit observers. The procedures applied to States and UN family organizations are relatively simple, but the rules are much more strict for civil-society members and NGOs and the granting of observer status to them is always uncertain. Although the procedural steps are often similar, a single formula for the final granting of observer status does not exist. Some UN organizations have very rigid rules, others have “softer” rules.

- 1) A few organizations do not have a procedure; rather, they have an open approach, with criteria aimed at achieving as wide a participation as possible.
- 2) The procedures of most organizations – including ITTO and its sister commodity organizations the IOC, the ICCO and the ISO – are insufficiently developed to avoid the risk that parts of meetings must be devoted to achieving agreement on the admission of observers.
- 3) Some organizations have introduced procedural mechanisms to their rules on granting or refusing observer status that make use of a vote. In these cases, voting has helped to settle possible controversies, with decisions taken by a two-thirds majority of members. Nevertheless, these procedures do not avoid the need for discussions at meetings.
- 4) In some organizations, a key role is assigned to the highest responsible officer (e.g. Director General, Secretary General or Executive Director). In these cases, the chief officer has a duty to examine applications for observer status and the power to propose the granting of such status (or not). Although members must almost always ratify any approval, it is clear that the chief officer’s proposal influences the outcome, shortening and simplifying the debate.

- 5) A fifth mode of procedure involves assigning responsibility for the admission of observers to a Bureau, in which a small set of the organization's members is represented.

In many respects, this last procedure seems the simplest and most equilibrated, because a management body takes the decision in advance, thus avoiding the need for debate in plenary. The necessary condition is that Bureau members have a clear mandate, representative geographical distribution, and the necessary legal status according to the organization's charter.

5.2. What system for ITTO?

Observers have always been an important part of ITTO's work, and their participation has been strengthened by the creation of the Trade Advisory Group and the Civil Society Advisory Group. The same can be said of side-events, which generally attract significant participation and contribute in a very positive manner to the work of the International Tropical Timber Council.

No system for the admission of observers is ideal or exempt from failure. In seeking full transparency, **the recourse**, almost always to a general consensus of members, with or without a vote, implies that divergent opinions on the eligibility of an applicant may occur.

Some ITTO members consider that transparency and the freedom to speak should be allowed to any observer, but this view is not fully shared by all. In general, however, it is felt that the participation as well as the expression of different stakeholders should be made possible during Council sessions at all levels (Council, Technical Committees, Side events as well as meetings of TAG and CSAG).

Regarding the conditions for granting observer status, we can assert that the current procedures are always valid and can be considered as guidelines. These include:

- request in writing submitted to the Executive Director;
- comprehensive description of the organization, its legal basis, nature of its work, and the reasons for its interest in being accorded observer status;
- conditionality of silent participation in meetings, unless invited by the chair;
- the possibility to present oral or written statements;
- **exclusion** from participating in financial, budgetary and administrative discussions; and
- exclusion from any vote.

The granting of observer status should be known far enough in advance of a meeting to allow adequate planning of attendance.

Of the procedures listed in section 5.1, the last two (i.e. numbered items 4 and 5) may be suitable for the International Tropical Timber Council as alternatives to voting.

The procedure described in numbered item 4 assigns the full process for the appointment of observers to the highest responsible officer of the organization, which in the case of ITTO is the Executive Director. Thus, the Executive Director would examine the applications, check their conformity with the ITTO rules, and propose to Council whether to grant or refuse observer status, explaining the reasons for this proposal to provide full transparency. To ensure comprehensive information, the Executive Director – in developing his or her

opinion – would also seek the views of national focal points. Where there are differing opinions among focal points, the Executive Director would deny directly the observer status, and the reasons for such a denial would be explained to the Council. Under such a process, the need for lengthy discussions or voting would be unlikely.

With the described procedure, one could argue that the above formula would give the ED an additional political power when he or she decides at his/her discretion the admission or refusal of the observer status to some applicants.

As an answer to this objection, we may reply that the ED is not alone in formulating his/her decision as he/she is assisted by the local focal points consulted as a first step, after a preliminary screening. If a negative opinion arises after consultations, it will be easier for him/her to deny admittance and justify it. In so doing ITTO would join what other international fora already do, Fixing in advance detailed rules and criteria for admitting observers would not provide a solution due to the different approaches taken by members.

Although this option transfers the onus of responsibility for the admission of observers to Executive Director, it has the advantage of transparency, and it would also be fully consistent with Article 14 of the ITTA 2006 as well as Rule 5 of ITTO's Rules of Procedure regarding national focal points. There would be no need for amendments to either document. In addition, it might be reasonable to consider that members could be inclined to trust the ED without any further request of debate or vote.

In the procedure described in numbered item 5, responsibility for the admission of observers is assigned to a Bureau, in which only a subset of members is represented. In the case of ITTO, the Informal Advisory Group (IAG) may be considered as a form of Bureau, being similar in form, mandate and composition.

