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**Policy Group**

**Issue Paper on Permanent Observer Status**

**Report by the Secretariat**

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## **Issue Paper on Permanent Observer Status**

### **Report by the Secretariat**

*Note by the Secretariat*

#### Background

The CSLF currently does not have a “Permanent Observer” status. Since a Permanent Observer status is commonly used in similar international organizations, applications for this status can be anticipated. Such a status would raise a number of questions that the Policy Group must decide. The Policy Group may wish to consider these questions

This issue paper identifies the issues that must be addressed, the possible pros and cons of such status, provides examples of how other international organizations address “Permanent Observers”, and offers possible options for the Policy Group to consider. It does not make a specific recommendation.

#### Action Requested

The Policy Group is requested to consider the issues that must be addressed for Observer status and the decisions these may involve during its meeting in Berlin.

## ISSUE PAPER ON PERMANENT OBSERVER STATUS Report by the Secretariat

### Issue

Currently, the CSLF does not have a Permanent Observer status and neither the CSLF Charter nor the Terms of Reference and Procedures address it. This request raises several questions for the Policy Group and could potentially set a precedent for further applications:

1. Should there be a “Permanent Observer” status?
2. If the answer is yes:
  - a. What rights, privileges and responsibilities should such status carry?
  - b. How should these differ from those of a Member or Stakeholder?
  - c. Who should be eligible for that status?
  - d. How long should this status continue?
  - e. What should be the procedures for application and acceptance?

### Discussion

The status of Permanent Observer is an established precedent in some international organizations for which national governments are members. Permanent Observers are non-Members that have certain specified rights beyond those of other stakeholders. Examples of international organizations with Permanent Observers include:

- Asia Pacific Economic Cooperation (APEC);
- Council of Europe (CoE);
- Economic Community of West African States (ECWAS);
- North Atlantic Assembly;
- Organization for Security and Cooperation in Europe (OSCE);
- Organization of American States (OAS);
- Organization of Petroleum Exporting Countries (OPEC);
- United Nations (UN) and its subsidiary bodies;
- Western European Union;
- World Intellectual Property Organization (WIPO); and
- World Trade Organization (WTO).

Permanent Observers typically have some, but not all, of the rights and privileges of Members of such organizations. They virtually never have the right to vote, but other rights and privileges may be spelled out by the relevant organization either by formal agreement or by custom and precedent.

Rights and privileges that the Policy Group may or may not decide to give to Permanent Observers include:

- Attendance at meetings,
- Right to present information and speak at meetings,
- Participation in various activities,
- Access to privileged CSLF information, and
- Participation in CSLF projects.

Typically, governments or intergovernmental organizations become Permanent Observers of these international organizations when they either do not qualify for membership or, for some reason, do not wish to become full members and some participation is agreed to be in the mutual interest of both Members and Permanent Observers. Examples include out-of-region members of regional organizations (e.g., ECWAS, OAS, CoE), inter-governmental organizations and non-sovereign entities (UN) and non-Member governments and inter-governmental organizations (WTO).

The WTO is an example of an organization that has Permanent Observers. Permanent Observers may be either governments or intergovernmental organizations. The purpose of observer status in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them. Governments must apply for membership within five years of becoming observers. Participation in WTO Ministerial and General Council meetings is laid out in two annexes to the WTO rules of procedure. These rules are included as Attachment A to the present issue paper to illustrate the issues that may be addressed and provide one example of how they are addressed.

### **Required Decisions**

The Policy Group has a number of options for answering each of the questions posed by the possibility of Permanent Observer status:

1. Should there be a “Permanent Observer” status? Arguments could potentially be made for and against the CSLF having a Permanent Observer status. For example:

#### Pro

- “Permanent Observer” status would be a way for governments that do not meet any membership criteria established by the Policy Group to participate in the CSLF.
- The CSLF might want to have some non-Members participate in the CSLF on an ongoing basis beyond the participation of other Stakeholders and this status could be a way to accomplish this.

