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<b>Item 10 of the Draft Provisional Agenda</b>
<b>INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</b>
<b>FIRST SESSION OF THE GOVERNING BODY</b>
<b>Madrid, Spain, 12–16 June 2006</b>
<b>APPOINTMENT OF THE SECRETARY AND OTHER MATTERS RELATED TO THE ESTABLISHMENT OF THE SECRETARIAT</b>

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*Appendix 1:* Draft Terms of Reference of the Secretary of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture

*Appendix 2:* Proposed Procedures for the appointment of the Secretary of the Governing Body of the International Treaty



# APPOINTMENT OF THE SECRETARY AND OTHER MATTERS RELATED TO THE ESTABLISHMENT OF THE SECRETARIAT

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## INTRODUCTION

1. The International Treaty, in Article 20, provides that the Secretary of the Governing Body of the International Treaty “shall be appointed by the Director-General of FAO, with the approval of the Governing Body”.
2. By FAO Resolution 3/2001, the Secretariat of the Commission on Genetic Resources for Food and Agriculture has acted, since November 2001, as the Secretariat of the Interim Committee for the Treaty, with the Secretary of the Commission acting as the Secretary of the Interim Committee. At its second meeting, the Commission on Genetic Resources for Food and Agriculture acting as Interim Committee discussed the preparation of a draft work programme and budget for adoption by the Governing Body, and, in that context, “requested that options be prepared, regarding the Secretary and the Secretariat, including on the level and placing of the Secretariat within the FAO, for consideration by the Governing Body”.<sup>1</sup>
3. The present document responds to the request of the Interim Committee.

## TERMS OF REFERENCE OF THE SECRETARY

4. Article 20 of the Treaty further stipulates the functions of the Secretary, and these have been followed closely in preparing draft terms of reference for the post of the Secretary, which are given in *Appendix 1*. The Governing Body is requested to approve these terms of reference.

## OPTIONS FOR THE LEVEL OF THE SECRETARY

5. In analysing the level at which the post of Secretary should be placed, a number of factors need to be taken into account:
  - The Secretary must have adequate authority to manage a secretariat with important and delicate legal and technical functions, which will require directing skilled professional staff, including senior officers (P-5 level).
  - By the terms of reference, the Secretary must cooperate with other organizations and treaty bodies, including in particular the Secretariat of the Convention on Biological Diversity, in achieving the objectives of the Treaty. In order to be able to represent the Treaty adequately in such bodies, and cooperate with their senior staff, the Secretary’s post should be established at an adequate level.
  - The terms of reference require the Secretary to coordinate work related to the International Treaty with relevant FAO departments. The level of the Secretary’s post should provide for adequate seniority to manage all aspects of the work effectively. The post of the Secretary of the International Plant Protection Convention (which, like the

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<sup>1</sup> CGRFA-MIC-2/04/REP, *Second 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*, para. 23

Treaty, is a legally binding international convention), the post of the Secretary of the *Codex Alimentarius* Commission and the post of Secretary of the Commission on Genetic Resources for Food and Agriculture have all been established at D-1 level.

6. Consequently, it is recommended that the post of the Secretary of the Governing Body of the International Treaty be established at the D-1 level. Upon the approval of the Governing Body, this would then need to be reflected in the budget adopted for the Treaty, under Item 18 of the Draft Provisional Agenda.

### OPTIONS FOR THE PLACING OF THE SECRETARIAT

7. The approved *Revised FAO Programme of Work and Budget for 2006-2007*, provides for the servicing of the Secretariat of the Treaty under Programme Entity 2AP03, *Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture*,<sup>2</sup> within the Plant Production and Protection Division. Closely related, and also managed by the Plant Production and Protection Division is Programme Entity 2AP01, *Technical Support to the International Treaty on Plant Genetic Resources for Food and Agriculture*. It should be noted that this Programme Entity is not part of the Secretariat of the Treaty. This Programme Entity provides for scientific and technical work on various “supporting components” of the Treaty,<sup>3</sup> in particular the *Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture* and the *State of the World’s Plant Genetic Resources for Food and Agriculture*, which are carried out by the appropriate technical divisions and services in FAO, especially by the Seed and Plant Genetic Resources Services, under the guidance of the Commission on Genetic Resources for Food and Agriculture.

8. The Programme Entity 2KP01, *Secretariat of the Commission on Genetic Resources for Food and Agriculture*, is also relevant to the work of the Treaty, because, as mentioned above, the Commission oversees various “supporting components” of the Treaty. Moreover, the Treaty stipulates that regular sessions of the Governing Body “should, as far as possible, be held back-to-back with the regular sessions of the Commission on Genetic Resources for Food and Agriculture.”<sup>4</sup> The Secretariat of the Governing Body of the International Treaty will be required to cooperate closely with the Secretariat of the Commission on Genetic Resources for Food and Agriculture.

