

October 2005



منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

Food  
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l'agriculture

Organización  
de las  
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Unidas  
para la  
Agricultura  
y la  
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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**

**Open-Ended Working Group on the Rules of Procedure and the Financial Rules of the  
Governing Body, Compliance, and the Funding Strategy**

Rome, 14 – 17 December 2005

**DRAFT RULES OF PROCEDURE FOR THE GOVERNING BODY  
OF THE INTERNATIONAL TREATY ON PLANT GENETIC  
RESOURCES FOR FOOD AND AGRICULTURE**

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For reasons of economy, this document is produced in a limited number of copies. Delegates and observers are kindly requested to bring it to the meetings and to refrain from asking for additional copies, unless strictly indispensable.  
The documents for this meeting are available on Internet at <http://www.fao.org/ag/cgrfa/ico1.htm>.

## INTRODUCTION

1. The Conference, at its Thirty-first Session in November 2001, adopted Resolution 3/2001, adopting the International Treaty on Plant Genetic Resources for Food and Agriculture, and mandating interim arrangements for the implementation of the Treaty. As part of these interim arrangements, the Conference requested the Commission acting as Interim Committee for the Treaty to prepare, for consideration at the first Session of the Governing Body, draft Rules of Procedure for the Governing Body.
2. At its Second Meeting, the Interim Committee considered the document, *Draft Rules of Procedure for the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*.<sup>1</sup> The Interim Committee made amendments to the draft Rules of Procedure for the Governing Body and decided that the revised rules<sup>2</sup> should be forwarded to an Open-ended Working Group prior to being submitted to the Governing Body, for consideration at its First Session.
3. The Draft Rules of Procedure as revised by the Interim Committee are set out in the *Appendix* to this document.
4. The Open-Ended Working Group is invited to review the attached draft Rules of Procedure for the Governing Body of the Treaty with a view to recommending their consideration by the Governing Body at its first Session as requested by the Conference and decided by the Interim Committee.

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<sup>1</sup> Document CGRFA/MIC-1/02/4.

<sup>2</sup> Appendix D of Document CGRFA/MIC-2/04/REP.

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**APPENDIX**

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**[GOVERNING BODY FOR THE INTERNATIONAL TREATY ON PLANT GENETIC  
RESOURCES FOR FOOD AND AGRICULTURE****DRAFT RULES OF PROCEDURE****Rule I  
Membership**

1.1 In accordance with Article 19.1 of the Treaty, membership in the Governing Body is composed of all Contracting Parties to the Treaty.

**Rule II  
Officers**

2.1 The Governing Body shall elect a Chairperson and [one Vice-Chairperson per FAO Region]/[not more than 6 Vice-Chairpersons, based on the FAO Regions, (hereinafter collectively referred to as “the Bureau”), and in addition a *Rapporteur*]/[not more than 7 Vice-Chairpersons (hereinafter collectively referred to as “the Bureau”), and one of whom shall act as *rapporteur*]/[5 Vice-Chairpersons, the *rapporteur* not being a member of the Bureau] from among the representatives, alternates, experts and advisers (hereinafter referred to as “delegates”) of the Contracting Parties[; it being understood that no delegate shall be eligible without the concurrence of the head of the delegate’s delegation]. In electing the Bureau, the Governing Body shall have due regard to the principle of equitable geographical representation. No officer may be re-elected for a third consecutive term.

[2.2 [The term of office of the Chairperson shall commence with immediate effect, and the terms of office of the Vice-Chairpersons shall commence upon the closure]/[The terms of office of the Chairperson and Vice-Chairpersons shall commence with immediate effect upon the closure] of the meeting at which they are elected. [The Chairperson shall remain in office until a new Chairperson is elected at the commencement of the next Regular Session of the Governing Body and the Vice-Chairpersons shall remain in office until the closure of the next Regular Session.] They shall serve as the Bureau of any Special Session held during their terms of office, and provide guidance to the Secretary with regard to the preparations for, and conduct of, sessions of the Governing Body.]

or

[2.1 The Bureau shall be elected at the beginning of a Regular Session and shall hold office until the beginning of the following Regular Session.]

