



**The International Treaty**  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



**Third Session of the Governing Body  
of the International Treaty  
on Plant Genetic Resources  
for Food and Agriculture**



**Tunis, Tunisia, 1 – 5 June 2009**

**IT/GB-3/09/Report**



The Habsburg Emperor Rudolf II as Vertumnus,  
by Giuseppe Arcimboldo, 1591. Skokloster Castle, Sweden

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

**Third Session**

**Tunis, Tunisia, 1 – 5 June 2009**

**SECRETARIAT OF THE INTERNATIONAL TREATY ON PLANT GENETIC  
RESOURCES FOR FOOD AND AGRICULTURE**

**FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS**

**Rome, 2009**

The documents of the Third Session of the Governing Body  
of the International Treaty on Plant Genetic Resources for Food and Agriculture  
are on the Internet at <http://www.planttreaty.org>

They may also be obtained from:

the Secretariat of the International Treaty  
on Plant Genetic Resources for Food and Agriculture

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## **REPORT OF THE THIRD SESSION OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

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### **INTRODUCTION**

1. The Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (Third Session) met in Tunis, Tunisia, from 1 - 5 June 2009. The list of participants is attached in *Appendix J*.

### **OPENING CEREMONY**

2. An opening ceremony to celebrate the convening of the Third Session was held on 1 June 2009. The Chair of the Governing Body, Mr Modesto Fernández Díaz-Silveira (Cuba), opened the ceremony and welcomed all participants. He expressed his appreciation to the Government of the Republic of Tunisia for hosting this important session.

3. His Excellency, Mr Afioga-Taua Tavaga Kitiona Seuala, Minister for Agriculture and Fisheries, Samoa, noted that, in order to sustain food production in the widely scattered states in his region, access to the global pool of genetic diversity was needed. He announced with pleasure that the SouthWest Pacific Region had signed an agreement with FAO, on behalf of the Governing Body, placing the regional collections held in the Centre for Pacific Crop and Trees in the International Treaty's Multilateral System, and that an agreement had also been signed with the Global Crop Diversity Trust. These agreements demonstrated the Region's need and commitment to work with other Regions, and to share genetic resources, in order to address the many challenges of this century, including climate change. His statement is attached as *Appendix D.2*.

4. Mr Ramón Efraín Figueroa, Vice-Minister of Agriculture and Livestock, Honduras, stressed the essential role that plant genetic resources played in ensuring a sustainable and diverse food supply, and that genetic resources from his region had greatly contributed to global food security. He indicated the importance of supporting developing countries in enhancing their capacity to conserve, use and develop genetic resources, and to fully achieve the objectives of the International Treaty. His statement is attached as *Appendix D.3*.

5. Ms Alicia Crespo Pazos, Director of the Spanish Plant Variety Protection Office, Spain, stated that while significant progress had been made in advancing the International Treaty, this was at a critical point, and that the International Treaty Secretariat needed to be able to count on adequate and predictable funding in order to fulfil its mission. She reaffirmed Spain's continuing strong commitment to the International Treaty, noting that Spain had committed three million Euro to advancing the implementation of the Treaty. She called upon other Contracting Parties and donors to contribute the financial resources needed to ensure the effective achievement of the objectives of the International Treaty. Her statement is attached as *Appendix D.4*.

6. Ms Cinzia Scaffidi, Director of the Slow Food Study Centre, Italy, noted that, while a number of concrete steps had been taken to protect the world's agriculture biodiversity, many challenges remained. Food diversity, she said, was being eroded in the same way that genetic resources were. By building up an appreciation of food diversity, consumers, too, could be involved in the implementation of the International Treaty. Her statement is attached as *Appendix D.5*.

7. Mr Jean Beigbeder, Vice-President of Pro-Maïs, noted that his organization, made up of

private sector breeders, had brought maize genetic resources into the Multilateral System. The private sector, he said, recognized the importance of the International Treaty in facilitating access to plant genetic resources for food and agriculture. This enabled farmers and breeders to increase production and productivity, and contribute to achieving food security for all. He stressed the importance of involving farmers in the development of agriculture policies and programmes. His statement is attached as *Appendix D.6*.

8. Mr Abdelmajid Labidi, Tunisian Union of Agriculture and Fishing, on behalf of the International Federation of Agricultural Producers (IFAP), stressed the crucial role of farmers in feeding the world's population, and that their efforts to conserve, use and develop plant genetic resources for food and agriculture needed to be supported. His statement is attached as *Appendix D.7*.

### OPENING OF THE SESSION

9. Mr Modesto Fernández Díaz-Silveira (Cuba), Chair of the Governing Body, welcomed all participants in the Third Session of the Governing Body. He presented his report, which provided an overview of events since the last session, and of the activities of the Bureau. He thanked his fellow Bureau members, the Secretary and his small team for having prepared for the current session, and the Government of Tunisia for the generous hosting of the Third Session. His report is attached as *Appendix E.1*.

10. Mr Shakeel Bhatti, Secretary of the International Treaty, presented his report, which reviewed the activities and accomplishments of the Secretariat since the last session of the Governing Body, and the major challenges that had to be overcome. He highlighted the many opportunities and challenges that lay ahead. His report is attached as *Appendix E.2*.

11. His Excellency, Mr Abdesslem Mansour, Minister for Agriculture and Water Resources, Tunisia, welcomed all participants to Tunisia and to the Third Session. The Governing Body, he said, now needed to assess progress and identify the measures now needed to advance implementation of the International Treaty. He stressed the critical need to conserve plant genetic resources for food and agriculture, and other biological diversity, so that the world's agricultural systems could face the increasing frequency of droughts, fires and floods, and climate change. His statement is attached as *Appendix D.1*.