### PROCEDURES FOR THE APPOINTMENT OF THE SECRETARY

9. Article 20.1 of the Treaty states:

*“The Secretary of the Governing Body shall be appointed by the Director-General of FAO, with the approval of the Governing Body.”*

10. The FAO Council, at its Hundredth and Twenty-seventh Session (November 2004), reviewed the legal status of bodies established under Article XIV of the FAO Constitution, and, in particular, the question of the appointment of the secretaries of such bodies, of which the

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<sup>2</sup> See document PC 95/3-FC 113/14, *Revised Programme of Work and Budget 2006-07*, approved by the Joint Meeting of the 95<sup>th</sup> Programme and 113<sup>th</sup> Finance Committees in May 2006.

<sup>3</sup> Part V of the Treaty, *Supporting Components*: Article 14 – *Global Plan of Action*; Article 16 – *International Plant Genetic Resources Networks*; and Article 17 – *The Global Information System on Plant Genetic Resources for Food and Agriculture*.

<sup>4</sup> Article 19.9.

Governing Body of the Treaty is one, in the case that the secretary is appointed by the Director-General, with the approval of the body concerned.<sup>5</sup>

11. In this respect, the Council stated that:

*“..., in cases where the secretary of a body is appointed by the Director-General with the approval of the body concerned, the need arises to harmonize the requirements inherent in the status of the secretaries of functional autonomy and technical accountability towards the concerned bodies and of administrative accountability towards the Organization, as officials of FAO. The Council noted that the selection and appointment process cannot be seen as one including two parallel and independent segments consisting, on the one hand, in the identification of a candidate by the body and, on the other hand, his or her appointment by the Director-General who would be required merely to appoint the selected candidate, without any form of involvement in the process of identification of qualified candidates. The Council stressed that this would not be consistent with the applicable legal framework, including the constitutional duties of the Director-General in the selection and appointment of staff.*

*“The Council agreed that the procedure adopted recently by the General Fisheries Commission for the Mediterranean (GFCM), at its Extraordinary Session (Malta, 19-23 July 2004), provided a legally acceptable solution for the appointment of secretaries of bodies under Article XIV of the FAO Constitution having autonomous budgets.”*

12. *Appendix 2* to the present document accordingly contains, for the consideration of the Governing Body, procedures for appointment of its Secretary, drawn, *mutatis mutandis*, from those adopted by the General Fisheries Council for the Mediterranean, and considered by the FAO Council to be a legally acceptable solution for the appointment of secretaries of bodies under Article XIV of the FAO Constitution having autonomous budgets.<sup>6</sup> The Governing Body is requested to review and approve these, and, in particular, the establishment of a Screening Committee to, *inter alia*, review applications for the post.

### PROPOSED INTERIM ARRANGEMENTS

13. As requested by the FAO Conference in Resolution 3/2001, the Secretariat of the Commission on Genetic Resources for Food and Agriculture has provided the Interim Secretariat of the Treaty, since its adoption. It is therefore suggested that the Secretariat of the Commission continue to fulfil this function until the appointment of the Secretary.

### DECISIONS REQUIRED OF THE GOVERNING BODY

14. The following draft decisions are accordingly put to the Governing Body for its consideration and approval.

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<sup>5</sup> CL 127/REP, *Report of the Hundred and Twenty-seventh Session of the FAO Council (Rome, 22-27 November 2004)*, para. 90-96. As reported in para. 90, “The Council agreed that the legal status of bodies established under Article XIV of the FAO Constitution has to be seen in such a way as to reconcile, in a suitable manner, the requirements of functional autonomy of such bodies and the fact that they are placed and operate under the framework of FAO. The constituent instruments of bodies under Article XIV of the FAO Constitution do not entrust them with legal personality, *i.e.*, capacity to hold rights and obligations of their own, and, therefore, they have to act through FAO or drawing on the legal capacity of FAO.”

<sup>6</sup> This procedure is given in *Appendix H, Procedures for the Selection of the First Executive Secretary*, of FIPL/R755(Bi), *Report of the Extraordinary Session of the General Fisheries Commission for the Mediterranean (St Julians, Malta, 19-23 July 2004)*.