2.2 The Chairperson, or in the absence of the Chairperson another member of the Bureau, shall preside at all meetings of the Governing Body and shall exercise such other functions as may be required to facilitate the work of the Governing Body. A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

### **Rule III Secretary**

[3.1 [In accordance with Article 20.1,][the Director General of the FAO shall appoint, with the approval of the Governing Body, a Secretary of the Governing Body, who shall perform such duties as the work of the Governing Body may require. The Secretary shall be assisted by such staff as may be required.]]

or

[3.1 The Secretary of the Governing Body shall be appointed by the Director-General of FAO, with the approval of the Governing Body. The Secretary shall be assisted by such staff as may be required.

3.2 The Secretary shall perform the following functions:

- (a) arrange for and provide administrative support for sessions of the Governing Body and for any subsidiary bodies as may be established;
- (b) assist the Governing Body in carrying out its functions, including the performance of specific tasks that the Governing Body may decide to assign to it;
- (c) report on its activities to the Governing Body.

3.3 The Secretary shall communicate to all Contracting Parties and to the Director-General:

- (a) decisions of the Governing Body within sixty days of adoption;
- (b) information received from Contracting Parties in accordance with the provisions of this Treaty.

3.4 The Secretary shall provide documentation in the six languages of the United Nations for sessions of the Governing Body.

3.5 The Secretary shall cooperate with other organizations and treaty bodies, including in particular the Secretariat of the Convention on Biological Diversity, in achieving the objectives of this Treaty.]

3.6 The Secretary shall be responsible for implementing the activities assigned to the Secretary in accordance with the policies of the Governing Body. The Secretary shall report to the Governing Body on the activities assigned to the Secretary.

### **Rule IV Sessions**

4.1 In accordance with Article 19.9 of the Treaty, the Governing Body shall hold Regular Sessions at least once every two years. These Sessions should, as far as possible, be held back-to-back with the Regular Sessions of the Commission on Genetic Resources for Food and Agriculture.

4.2 In accordance with Article 19.10 of the Treaty, special Sessions of the Governing Body shall be held at such other times as may be deemed necessary by the Governing Body, or at the written request of any Contracting Party, provided that this request is supported by at least one third of the Contracting Parties.

4.3 Sessions of the Governing Body shall be convened by the Chairperson of the Governing Body, after consultation with the [Director-General of the FAO [and the Bureau]]/[Secretary].]

4.4 Notice of the date and place of each Session of the Governing Body shall be communicated to all Contracting Parties at least two months before the Session.

4.5 In accordance with Article 19.4 of the Treaty, each Contracting Party [shall have one vote and] may be represented at sessions of the Governing Body by a single delegate who may be accompanied by alternate, and one or more experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Governing Body [but may not vote, except in the case of their being duly authorized to substitute for the delegate].

4.6 Each Contracting Party shall communicate to the Secretary of the Treaty the name of its representative on the Governing Body, and, where possible, that of other members of its delegation, before the opening of each Session of the Governing Body.

4.7 Meetings of the Governing Body shall be held in public unless the Governing Body decides otherwise [, and provides reasons for it].

4.8 In accordance with Article 19.8, the presence of delegates representing a majority of the Contracting Parties shall be necessary to constitute a quorum at any session of the Governing Body.

#### **Rule V Agenda and documents**

5.1 [The Secretary, in [agreement][consultation] with the Chairperson of the Governing Body[ and the Bureau], shall prepare a provisional agenda.] [The Secretary shall prepare the provisional agenda on the request and under the guidance of the Bureau of the Governing Body.] [The Chair, in consultation with the Vice-Chairs, and with the support of the Secretary, shall prepare a provisional agenda.]

5.2 Any Contracting Party may request the Secretary to include specific items in the Provisional Agenda [before it is dispatched. If there is any item of an urgent nature, it may be put in a supplementary agenda, to be circulated]/[ up to one month before the conclusion and circulation of the Provisional Agenda]/[before it is circulated by the Secretary in accordance with paragraph 3 below]/[at least four weeks before the Session].