12. Mr Modibo T. Traoré, Assistant Director-General, Agriculture and Consumer Protection Department of FAO, greeted the participants on behalf of Dr. Jacques Diouf, Director-General of FAO, and welcomed delegates and observers. He stressed the significant progress that had been achieved in advancing the International Treaty, and the need to forge ahead in the further implementation of this innovative international agreement. His statement is attached as *Appendix D.8*.

### CHAIR AND VICE-CHAIRS

13. At the close of its Second Session, the Governing Body had elected its Chair and Vice-Chairs for its Third Session. Mr Godfrey Mwila (Africa Region) had been elected to the Chair. Six Vice-Chairs had been elected: Mr Sugiono Moeljopawiro (Asia Region), Ms Anna Somerville (South West Pacific Region), Mr Campbell Davidson (Northern America Region), Mr Modesto Fernández Díaz-Silveira (Latin America and the Caribbean Region), Mr François Pythoud (European Region), and Ms Hanaiya El-Itriby (Near East Region).

14. In the intervening period, Mr Mwila had resigned from this office, and, in accordance with Rule II of the *Rules of Procedure of the Governing Body*, and with the unanimous agreement of the Bureau, Mr Mwila designated Mr Modesto Fernández Díaz-Silveira (Cuba) to act as Chair, as of 23 July 2008. In accordance with Rule II.1 of the *Rules of Procedure of the Governing Body*, the

Government of Zambia designated Ms Catherine Mungoma in the place of Mr Mwila, as the Vice-Chair representing the Africa Region; and the Government of Australia designated Ms Fiona Bartlett, in the place of Ms Anna Somerville, who had resigned, as the Vice-Chair representing the South West Pacific Region.

#### **ADOPTION OF THE AGENDA**

15. The Governing Body adopted the Agenda for its Third Session, as given in *Appendix C*.

#### **PARTICIPATION OF OBSERVERS**

16. The Governing Body took note of the observers who had requested to be present at the Third Session, and welcomed their participation.

#### **ELECTION OF THE *RAPPORTEUR***

17. The Governing Body elected Mr Campbell Davidson (Canada) as *Rapporteur*.

#### **APPOINTMENT OF THE CREDENTIALS COMMITTEE AND VERIFICATION OF CREDENTIALS**

18. The Governing Body elected seven members of the Credentials Committee: Australia, Austria, Canada, Guatemala, Kuwait, Lao People's Democratic Republic and Tunisia. Ms Hedwig Wögerbauer (Austria) served as Chair of the Committee.

19. The Credentials Committee was informed of Rule III of the *General Rules of the Organization* as well as the practice and criteria followed by the FAO with respect to the acceptance of credentials, in line with the practice of the General Assembly of the United Nations on the matter. In accordance with Rule III.2 of the *General Rules of the Organization*, the Credentials Committee reviewed the credentials received by the Director-General of FAO. The Credentials Committee convened three times to examine the credentials and established two lists. List A includes 54 Contracting Parties that submitted their credentials in the form required by Rule III.2 of the *General Rules of the Organization*. List B includes 22 Contracting Parties whose credentials were considered as information on their delegations.

20. The Governing Body accepted the recommendation of the Credentials Committee that the credentials on both lists be accepted, on the understanding that Contracting Parties referred to in List B would communicate credentials in the form required by Rule III.2 of the General Rules of the Organization to the Director-General of FAO, as soon as possible.

#### **ESTABLISHMENT OF THE BUDGET COMMITTEE**

21. The Governing Body considered the documents, *Work Programme and Budget 2008-09: Financial Report*,<sup>1</sup> *Draft Work Programme and Budget for the biennium 2010-2011*<sup>2</sup> and *Addendum 1 to the Draft Programme of Work and Budget for the biennium 2010-2011: possible supporting*

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<sup>1</sup> IT/GB-3/09/20 Rev. 1.

<sup>2</sup> IT/GB-3/09/21.

activities to be funded by Contracting Parties under the Special Fund for Agreed Purposes. The Committee was chaired by Mr Aamir Ashraf Khawaja (Pakistan) and Mr François Pythoud (Switzerland).

22. The Governing Body adopted the Work Programme and Budget for the 2010 – 2011 Biennium, Resolution 1/2009, as contained in *Appendix A.1*.<sup>3</sup>

### **FINANCIAL RULES OF THE GOVERNING BODY**

23. The Governing Body considered the document, *Financial Rules of the Governing Body*<sup>4</sup> and Addendum 1, *Financial Rules of the Governing Body – Background Information*.<sup>5</sup> The Governing Body agreed on the urgent need to finalize the Financial Rules at its Fourth Session. The *Financial Rules of the Governing Body*, as amended by virtue of Resolution 5/2009, are contained in *Appendix B*.

### **ADOPTION OF PROCEDURES AND OPERATIONAL MECHANISMS TO PROMOTE COMPLIANCE AND TO ADDRESS ISSUES OF NON-COMPLIANCE**

24. The Governing Body considered document, *Draft procedures and operational mechanisms to promote compliance and address issues of non-compliance*,<sup>6</sup> and decided to establish a Contact Group on Procedures and Mechanisms to Promote Compliance and to Address Issues of Non-Compliance. The Contact Group was chaired by Mr Javad Mozafari Hashtjin (Islamic Republic of Iran) and Mr Rene Lefeber (the Netherlands).

25. The Governing Body adopted a resolution on the issue of compliance, Resolution 2/2009 and an Annex to the resolution, as contained in *Appendix A.2*.