Con

- Depending on their responsibilities, Permanent Observers might contribute little to the CSLF.
- The only category the CSLF needs for non-Members is that of “Stakeholders.”
- Permanent Observers could become “free riders” obtaining the benefits of membership without the responsibilities.
- Participation of the entities that would be Permanent Observers in specific activities could be arranged by the responsible CSLF entity (e.g., a Task Force) on an ad-hoc basis; Permanent Observer status is not necessary.

2. If the Policy Group decides that there should be a Permanent Observer status:

- f. What rights, privileges and responsibilities should such status carry and how should they differ from those of Members and Stakeholders? It would seem that these should be less than those of Members. Options include:
  - i. Attendance at meetings of various types
  - ii. Presenting written information or making formal presentations
  - iii. Speaking at meetings
  - iv. Participation in Policy Group, Technical Group or various Task Force activities
  - v. Access to privileged CSLF information on CSLF website or sent by Secretariat or Policy and Technical Groups or their Task Forces
  - vi. Participation in CSLF projects
  - vii. No voice in CSLF decision making.
- g. What entities should be eligible for Permanent Observer status? Options include:
  - i. Governments
  - ii. International Organizations
- h. Should specific criteria be set for this status? Specific criteria would provide for clarity and transparency. On the other hand, decisions made on a case-by-case basis without formal criteria would maintain maximum flexibility. Distinctions may also potentially be made within the categories of potential Permanent Observers based on even more specific criteria.
- i. How long should this status continue? Should Permanent Observers status be for a specific period (3 years, for example) or should it be for the entire term of the CSLF (through 2013)?

- j. What should be the procedures for application and acceptance?
  - i. Application Procedure. What information is required, who must sign, and how should it be submitted?
  - ii. Approval. Would approval require consensus decision making in the same manner as membership applications or could specific criteria be set and implemented?

**Attachment A**  
**World Trade Organization Rules for Observers**

The World Trade Organization (WTO) sets rules for two types of Permanent Observers—governments and inter-governmental organizations—in two annexes to its “Rules and Procedures for Sessions of the Ministerial Conference and Meetings of the General Council.” (See [http://www.wto.org/english/thewto\\_e/igo\\_obs\\_e.htm](http://www.wto.org/english/thewto_e/igo_obs_e.htm).) The Ministerial Conference and General Council are two different bodies within the WTO. These two annexes follow. As they show, the treatment of the two types of Permanent Observers by the WTO addresses similar topics, but is different.

The WTO’s rules were selected because they were the most readily-accessible comprehensive rules. They are not recommendations for the Policy Group, but rather to illustrate the issues that are addressed by Permanent Observers status in one international organization.

ANNEX 2

GUIDELINES FOR OBSERVER STATUS FOR GOVERNMENTS IN THE WTO

- 1) Governments seeking observer status in the Ministerial Conference shall address a communication to that body indicating their reasons for seeking such status. Such requests shall be examined on a case-by-case basis by the Ministerial Conference.
- 2) Governments accorded observer status at sessions of the Ministerial Conference shall not automatically have that status at meetings of the General Council or its subsidiary bodies. However, governments accorded such status in the General Council and its subsidiary bodies in accordance with the procedures described below, shall be invited to attend sessions of the Ministerial Conference as observers.
- 3) The purpose of observer status in the General Council and its subsidiary bodies is to allow a government to better acquaint itself with the WTO and its activities, and to prepare and initiate negotiations for accession to the WTO Agreement.
- 4) Governments wishing to request observer status in the General Council shall address to that body a communication expressing the intent to initiate negotiations for accession to the WTO Agreement within a maximum period of five years, and provide a description of their current economic and trade policies, as well as any intended future reforms of these policies.
- 5) The General Council shall examine requests for observer status by governments on a case-by-case basis.
- 6) Observer status in the General Council shall be granted initially for a period of five years. In addition to being invited to sessions of the Ministerial Conference, governments with observer status in the General Council may participate as observers at meetings of working parties and other subsidiary bodies of the General Council as appropriate, with the exception of the Committee on Budget, Finance and Administration.
- 7) During its period of observership, an observer government shall provide the Members of the WTO with any additional information it considers relevant concerning developments in its economic and trade policies. At the request of any Member or the observer government itself, any matter contained in such information may be brought to the attention of the General Council after governments have been allowed sufficient time to examine the information.
- 8)(a) If, at the end of five years, an observer government has not yet initiated a process of negotiation with a view to acceding to the WTO Agreement, it may request an extension of its status as observer. Such a request shall be made in writing and shall be accompanied by a comprehensive, up-dated description of the requesting government's current economic and trade policies, as well as an indication of its future plans in relation to initiating accession negotiations.
- (b) Upon receiving such a request, the General Council shall review the situation, and decide upon the extension of the status of observer and the duration of such extension.
- 9) Observer governments shall have access to the main WTO document series. They may also request technical assistance from the Secretariat in relation to the operation of the WTO system in general, as well as to negotiations on accession to the WTO Agreement.

10) Representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making.

11) Observer governments shall be required to make financial contributions for services provided to them in connection with their observer status in the WTO, subject to financial regulations established pursuant to Article VII:2 of the WTO Agreement.

ANNEX 3

OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL  
ORGANIZATIONS IN THE WTO<sup>1</sup>

- 1) The purpose of observer status for international intergovernmental organizations (hereinafter referred to as "organizations") in the WTO is to enable these organizations to follow discussions therein on matters of direct interest to them.
- 2) Requests for observer status shall accordingly be considered from organizations which have competence and a direct interest in trade policy matters, or which, pursuant to paragraph V:1 of the WTO Agreement, have responsibilities related to those of the WTO.
- 3) Requests for observer status shall be made in writing to the WTO body in which such status is sought, and shall indicate the nature of the work of the organization and the reasons for its interest in being accorded such status. Requests for observer status from organizations shall not, however, be considered for meetings of the Committee on Budget, Finance and Administration or of the Dispute Settlement Body.<sup>2</sup>
- 4) Requests for observer status shall be considered on a case-by-case basis by each WTO body to which such a request is addressed, taking into account such factors as the nature of work of the organization concerned, the nature of its membership, the number of WTO Members in the organization, reciprocity with respect to access to proceedings, documents and other aspects of observership, and whether the organization has been associated in the past with the work of the CONTRACTING PARTIES to GATT 1947.
- 5) In addition to organizations that request, and are granted, observer status, other organizations may attend meetings of the Ministerial Conference, the General Council or subsidiary bodies on the specific invitation of the Ministerial Conference, the General Council or the subsidiary body concerned, as the case may be. Invitations may also be extended, as appropriate and on a case-by-case basis, to specific organizations to follow particular issues within a body in an observer capacity.
- 6) Organizations with which the WTO has entered into a formal arrangement for cooperation and consultation shall be accorded observer status in such bodies as may be determined by that arrangement.
- 7) Organizations accorded observer status in a particular WTO body shall not automatically be accorded such status in other WTO bodies.
- 8) Representatives of organizations accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have

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<sup>1</sup>These guidelines shall apply also to other organizations referred to by name in the WTO Agreement.

<sup>2</sup>In the case of the IMF and the World Bank, their requests for attendance as observers to the DSB will be acted upon in accordance with the arrangements to be concluded between the WTO and these two organizations.

spoken. The right to speak does not include the right to circulate papers or to make proposals, unless an organization is specifically invited to do so, nor to participate in decision-making.

9) Observer organizations shall receive copies of the main WTO documents series and of other documents series relating to the work of the subsidiary bodies which they attend as observers. They may receive such additional documents as may be specified by the terms of any formal arrangements for cooperation between them and the WTO.

10) If for any one-year period after the date of the grant of observer status, there has been no attendance by the observer organization, such status shall cease. In the case of sessions of the Ministerial Conference, this period shall be two years.