5.3 The Provisional Agenda shall normally be circulated by the Secretary at least two months in advance of the Session to all Contracting Parties and to the other Members and Associate Members of the FAO and any States that are not Members of the FAO but are Members of the United Nations, or any of its specialized agencies or of the International Atomic Energy Agency, and to all international organizations invited to attend the Session.

5.4 Any Contracting Party may, after the despatch of the Provisional Agenda, propose the inclusion of specific items on the Agenda with respect to matters of an urgent nature. These items [should be placed on a supplementary list, which, if time permits before the opening of the Session, shall be despatched by the Secretary to all Contracting Parties, failing which the supplementary list shall be communicated to the Chairperson for submission to the Governing Body]/[could be taken under Any Other Business]. Any Contracting Party may propose to include, during the adoption of the Provisional Agenda, any other item that it considers to be of relevance.

5.5 [After]/[Before] the Agenda has been adopted, the Governing Body may, by consensus amend the Agenda by the deletion, addition or modification of any item.

5.6 Documents to be submitted to the Governing Body at any Session shall be furnished by the [Director-General of the FAO]/[Secretary] to the Contracting Parties, the other Members and Associate Members of the FAO attending the Session, to any States that are not Members of the FAO but are Members of the United Nations, or any of its specialized agencies or of the International Atomic Energy Agency, and to international organizations invited to the Session, at the time the Agenda is despatched or as soon as possible thereafter[[, but always][, as far as possible,] at least six weeks prior to the beginning of the session].

5.7 Formal proposals relating to items on the Agenda and amendments thereto introduced during a Session of the Governing Body shall be made in writing and handed to the Chairperson, who shall arrange for copies to be circulated to all representatives of Contracting Parties.

## **Rule VI**

### **Decision-making and voting procedures**

[6.1 Subject to the provisions of Article Article 19.4 and Article 19.6 of the Treaty, each Contracting Party shall have one vote.]

or

[6.1 Subject to the provisions of Article Article 19.4 and Article 19.6 of the Treaty as well as Article II.10 of the FAO Constitution, each Contracting Party shall have one vote.]

[6.2 Decisions of the Governing Body on matters of procedure shall be taken by a majority of the Contracting Parties present and voting.

6.2 bis Without prejudice to Article 19.2 of the Treaty, decisions on matters of substance shall be taken by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall only be taken as a last resort by a two-thirds majority of the Contracting Parties present and voting on the matters dealt in Articles 12.3h, 15.1b(i), 15.5, 18.4f, 19.3a, 19.3b, 19.3f, 19.3g, 19.3j, 19.3l, 19.3m, 19.10, 19.11 and 20.1.

6.2 ter If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the Secretary's legal counsel, shall rule on the question. [If the ruling is that the issue is procedural, then any Contracting Party is entitled to oppose the ruling. Upon the voicing of the concern, the issue shall be deemed substantive and thereafter treated as such. ][An appeal against this ruling shall be put to the vote immediately and the Chairperson's ruling shall stand unless overruled by a two-thirds majority of the Parties present and voting.]]

or

[6.2 All decisions of the Governing Body shall be taken by consensus unless by consensus another method of arriving at a decision on certain measures is reached, except that consensus shall always be required in relation to Articles 23 and 24 of the Treaty.]

or

[6.2 Decisions of the Governing Body shall be taken on all matters by consensus[, with the exception of procedural matters, on which decisions may, when all efforts to reach consensus have been exhausted and no agreement has been reached, as the last resort be taken by a two-thirds majority of the Contracting Parties present and voting]].

[6.3 For the purpose of these Rules, the phrase, “Contracting Parties present and voting”, means Members casting an affirmative or negative vote. [Contracting Parties who abstain from voting or cast a defective ballot are considered as not voting.]]

[6.4 Upon the request of any Contracting Party, voting shall be by roll-call vote, in which case the vote of each Contracting Party shall be recorded.]