### **IMPLEMENTATION OF THE FUNDING STRATEGY OF THE INTERNATIONAL TREATY**

26. The Governing Body considered the document, *Report on actions taken by the Secretary on the implementation of the Funding Strategy*,<sup>7</sup> and the information document, *Report by the Bureau on the First Project cycle of the the Benefit-sharing Fund*.<sup>8</sup>

27. The Governing Body noted the list of the eleven projects approved by the Bureau to be funded under the Benefit-sharing Fund and welcomed the progress made in the operation of the Benefit-sharing Fund. It expressed its gratitude for the generous contributions to the Benefit-sharing Fund made by Italy, Spain, Norway and Switzerland, and commended the Norwegian decision to provide 0.1% of the annual value of all seed sold in its territory, as an example of innovative approaches to allow for the provision of resources to the Benefit-sharing Fund on a regular and predictable basis.

28. The Governing Body noted the very positive response to the first call for proposals under the Benefit-sharing Fund. It thanked the experts who evaluated the project proposals for their valuable

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<sup>3</sup> The Work Programme consists of the combined *Annex 1* of Resolution 1/2009 and the Addendum thereto.

<sup>4</sup> IT/GB-3/09/5.

<sup>5</sup> IT/GB-3/09/5 Add 1.

<sup>6</sup> IT/GB-3/09/6 Rev.1.

<sup>7</sup> IT/GB-3/09/8.

<sup>8</sup> IT/GB-3/09/Inf.11.

assistance, and commended the work of its Bureau in approving the projects. It recognized the importance of the initiation of project approval from the funds under the direct control of the Governing Body as a major step in the implementation of the International Treaty.

29. The Governing Body considered the document, *Report of the Co-Chairs of the Ad Hoc Advisory Committee on the Funding Strategy*,<sup>9</sup> which was presented by the Co-Chairs of the Committee, Ms Ana Berretta (Uruguay) and Mr Bert Visser (the Netherlands). It thanked the Co-Chairs and the other members of the Committee for their excellent work. The Governing Body reiterated the crucial importance of an effective Funding Strategy and noted that resources should be mobilized from all possible sources.

30. The Governing Body adopted a resolution on the Funding Strategy, Resolution 3/2009, as contained in *Appendix A.3*.

### CONSIDERATION OF THE BUSINESS PLAN OF THE GOVERNING BODY

31. The Governing Body considered the document, *Consideration of the Business Plan of the Governing Body*<sup>10</sup> and the information document *The Draft Business Plan of the Governing Body*.<sup>11</sup> It thanked the Government of Switzerland for hosting the informal meeting on the development of the Draft Business Plan.

32. The Governing Body noted that the Business Plan is expected to play multiple roles, including serving as a planning, fund-raising and a communication tool. The Governing Body agreed that the *Draft Business Plan* needed to be further developed. It urged Contracting Parties to provide comments on the *Draft Business Plan* by 31 December 2009, and requested the Bureau working with the Secretary to revise the *Draft Business Plan* based on the comments received from Contracting Parties, for consideration at the Fourth Session of the Governing Body.

### RELATIONSHIP BETWEEN THE GOVERNING BODY AND THE GLOBAL CROP DIVERSITY TRUST

33. The Chair of the Executive Board of the Global Crop Diversity Trust presented the document, *Report from the Global Crop Diversity Trust*,<sup>12</sup> in accordance with Article 3.3 of the Relationship Agreement between the Global Crop Diversity Trust and the Governing Body. She also presented the document, *Draft fund disbursement strategy of the Global Crop Diversity Trust*,<sup>13</sup> which was submitted to the Governing Body for consultation in accordance with Article 6 of the Constitution of the Global Crop Diversity Trust.

34. The presentation identified the elements of the International Treaty that were supported by the Global Crop Diversity Trust and the activities undertaken for this purpose. In particular, it highlighted activities aimed at strengthening the global system of *ex situ* conservation, providing support to developing countries and countries with economies in transition for the regeneration of unique and endangered accessions, their characterization, entry of related information into databases, and safety duplication. The presentation noted that the Global Crop Diversity Trust is also supporting screening of collections, research into better and less costly means for conserving vegetatively propagated samples, and the development of information systems to improve genebank management

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<sup>9</sup> IT/GB-3/09/7.

<sup>10</sup> IT/GB-3/09/9.

<sup>11</sup> IT/GB-3/09/Inf.12.

<sup>12</sup> IT/GB-3/09/10.

<sup>13</sup> IT/GB-3/09/Inf.8.

and enhance the ability of plant breeders and researchers to search genebank accessions globally. The presentation also described efforts to ensure the permanent conservation of collections of plant genetic resources for food and agriculture of global importance.

35. The Governing Body commended the Global Crop Diversity Trust for its excellent programmatic performance during the past biennium, which had made a substantial contribution to attaining the objectives of the International Treaty. The Governing Body welcomed and supported the Funds Disbursement Strategy of the Global Crop Diversity Trust. It recommended that the Trust continue to give priority in their funding activities to countries that are Contracting Parties to the International Treaty.

36. The Governing Body highlighted the need to maintain and develop the relationship between the International Treaty and the Global Crop Diversity Trust in a complementary manner. To that effect, the Governing Body encouraged the Global Crop Diversity Trust to continue its communication with the Governing Body on projects and activities funded by the Global Crop Diversity Trust and trusted that this would be maintained and enhanced during the intersessional period. In commending the Global Crop Diversity Trust on its performance, the Governing Body expressed its hope that this performance be matched by other areas of the Funding Strategy.

