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de las
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Unidas
para la
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y la
Alimentación

Item 3 of the Draft Provisional Agenda

**COMMISSION ON GENETIC RESOURCES FOR FOOD AND
AGRICULTURE ACTING AS INTERIM COMMITTEE FOR THE
INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

**EXPERT GROUP ON THE TERMS OF THE STANDARD
MATERIAL TRANSFER AGREEMENT**

First Meeting

Brussels, 4-8 October 2004

**TERMS OF REFERENCE FOR THE EXPERT GROUP ON THE
TERMS OF THE STANDARD MATERIAL TRANSFER
AGREEMENT**

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**TERMS OF REFERENCE FOR THE EXPERT GROUP ON THE TERMS OF THE
STANDARD MATERIAL TRANSFER AGREEMENT¹**

I. Scope of the Work

1. The Expert Group shall develop and propose recommendations, which may be considered by the Interim Committee for the Treaty, on the terms of the standard Material Transfer Agreement (MTA), in accordance with Article 12.4 of the International Treaty.

2. The Expert Group is also asked to provide advice, and, where appropriate, to propose options and/or elements for inclusion in the standard MTA on, *inter alia*:

- What should be the level, form and manner of payments in line with commercial practice?

- Whether different levels of payment should be established for various categories of recipients who commercialise such products or for different sectors and, if so, what those levels, various categories of recipients and sectors should be?

- Whether to exempt small farmers in developing countries and in countries with economies in transition from the payments, and if so, who qualifies as such as a small farmer?

- What constitutes commercialisation in terms of Article 13.2d (ii) of the Treaty?

- What constitutes incorporation of material accessed from the Multilateral System?

- When would a product be considered to be available without restriction to others for further research and breeding?

- How will monetary and other benefits be defined, for the purposes of the standard MTA?

¹ Appendix D to the report of the First Meeting of the Commission on Genetic Resources for Food and Agriculture acting as Interim Committee for the International Treaty on Plant Genetic Resources for Food and Agriculture.

- By what means will the MTA ensure the application of Article 12.3?
- What terms should be included in the MTA, so that recipients are bound by it on acceptance of the material from the Multilateral System?

II. Composition of the Expert Group

3. The Expert Group shall examine and report on all options identified, reflecting all views, with the associated implications.
4. The Expert Group shall be composed of experts nominated by Governments, with technical or legal expertise with respect to the exchange of plant genetic resources for food and agriculture and relevant commercial practice.
5. The group shall reflect an appropriate balance between developed and developing countries and countries with economies in transition, with each FAO region being represented.
6. The Expert Group shall comprise 24 members, as follows: four members each from Europe, Africa, Asia, Latin America and Caribbean, and the Near East, and two members each from North America and South West Pacific. Each region will appoint, in addition, an equivalent number of advisors to the members of the Expert Group. It is suggested that advisors may include *inter alia*, representatives from governments, industry, academia and civil society.
7. The CGIAR is invited to nominate one representative to participate in his/her technical capacity in the work of the Expert Group.
8. WIPO and UPOV will be invited to send one representative each to provide technical assistance, at the request of the Expert Group.

III. Schedule for the completion by the Expert Group of its functions

9. The regions are requested to nominate their experts before the end of the year 2002, so that the meeting of the Expert Group may be held, if possible, within the first half of 2003, subject to the availability of adequate extra-budgetary resources. The Expert Group will report on progress to the next meeting of the Interim Committee for the Treaty, which will then decide whether further meetings of the Expert Group are required.