[6.5 When the Governing Body so decides, voting shall be by secret ballot.]

[6.6 The provisions of Rule XII of the General Rules of the FAO shall apply *mutatis mutandis* to all matters not specifically dealt with under this Rule.]

#### [ALTERNATIVE TEXT FOR ALL OF RULE VI

6.1 All decisions of the Governing Body shall be taken by consensus unless by consensus another method of arriving at a decision on certain measures is reached, except that consensus shall always be required in relation to Articles 23 and 24.

6.2 Subject to Article 19.6, each Contracting Party shall have one vote and may be represented at sessions of the Governing Body by a single delegate who may be accompanied by an alternate, and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Governing Body but may not vote, except in the case of their being duly authorized to substitute for the delegate.]

#### **Rule VII Observers**

[7.1 Any Member or Associate Member of the FAO, that is not a Contracting Party but which has a special interest in the work of the Governing Body, may, upon request communicated to the Director-General of the FAO, attend Sessions of the Governing Body and its subsidiary bodies, as an observer. It may submit memoranda and participate in discussions without a vote.]

[7.2 States that are not Contracting Parties or Members or Associate Members of the FAO, but which are Members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency, may, upon their request and subject to the provisions relating to the granting of observer status to nations adopted by the Conference of the FAO, be invited to attend, in an observer capacity, Sessions of the Governing Body or of its subsidiary bodies. The status of nations invited to such Sessions shall be governed by the relevant provisions adopted by the Conference of the FAO.]

[TO REPLACE RULE 7.1 AND 7.2] [7.1 The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not a Contracting Party to this Treaty, may be represented as observers at sessions of the Governing Body. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of plant genetic resources for food and agriculture, which has informed the Secretary of its wish to be represented as an observer at a session of the Governing Body, may be admitted unless at least one third of the Contracting Parties present object. Observers may submit memoranda, as part of documentation of the Session.]

[7.3 Subject to the provisions of paragraph 4 of this Rule, the Director-General of the FAO, taking into account guidance given by the Governing Body, may invite international organizations to attend Sessions of the Governing Body in an observer capacity. International organizations that have signed agreements with the Governing Body under Article 15 of the Treaty shall be invited to attend all Sessions of the Governing Body as observers.]

[7.4 Participation of international organizations in the work of the Governing Body and the relations between the Governing Body and such organizations shall be governed by the relevant provisions of the Constitution of the FAO and the General Rules of the FAO, as well as by other provisions of the Basic Texts of the FAO dealing with relations with international organizations.]

#### **[ALTERNATIVE TEXT FOR ALL OF RULE VII**

[7.1 The Secretary shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency as well as any State not Contracting Party to the Treaty of sessions of the Governing Body so that they may be represented as observers.]

[7.2 Such observers may, upon invitation of the Chairperson, participate without the right to vote in the proceedings of any meeting unless at least one third of the Contracting Parties present at the session object.]

[7.3 The Secretary shall notify any body or agency, whether governmental or non-governmental, qualified in fields relating to the subject-matter of the Treaty, which has informed the Secretary of its wish to be represented, of the sessions of the Governing Body so that they may be represented as observers, unless at least one third of the Contracting Parties present at the session object.]

[7.4 Such observers may, upon invitation of the Chairperson, participate without the right to vote of any meeting in matters of direct concern to the body or agency they represent unless at least one third of the Contracting Parties present at the session object.]]

#### **Rule VIII Records and Reports**

8.1 At each Session, the Governing Body shall approve a report embodying its decisions, views, recommendations and conclusions [, including, when requested, [observations by Contracting Parties]/[a statement of minority views]/[individual Contracting Party statements]]. Such other records, for its own use, as the Governing Body may on occasion decide, shall also be maintained.

8.2 The report of the Governing Body shall be circulated by the Secretary to all Contracting Parties, to other nations and international organizations that were represented at the Session, for their information, and, upon request, to other Members and Associate Members of the FAO. It shall also be transmitted at the close of each Session, by the Secretary, to the Director-General of the FAO.