### THE MULTILATERAL SYSTEM OF ACCESS AND BENEFIT-SHARING

37. The Governing Body considered the documents, *Review of the implementation of the Multilateral System*,<sup>14</sup> and *Review of the implementation and operation of the Standard Material Transfer Agreement*.<sup>15</sup> It adopted a resolution on this matter, Resolution 4/2009, as contained in *Appendix A.4*.

38. The Governing Body considered the document, *Review of the implementation of the Material Transfer Agreement being used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions, for plant genetic resources for food and agriculture not included in Annex I of the International Treaty*,<sup>16</sup> and the information document, *Experience of the CG Centres with the Implementation of the Agreements with the Governing Body, with particular reference to the Use of the Standard Material Transfer Agreement for Annex I and Non-Annex I Crops*.<sup>17</sup>

39. The Governing Body noted that at its Second Session it endorsed that interpretative footnotes or series of footnotes would be included to relevant provisions of the Standard Material Transfer Agreement (SMTA) for transfers of non-Annex I material collected before the entry into force of the International Treaty to be used by the International Agricultural Research Centres (IARCs) of the Consultative Group on International Agricultural Research. The Governing Body also noted that the IARCs commenced using the Standard Material Transfer Agreement with footnotes on 1 February 2008, and that the IARCs still have only limited experience with the use to date. The Governing Body further noted that although the IARCs have used the SMTA for a relatively short time, the impression of the Centres is that the SMTA is attracting increasing acceptance by potential recipients as they become more familiar with its terms. The Governing Body decided that it would further review these measures at its Fourth Session.

40. The Governing Body requested the *Ad Hoc* Third Party Beneficiary Committee to consider the issue of the application of the Third Party Beneficiary provisions and procedures to transactions

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<sup>14</sup> IT/GB-3/09/13.

<sup>15</sup> IT/GB-3/09/14.

<sup>16</sup> IT/GB-3/09/15.

<sup>17</sup> IT/GB-3/09/Inf. 15.

related to non-*Annex 1* material transferred with the SMTA and report to the Fourth Session of the Governing Body.

### PROCEDURES FOR THE THIRD PARTY BENEFICIARY

41. The Governing Body considered the document, *Report of the Chair of the Ad Hoc Third Party Beneficiary Committee*,<sup>18</sup> which was presented by the Chair of the *Ad Hoc* Third Party Beneficiary Committee, Mr Javad Mozafari Hashjin (Islamic Republic of Iran). It thanked the Chair and the other members of the Committee for their excellent work.

42. The Governing Body adopted a resolution on this matter, Resolution 5/2009, as contained in *Appendix A.5*, and its *Annex 1* related to the *Procedures for the Operation of the Third Party Beneficiary* and *Annex 2 on Operations of the Third Party Beneficiary*, as well as the amendment to the Financial Rules to provide for the Third Party Beneficiary Reserve.

### IMPLEMENTATION OF ARTICLE 6, SUSTAINABLE USE OF PLANT GENETIC RESOURCES

43. The Governing Body considered the document, *Implementation of Article 6*<sup>19</sup> and the information document, *Compilation of Submissions sent by Contracting Parties, other Governments, and Relevant Institutions and Organizations on the Implementation of Article 6*.<sup>20</sup>

44. The Governing Body reiterated the fundamental importance of promoting the implementation of Article 6 in order for Contracting Parties to enhance capacity to use plant genetic resources for food and agriculture through plant breeding, including the utilization of modern tools, traditional varieties and the participation of farmers. It noted that in many regions the implementation of Article 6 is lagging behind in comparison to other elements of the International Treaty, and that further financial resources, capacity building and technology transferred are required.

45. The Governing Body stressed the need for Contracting Parties to develop and maintain appropriate policies and legal measures that promote sustainable use of plant genetic resources for food and agriculture and strengthen the participatory approaches, including developing studies and sharing experiences of countries that have successfully implemented sustainable use programmes for plant genetic resources.

46. The Governing Body emphasized that to assess progress, identify gaps and opportunities for further strengthening use of plant genetic resources, the Contracting Parties are invited to regularly submit progress reports on implementation of Article 6 through the reporting mechanism of the *Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture*.

47. The Governing Body requested the Secretary to clarify the notion of a toolbox to assist countries in the design of measures to promote sustainable use in order to come to a common understanding with regard to such an instrument and submit it to the Contracting Parties during the Fourth Session of the Governing Body.

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<sup>18</sup> IT/GB-3/09/11 Rev. 1.

<sup>19</sup> IT/GB-3/09/16.

<sup>20</sup> IT/GB-3/09/Inf.5.

### IMPLEMENTATION OF ARTICLE 9, *FARMERS' RIGHTS*

48. The Governing Body considered the document, Collection of views and experiences submitted by Contracting Parties and other relevant organizations on the implementation of Article 9.<sup>21</sup> The Governing Body expressed its concern about the small number of submissions received from Contracting Parties regarding the implementation of Article 9. It recognized the important contribution that local and indigenous communities and farmers make to the conservation and sustainable use of plant genetic resources for food and agriculture, and in particular, the important role of women in this regard.

49. The Governing Body adopted a resolution on this matter, Resolution 6/2009, as contained in *Appendix A.6*.

### RELATIONSHIP BETWEEN THE GOVERNING BODY AND THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

50. The Governing Body considered the document, *Cooperation between the Governing Body and the Commission on Genetic Resources for Food and Agriculture, and coordination of their fields of intergovernmental work*,<sup>22</sup> which was jointly prepared by the Secretariats of the two bodies. The Governing Body emphasized the need for collaboration between the two bodies and their Secretariats, and adopted a resolution on this matter, Resolution 7/2009, as contained in *Appendix A.7*.

### COOPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS, INCLUDING AGREEMENTS BETWEEN THE GOVERNING BODY AND THE INTERNATIONAL AGRICULTURAL RESEARCH CENTERS OF THE CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL RESEARCH AND OTHER RELEVANT INTERNATIONAL INSTITUTIONS

51. The Secretariat introduced document, *Progress report on partnerships, synergies and cooperation with other organizations*.<sup>23</sup> The Governing Body and other international organizations highlighted progress of capacity building activities related to the International Treaty's scope and objectives that had been carried out in cooperation with the International Treaty Secretariat.

52. The Governing Body recognized the significant role of the International Agricultural Research Centres of the CGIAR in supporting the International Treaty, and indicated its appreciation for the existing close cooperation between the International Treaty Secretariat, and the Secretariats of the Commission on Genetic Resources for Food and Agriculture and of the Convention on Biological Diversity.

53. The Governing Body requested the Secretary to continue participating in relevant meetings of the World Intellectual Property Organization, the International Union for the Protection of New Varieties of Plants, the World Health Organization and other relevant international organizations.

54. It adopted a resolution on cooperation with other international organizations and institutions, Resolution 8/2009, as contained in *Appendix A.8*.

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<sup>21</sup> IT/GB-3/09/Inf.6.

<sup>22</sup> IT/GB-3/09/17.

<sup>23</sup> IT/GB-3/09/18.



## MATTERS ARISING FROM THE REPORT OF THE INDEPENDENT EXTERNAL EVALUATION OF FAO RELATED TO THE TREATY

55. The Secretariat introduced the document, *Matters Arising from the Report of the Independent External Evaluation of FAO Related to the International Treaty*.<sup>24</sup>

56. The Governing Body noted that the International Treaty was not in a position to seek increased financial or administrative authority in view of the current under-funding of its Core Administrative Budget.

57. The Governing Body noted the relevance of the implications of the ongoing process of the FAO reform to the financial and administrative aspects of the International Treaty's implementation and the activities of the International Treaty Secretariat, as well as the Governing Body's ability to bring issues to the attention of the FAO Council and Conference through the relevant technical committee.

58. The Governing Body requested the Bureau of the Fourth Session of the Governing Body at its earliest convenience to familiarize itself with the FAO reform process for the clarification of the overall implications of the outcomes of the reform process in relation to the International Treaty.

59. The Governing Body requested the Secretary to continue following the process of FAO reform, in particular, regarding any potential financial and administrative implications for the International Treaty, regularly updating the Bureau on the reform process and, working with the Bureau to prepare a report for the consideration of the Governing Body at its Fourth Session.

### DATE AND PLACE OF THE FOURTH SESSION OF THE GOVERNING BODY

60. The Governing Body welcomed the generous offer of the Government of the Republic of Indonesia to host the Fourth Session of the Governing Body in 2011. The Secretary of the International Treaty, in consultation with the host government, will arrange for the specific dates and will then notify all Contracting Parties.

### ELECTION OF THE CHAIR AND VICE-CHAIRS OF THE FOURTH SESSION OF THE GOVERNING BODY

61. The Governing Body elected its Chair and Vice-Chairs for its Fourth Session. Ms Cosima Hufner (Europe Region) was elected Chair. Six Vice-Chairs were elected: Ms Fiona Bartlett (South West Pacific Region), Mr Gustavo Pacheco (Latin America and the Caribbean Region), Mr Marco Valicenti (Northern America Region), Mr Javad Mozafari Hashjin (Near East Region), Mr Mohd Shukor Nordin (Asia Region) and Mr Mohamed Kharrat (Africa Region).

### OTHER BUSINESS

62. The Governing Body welcomed the offer by the Government of Italy to host a High-Level Round Table on the International Treaty involving relevant stakeholders, and requested the Secretary to work closely with the Government of Italy to make all necessary arrangements.

63. The Governing Body dealt with the selection of candidates and appointment of members to the Executive Board of the Global Crop Diversity Trust, as detailed in *Appendix H*.

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<sup>24</sup>

IT/GB-3/09/19.

## CLOSING STATEMENTS

64. A representative of the Government of Tunisia noted that it had been a pleasure to host the Third Session of the Governing Body. He expressed the view that this session was a cornerstone for future work under the International Treaty, and thanked all Contracting Parties and observers for their constructive participation in the session.

65. Regional representatives thanked the Government of Tunisia for hosting the Third Session of the Governing Body, noting with appreciation the hospitality shown by the people of Tunisia. They expressed gratitude to the Secretary and all staff of the Secretariat of the International Treaty for preparing for the current session and for their dedicated work during the session. A number of representatives noted the high quality of session working and information documents, and in particular, expressed appreciation for the documents containing the draft Work Programme and Budget for the biennium 2010-2011.

66. Several representatives of developing countries expressed appreciation for the financial support received from a number of donors, which enabled their participation in the Third Session of the Governing Body. A representative of the Africa Region appealed for support for a regional consultation in advance of the Fourth Session of the Governing Body.

67. Representatives from all regions praised the Chair for the way he had conducted the session, and congratulated the incoming Chair for her election as well as the new Bureau members. They also thanked the *Rapporteur* for all his efforts.

68. The Secretary of the International Treaty congratulated the Contracting Parties for the accomplishments made during the Third Session of the Governing Body. The Secretary thanked the Chair and the Bureau for all their support and guidance over the pass intersessional period and during the current session. He noted with appreciation the valuable participation of the many observers present at the Third Session.