The Governing Body:

- Approves the Terms of Reference of its Secretary (para. 4 and *Appendix 1*).
- Invites the Director-General to establish the post at D-1 level (para. 5 and 6).
- Invites the Director-General to advertise the post internationally.
- Agrees with the proposed procedures for the appointment of the Secretary (para. 12 and *Appendix 2*).
- Decides to establish a Screening Committee, under the Chairmanship of the Chair of the Governing Body, to review applications for the post of Secretary of the Governing Body of the International Treaty and appoints, to act as members of the Screening Committee, its Bureau.
- Invites the Director-General to nominate two representatives to the Screening Committee.
- Requests the Screening Committee to complete the procedures in time to recommend a candidate Secretary of the Governing Body to the second session of the Governing Body.
- Requests the Secretariat of the Commission on Genetic Resources for Food and Agriculture to continue to act as Interim Secretariat of the Governing Body until the appointment of the Secretary.

**DRAFT TERMS OF REFERENCE**

**SECRETARY OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

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The Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture is composed of all Contracting Parties to the Treaty. It holds regular sessions at least once every two years, and other sessions and meetings as it so decides. Under the guidance of the Secretary of the International Treaty on Plant Genetic Resources for Food and Agriculture, the Secretariat of the Governing Body prepares, supports, and follows up on the Governing Body's deliberations and negotiations.

***Terms of Reference***

As provided for in Article 20 of the Treaty, the Secretary performs the following functions:

- (a) Arranges for and provide administrative support for sessions of the Governing Body and for any subsidiary bodies as may be established, including the preparation of documentation;
- (b) Assists the Governing Body in carrying out its functions, including the performance of specific tasks that the Governing Body may decide to assign to the Secretariat;
- (c) Reports on the Secretariat's activities to the Governing Body;
- (d) Communicates to all Contracting Parties and to the Director-General of the FAO:
  - (i) decisions of the Governing Body within sixty days of adoption;
  - (ii) information received from Contracting Parties in accordance with the provisions of this Treaty;
- (e) Cooperates with other organizations and treaty bodies, including in particular the Secretariat of the Convention on Biological Diversity, in achieving the objectives of the Treaty;
- (f) Coordinates work related to the International Treaty with relevant FAO departments, and with other relevant organizations, and submits periodic reports to regular sessions of the Governing Body;
- (g) Manages the human and financial resources of the Secretariat of the Governing Body;
- (h) Performs such other related duties that the Director-General may assign to the Secretary.

***Essential and desirable qualifications***

- a) The incumbent should have university degree qualifications, preferably at postgraduate level, in international policy, international law administration, biosciences, agriculture or related fields, preferably relevant to the conservation and use of genetic resources. He/she should have at least ten years of relevant experience in policy work, preferably including international relations related to plant genetic resources of food and agriculture, and knowledge of ongoing policy discussions related to genetic resources and biodiversity, in FAO, CBD, WTO and WIPO. He/she

should have the ability to exercise a high degree of professional initiative. The incumbent should also be conversant with the preparation of budgets, and the organization of international meetings, and have strong, proven presentational and drafting skills. He/she should have an excellent knowledge of English, and a working knowledge of French or Spanish.

b) Other essential qualifications include: demonstrated competence in the selection and management of staff, demonstrated managerial ability to supervise professional matters in the subject field; and familiarity with the use of word processing; spread-sheets and database management systems;

c) Desirable requirements include: negotiating skills, a high degree of adaptability, and the ability to cooperate effectively with people of different nationalities, and of various social and cultural backgrounds and education levels. Knowledge of other FAO languages will be a desirable qualification.



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**PROPOSED PROCEDURES FOR THE APPOINTMENT OF THE SECRETARY OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY.**

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1. The Governing Body agrees on the required qualifications and job description, and invites the Director-General of the FAO to advertise the post through international means.
2. The Governing Body establishes a Screening Committee to review applications for the post of Secretary of the Governing Body of the International Treaty, composed of:
  - The Bureau of the Governing Body, and
  - Two representatives nominated by the Director-General of FAO.

The Chair of the Governing Body will chair the Screening Committee.

3. The deadline for the receipt by FAO of applications will be six weeks from the advertisement of the post.
4. The Screening Committee shall meet at the FAO within a suitable period from the closure of the vacancy notice. The Screening Committee will first eliminate candidates who do not explicitly fulfil the qualifications required for the post, and will then identify a roster of five leading candidates. These candidates will be invited to Rome for interviews.
5. The Screening Committee will meet again in Rome at a suitable time to interview the five leading candidates. The Chair, in consultation with the other of the Screening Committee, shall establish a list of five questions, which shall be posed to all five candidates during their separate interviews lasting a maximum of 50 minutes each.
6. At the end of all interviews, a first round of voting shall be held and the two candidates receiving the least number of votes shall be eliminated from the selection process. A second round of voting shall then be held between the remaining three candidates and the candidate receiving the least number of votes shall be eliminated. A vote shall then take place between the final two candidates and he or she receiving the most votes shall be selected.
7. Upon approval by the Governing Body, the Chair of the Governing Body shall propose the candidate selected to the Director-General of FAO, for appointment as the Secretary of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.