8.3 Recommendations and decisions of the Governing Body having policy, programme or financial implications for the FAO shall be brought [by the Secretary to the attention of the Director-General, for his consideration][by the [Director-General of the FAO]/[Secretary] to the attention of the Conference or Council of the FAO for [appropriate action]/[its consideration]].

8.4 Subject to the provisions of the preceding paragraph the Secretary may request Contracting Parties to supply the Governing Body with information on action taken on the basis of recommendations made by the Governing Body.

#### **Rule IX Subsidiary Bodies**

9.1 The Governing Body may establish such subsidiary bodies as it deems necessary for the accomplishment of its functions.



9.2 Membership in these subsidiary bodies shall comprise such Contracting Parties [and observers] as have notified the Secretary of their desire to be considered as members of the subsidiary bodies, or shall consist of selected Contracting Parties [and observers], as determined by the Governing Body itself, or of individuals appointed [by the Contracting Parties] in their personal capacity [by the Governing Body].

9.3 The representatives of subsidiary bodies shall, insofar as possible, serve in a continuing capacity and be specialists in the fields of activity of the respective subsidiary bodies.

9.4 The terms of reference and procedures of the subsidiary bodies shall be determined by the Governing Body.

9.5 The establishment of subsidiary bodies shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Treaty. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies, the Governing Body shall have before it a report from the Secretary on the administrative and financial implications thereof.

9.6 Each subsidiary body shall elect its own officers, unless appointed by the Governing Body.

#### **Rule X Expenses**

10.1 Expenses incurred by representatives of Contracting Parties and by their alternates and their advisers, when attending Sessions of the Governing Body or subsidiary bodies, as well as the expenses incurred by observers at Sessions, shall be borne by their respective governments or organizations. [The expenses of Contracting Parties who are developing countries, and their advisers, alternates and observers, invited to attend sessions of the Governing Body and its subsidiary bodies, shall be met by the core budget of the Treaty.] Should experts be invited by the Secretary to attend Sessions of the Governing Body and its subsidiary bodies in their individual capacity, their expenses, unless otherwise determined by the Governing Body, shall be borne by the budget of the Treaty or by extra-budgetary funds.

10.2 Any financial operations of the Governing Body and its subsidiary bodies shall be governed by the appropriate provisions of the Financial Rules of the Treaty.

#### **Rule XI Languages**

11.1 The languages of the Governing Body shall be the official languages of the Treaty.

11.2 Any representative using a language other than one of the languages of the Treaty shall provide for interpretation into one of the languages of the Treaty.

#### **[Rule XII Amendment and Suspension of the Rules**

12.1 Amendment of or additions to these Rules may be adopted by consensus [, provided that not less than 24 hours' notice of the proposal for the amendment or the addition has been given]. [Consideration of proposals of amendments of, or additions to, these rules shall be subject to Rule V and documents on the proposals shall be circulated in accordance with Rule V, 7.]

[12.2 Any of these Rules, other than [Rule I.1, Rule III.1, Rule IV.2 and 6, Rule V.6, Rule VI.1 and 2, Rule VII, Rule VIII.3 and 4, Rule IX.4 and 5, Rule XI, Rule XII.1 and Rule XIII]/[rules

specifically mandated by the Treaty] may be suspended by consensus, provided that not less than 24 hours' notice of the proposal for suspension has been given. Such notice may be waived if no representative of the Contracting Parties objects.]]

**[Rule XIII**

**APPLICATION OF THE GENERAL RULES OF FAO**

13.1 The provisions of the General Rules of the FAO shall apply *mutatis mutandis* to all matters not specifically dealt with under the present rules.]

**Rule XIV**

**OVER-RIDING AUTHORITY OF THE TREATY**

14.1 In the event of any conflict between any provision of these rules and any provision of the Treaty, the Treaty shall prevail.

**Rule XV**

**Entry into Force**

15.1 These Rules and any amendments or additions thereto shall come into force upon their approval by consensus by the Governing Body. ]