69. The outgoing Chair expressed his appreciation for all the support and spirit of collaboration shown during the current session. He thanked his fellow Bureau members for their advice and support. The Chair noted that progress had been made in advancing the International Treaty, and its successful implementation would be beneficial to all people. He stressed that a number of important issues remained and hoped that these would be successfully addressed by the Governing Body. The Chair expressed his appreciation to the Government of Tunisia and its people for hosting the Third Session of the Governing Body.

## ADOPTION OF THE REPORT AND RESOLUTIONS OF THE THIRD SESSION OF THE GOVERNING BODY

70. The Governing Body adopted its report and all resolutions as contained in Appendix A.

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**APPENDIX A**  
**RESOLUTIONS OF THE THIRD SESSION OF THE GOVERNING BODY**

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**APPENDIX A.1**  
**RESOLUTION 1/2009**  
**WORK PROGRAMME AND BUDGET FOR THE 2010-2011 BIENNIUM**

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**THE GOVERNING BODY,**

**Recalling** that the FAO Governing Bodies have determined that the International Treaty on Plant Genetic Resources for Food and Agriculture is a priority FAO activity;

**Recognizing** that the International Treaty is at a critical stage in its implementation;

**Recognizing** that the delivery of the Work Programme is subject to adequate resources being available within the Core Administrative Budget, and that this will be essential to the future functioning, credibility and effectiveness of the International Treaty;

**Recalling** priorities as reflected in decisions taken by the Governing Body;

1. **Reiterates** its concern at the limited level of voluntary contributions by Contracting Parties to the Core Administrative Budget from inception to date;
2. Accordingly **urges** all Contracting Parties to provide the resources required in the Core Administrative Budget, as adopted, in a timely manner;
3. **Invites** all States as well as intergovernmental organizations, non-governmental organizations and other entities, to contribute to the Core Administrative Budget and the Special Funds of the International Treaty;
4. **Appreciates** the Secretary's efforts to ensure a modern and transparent approach to the establishment of the International Treaty's biennial Work Programme and Budget, as well as to the management of the International Treaty's financial operations and reporting, and **recognizes** that these efforts will provide financial clarity, facilitate work programming, and increase confidence among Contracting Parties;
5. **Adopts** the Work Programme and its Core Administrative Budget for the biennium 2010-2011, as contained in *Annex 1* of this Resolution and the *Addendum* thereto;
6. **Takes note** of the provisional proposed contribution from FAO of US\$ 1,859,000;
7. **Approves** a Working Capital Reserve of US\$ 350,000, to be capitalized in the biennium 2010-2011;
8. **Decides** that 20% of voluntary contributions to the Benefit-sharing Fund be used to fund the

costs of mobilization of resources, administration of the Fund, management of the project cycle under the Fund, and ancillary operations; the percentage may be reviewed by the Bureau as appropriate;

9. **Decides** that, for the biennium 2010-2011, the percentage of voluntary contributions accumulated under paragraph (8) above be utilized starting from the biennium 2012-2013, subject to review by the Governing Body at its Fourth Session based on an analysis of actual income and costs during the biennium 2010-2011 to be prepared by the Secretariat;

10. **Confirms** the authorization for the Secretary to transfer resources between the main appropriation lines of the Core Administrative Budget up to an aggregate of 15 percent of the Operating Budget, provided that no more than 25 percent of any main appropriation line may be transferred to another; the information on this matter will be included in the financial report to the Governing Body;

11. **Takes note** of the Secretariat staffing table for the biennium 2010-2011 set out in *Annex 2* to this Resolution, recognizing that the precise staffing arrangements are a matter of the normal executive authority of the Secretary;

12. **Confirms** that Contracting Parties that are developing countries and countries with economies in transition should be informed by the Secretary, in a timely manner before a meeting, of the availability of resources to support their participation in that meeting from the Fund referred to in the Treaty's Financial Rule VI.2c, and that, where such funding is limited, priority should be given to the least developed countries;

13. **Encourages** the Secretary to continue the implementation of the transparent approach in preparing and submitting the draft Work programme and Budget for the biennium 2012-2013, including a Secretariat staffing table and a Draft Resolution, for the consideration of the Governing Body at its Fourth Session, and to report on progress on income and expenditures, as well as any adjustments made to the budget in the biennium 2010-2011.

*Annex I*

<i>Core Administrative Budget of the International Treaty on Plant Genetic Resources for Food and Agriculture</i>			
<i>Category</i>	<i>2010</i>	<i>2011</i>	<i>Total</i>
<b>A. Staff and consultancy costs</b>			
D-1	249,336	249,336	498,672
P-5	217,824	217,824	435,648
P-4 (x2)	379,176	379,176	758,352
P-3 (x3)	462,240	462,240	924,480
G-5	108,456	108,456	216,912
G-4	93,072	93,072	186,144
G-3	81,036	81,036	162,072
<b>Additional staff for the biennium 2010-2011<sup>1</sup></b>			
P5	217,824	217,824	435,648
P3	154,080	154,080	308,160
<b>Consultancy costs</b>	30,000	100,000	130,000
<b>Total A.</b>	1,993,044	2,063,044	4,056,088
<b>B. Meetings</b>			
Fourth Session of the Governing Body	-	500,000	500,000
Bureau meetings	15,000	15,000	30,000
Third Party Beneficiary Committee (1)	7,000	-	7,000
<b>Total B.</b>	22,000	515,000	537,000
<b>C. Other costs</b>			
Core staff duty travel	71,000	69,750	140,750
Publications	36,000	30,750	66,750
Supplies and equipment	24,000	24,000	48,000
Miscellaneous	12,000	10,500	22,500
<b>Total C.</b>	143,000	135,000	278,000
<b>Total A + B + C</b>	2,158,044	2,713,044	4,871,088
<b>D. General Operating Services (4% of A + B + C)</b>	86,322	108,522	194,844
<b>E. Operating Budget</b>	2,244,366	2,821,566	5,065,932
<b>F. Project Servicing Cost (13% of E less FAO contribution)</b>	170,933	245,969	416,901
<b>G. Core Administrative Budget</b>	2,415,298	3,067,534	5,482,833
<b>H. Working Capital Reserve</b>	175,000	175,000	350,000
<b>I. FAO Contribution</b>	(929,500)	(929,500)	(1,859,000)
<b>J. Balance to be funded</b>	<b>1,660,798</b>	<b>2,313,034</b>	<b>3,973,833</b>

<sup>1</sup> For the 2010-2011 biennium only.