The competencies of the IAG could easily be extended to the admission of observers. It should be noted, however, that the IAG is not a body created in the ITTA 2006; it is, as its definition indicates, an "informal" group without legal character which is created by the Council and which is monitored and managed by the same. The Council is now deliberating on the mandate and continuation of the IAG, and a revision is scheduled for the forthcoming 51st session. If the Council were to adopt this approach (i.e. the procedure described in numbered item 5), a simple extension of the IAG mandate to include the competence to decide on observers may be sufficient. From a strict legal point of view, however, whether the IAG should become a formal body under the ITTA 2006 requires further consideration and time.

6. Conclusions

Since its inception, in the three versions of the ITTA and through Council decisions, ITTO has encouraged partnerships with other international organizations, the private sector and civil society. This has enabled ITTO to benefit from the contributions and experiences of diverse observers, including through the Trade Advisory Group and the Civil Society Advisory Group.

The Council is committed to improving the procedures governing the activities of observers and thereby to continuing the fruitful cooperation and exchange of experiences.

Even though this paper is intended mainly to address the procedures applied in the main international fora for the admission of observers, it would be remiss not to assess whether alternative options exist in ITTO that would allow the easier granting of observer status to representatives of civil society.

Existing procedures already allow considerable participation through transparent procedures. They offer similar opportunities for participation as offered in other international fora; the result depends on the activities pursued by the applicants. This general overview shows however that any procedure for the granting of observer status may result in a lack of consensus on the admission of certain observers. The usual way of resolving impasses is for members to vote, but this should be done as a last resort to avoid undue confrontation among parties.

No procedure offers a failsafe method for achieving consensus on all applications for observer status. Taking advantage of the experiences of other relevant international organizations, it is possible to implement a complementary methodology based on the direct involvement of the Executive Director, assisted by national focal points, that both accommodates the interests of ITTO members and favours the participation of observers.

This methodology for the admission of observers would have the advantage that, by the time the Executive Director informs the Council, he or she would have already gathered sufficient information with which to justify the acceptance or refusal of a given application.

Although this approach transfers responsibility for assessment to the Executive Director, it would be fully in compliance with the legal framework of the ITTA and would have no impact on ITTO's structures.

The conclusion and recommendation of this background paper is therefore that the Council may wish to consider the option of transferring the onus of responsibility for the admission of observers to the Executive Director as a valid way of responding to the need to enhance stakeholder participation in a fully transparent way in all official discussions taking place in ITTC, including side events, TAG and CSAG.

On the contrary, fixing in advance detailed rules and criteria for admitting observers would not provide a solution due to the different approaches taken by members..

7. Annex: Decision 3(L) of 8 November 2014



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FIFTIETH SESSION
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DECISION 3(L)

ADMISSION AND ACTIVITIES OF OBSERVERS DURING COUNCIL SESSIONS

The International Tropical Timber Council,

Recalling Decision 9(XXVIII) on 'Enhancing Participation of Members of Civil Society in the Relevant Activities of the ITTO', which invited the establishment of open-ended Advisory Groups to contribute to the work of the Council and led to the formation of ITTO's Trade Advisory Group (TAG) and Civil Society Advisory Group (CSAG);

Recognizing the important role that observers play in bringing new issues, perspectives and concerns regarding tropical forests to the attention of ITTO members to promote cooperation among stakeholders ;

Noting that it was unable to reach consensus regarding the admission of one observer to the 50th session;

Emphasizing its desire to maintain positive and mutually respectful relationships with all observers;

Confirming its intention to ensure that sessions remain as transparent as possible and that its work continues to be disseminated to all stakeholders;

Decides to:

1. Request the Executive Director to compile a background paper including information on the procedures of relevant international organizations regarding the admission, the rights and responsibilities of, and the activities undertaken by observers at official sessions and side events;
2. Request the Executive Director to establish a working group consisting of 3 representatives each from producer and consumer members and one representative each from the TAG and CSAG to:
 - review the background paper along with ITTO's rules of procedure and any other relevant UN documents and develop guidelines for the admission and rights and responsibilities of observers that are consistent with the ITTA, 2006;
 - develop guidelines for the activities of observers that may be undertaken during sessions of Council (including side events);
 - make recommendations to Council to enhance its engagement with observers.
3. Consider the report of the working group at its 51st Session and adopt improved procedures to be applied in the admission of observers governing activities to be undertaken by them; and
4. Requests member countries to make voluntary contributions of \$13,000 for the consultant fee and \$27,000 for a working group meeting available through the 2015-16 Biennial Work Program to meet the financial requirements of implementing this Decision. If the funds for the working group meeting are unavailable, the working group shall operate electronically.

ITTC(L)/21
Page 2

ANNEX

Indicative Budget (assumes 3 day workshop in Yokohama)

Background paper consultancy	
Fee	\$10,000
Participation in working group (travel/DSA)	\$3,000
Sub-total	\$13,000
Working group	
Travel (8 participants)	\$20,000
DSA (3 day workshop)	\$7,000
Sub-total	\$27,000
Total	\$40,000

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