*Annex 2*

**2010 -2011 Secretariat Staffing Table**

*Established staff*

**D-1**

**P-5**

**P-4 (2)**

**P-3 (3)**

**G-5**

**G-4**

**G-3**

*Additional staff for the 2010-11 biennium only*

**P-5**

**P-3**

**ADDENDUM TO ANNEX 1: POSSIBLE SUPPORTING ACTIVITIES TO BE FUNDED BY CONTRACTING PARTIES UNDER THE SPECIAL FUND FOR AGREED PURPOSES**

This *Addendum* covers other activities which Contracting Parties are invited to fund on an extra-budgetary basis, through the Special Funds<sup>2</sup>.

<i>Activity</i>	<i>Area covered</i>	<i>Amount ((thousands of US\$)</i>
<i>Awareness raising in related policy areas and processes</i>	All	200
<i>Establishing on-line learning courses</i>	All	442
<i>Assistance for implementation of Arts 5 and 6</i>	Arts 5&6	500
<i>Legal technical assistance for Treaty implementation</i>	All	350
<i>Management of the project cycle</i>	FS	450
<i>Evaluation of the overall programme and operation of the Funding Strategy</i>	FS	60
<i>Special task force on resource mobilization</i>	FS	300
<i>National and regional case studies and lessons learned on the non commercial benefit sharing provisions of the MLS</i>	MLS	200
<i>Establishment of a MLS Clearing House Mechanism</i>	MLS	150
<i>Joint Capacity Building Programme</i>	MLS	1 500
<i>Training on MLS and SMTA operations</i>	MLS	200
<i>Communication campaigns</i>	All	150
<i>Ad hoc technical committee</i>	MLS	90
<i>Multi -Stakeholder platform for MLS users</i>	MLS	60
<i>Ad Hoc Advisory Committee on the Funding Strategy</i>	FS	28
<i>Meetings of the CBCM</i>	all	48
<i>Vision paper and Platform on Art. 17</i>	Art. 17	90
<i>Ad Hoc Working Group on Compliance</i>	Arts 19&21	30
<i>Regional Workshops on Farmers' Rights</i>	Art 9	150
<b>TOTAL</b>		<b>4 998</b>

<sup>2</sup> Financial Rule V.1d provides for a Multi-donor Special Fund, for “other voluntary payments by Contracting Parties, for purposes agreed between the contributor and the Secretary”. Rule V.1e provides for separate Individual-donor Funds for “other voluntary payment by Contracting Parties, by IGOs, by NGOs or other entities for purposes agreed between the contributor and the Secretary.”

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**APPENDIX A.2****RESOLUTION 2/2009****PROCEDURES AND OPERATIONAL MECHANISMS TO PROMOTE COMPLIANCE AND TO ADDRESS ISSUES OF NON-COMPLIANCE**

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**THE GOVERNING BODY,**

**Recalling** Resolution 3/2006 of the First Session of the Governing Body and Resolution 1/2007 of the Second Session of the Governing Body;

1. **Decides** to put the issue of compliance high on the agenda of the Fourth Session of the Governing Body;
2. **Decides** to establish and convene, subject to the availability for that purpose of funds from the Special Fund for Agreed Purposes, an *ad hoc* working group which shall negotiate and finalise the procedures and operational mechanisms to promote compliance and address issues of non-compliance, on the basis of the text contained in the *Annex* to this Resolution, with a view to their approval at the Fourth Session of the Governing Body;
3. **Decides** that the Co-Chairs of the Contact Group on Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-compliance, convened at the Third Session of the Governing Body, shall serve as Co-Chairs of the *ad hoc* working group;
4. **Decides** that the *ad hoc* working group shall be comprised of up to two representatives designated by each Region of the FAO in addition to the Co-Chairs;
5. **Decides** that the *ad hoc* working group shall hold two meetings each of two days in Rome, preferably immediately before meetings of the Bureau;
6. **Invites** Contracting Parties and observers to make, through the Secretary, submissions on the text contained in the *Annex* to this Resolution before 1 October 2009 for consideration by the *ad hoc* working group, and **requests** the Secretary to compile any such submissions.



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*Annex*

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**DRAFT PROCEDURES AND OPERATIONAL MECHANISMS TO  
PROMOTE COMPLIANCE AND ADDRESS ISSUES OF NON-COMPLIANCE**

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The following procedures and mechanisms are developed in accordance with Article 21 of the International Treaty on Plant Genetic Resources and are separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 22 of the International Treaty on Plant Genetic Resources.

**I. OBJECTIVES**

1. The objective of the compliance procedures and mechanisms shall be to promote compliance with all the provisions of this Treaty and to address issues of non-compliance. These procedures and mechanisms include monitoring, offering advice or assistance, including legal advice or legal assistance, when needed and requested, in particular to developing countries and countries with economies in transition.

**II. PRINCIPLES**

1. The compliance procedures and mechanisms shall be simple, cost-effective, facilitative, non-adversarial, non-judicial, legally non-binding and cooperative in nature.

2. The operation of the compliance procedures and mechanisms shall be guided by the principles of transparency, accountability, fairness, expeditiousness, predictability, good faith, and reasonableness [and shall take into account capacities of Contracting Parties].

**III. INSTITUTIONAL MECHANISMS**

1. The Compliance Committee established by the Governing Body on 16 June 2006 by Resolution 3/2006, hereinafter referred to as “the Committee”, shall carry out the functions specified herein.

2. The Committee shall consist of [14] members nominated by Contracting Parties and elected by the Governing Body on the basis of two from each of the seven regional groups of the FAO.

[3. Members of the Committee shall have recognized competence in the field of genetic resources or other fields relevant for the International Treaty, including legal or technical expertise[, and they shall serve in their individual capacity ]/[and they shall [serve]/[act] objectively and in the best interests of the Treaty].]

4. Members shall be elected by the Governing Body for a period of four years, this being a full term. At its [...] session, the Governing Body shall elect [seven] members, one from each region, for half a term, and [seven] members for a full term. Each time thereafter, the Governing Body shall elect for a full term, new members to replace those whose term has expired. Members shall not serve for more than two consecutive terms.

5. The Committee shall hold meetings as necessary, preferably in Rome, and, wherever possible, in conjunction with meetings of the Governing Body or other International Treaty bodies, subject to the availability of financial resources. The Secretariat shall service the meetings of the Committee.

6. The Committee shall submit its reports including recommendations with regard to the discharge of its functions to the next regular session of the Governing Body for consideration and appropriate action in accordance with the International Treaty.

7. Bearing in mind Rule I of the Rules of Procedure of the Governing Body, the Committee shall develop and submit any further rules of procedure[, as appropriate,] [, including rules on confidentiality, conflict of interest and electronic decision-making,] to the Governing Body for its consideration and approval.

8. The Committee shall elect its Chair and a Vice-Chair, who will rotate among the FAO regions.

### Option 1:<sup>3</sup>

#### IV. FUNCTIONS OF THE COMMITTEE

The Committee shall, with a view to promoting compliance and addressing issues of non-compliance, and under the overall guidance of the Governing Body, have the following functions:

- a) [Consider information submitted to it regarding matters relating to compliance and issues of non-compliance;
  - b) Address issues of non-compliance and identify the specific circumstances of the issue referred to it, in accordance with Sections [V to VII] below;
  - c) Offer advice and/or facilitate assistance, as appropriate, to the concerned Contracting Party, on matters relating to compliance with a view to assisting it to comply with its obligations under the International Treaty;
  - d) [Review general [issues]/ [cases] of compliance by Contracting Parties with their obligations under the International Treaty, taking into account the information submitted [by the Contracting Parties][to it] and following the guidance of the [Committee][Governing Body] [, in accordance with Section VI below];]
  - e) Take [measures][actions], as defined [in Section VII] below[, [or make recommendations,] as appropriate, to the Governing Body];
  - f) [Monitor the activities of the International Treaty supported by the Secretariat and information supplied by the Contracting Parties;][Monitor the implementation of the Treaty by Contracting Parties on the basis of reports in accordance with Section IX below;]
- [f bis) Make recommendations to the Governing Body on the interpretation of the Standard Material Transfer Agreement, in accordance with Sections V to VII below;]

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<sup>3</sup> There is an agreement to work on the basis of option 1, and to keep option 2 as a point of reference.

- g) Carry out any other functions as may be assigned to it by the Governing Body pursuant to Article 21;
- h) [[Report to the Governing Body]/[Provide confidential reports to the Bureau] on its activities [, including a summary of each closed issue of non-compliance,]]/[To present a bi-annual report to the Governing Body].
- [i) Set up a network between Contracting Parties with the objective of exchanging information and experiences which they will use to resolve problems of non-compliance;]

#### **Option 2:**

#### **IV. REPORTS TO THE GOVERNING BODY**

The Committee shall submit a report to each regular session of the Governing Body reflecting:

- (a) the work that the Committee has undertaken;
- (b) the conclusions and recommendations of the Committee; and
- (c) the future programme of work of the Committee.

#### **V. PROCEDURES**

1. The Committee shall receive, through the Secretariat, any submissions relating to compliance from [the following entities]:

- a) Any Contracting Party with respect to itself;
- b) [Any Contracting Party with respect to another Contracting Party; or
- c) The Governing Body.]

[The Contracting Party in respect of which the concern is raised is hereinafter referred to as “the Contracting Party concerned”.]

[1bis. The Committee shall receive, through the Secretariat, any communication concerning questions of interpretation of the Standard Material Transfer Agreement from:

- (a) the Governing Body;
- (b) a Contracting Party;
- (c) an International Agricultural Research Centre or the Consultative Group of the International Agricultural Research Centres,
- (d) a Party to a Standard Material Transfer Agreement; or
- (e) any natural or legal person that can demonstrate an interest in concluding a Standard Material Transfer Agreement.]

#### **Option 1<sup>4</sup>**

[2. Upon reception of submissions on possible non-compliance, the Secretariat will initiate a

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<sup>4</sup> There is agreement to work on the basis of option 2, and to keep option 1 as a point of reference.

process of dialogue with the Contracting Party or Contracting Parties involved in order to [overcome]/[address] the situation.]

[3. In the event that such dialogue process will not reach its aim within thirty days, the Secretariat shall, within fifteen days of receipt of submissions make the submissions available to the Contracting Party concerned, and will publish it, encouraging the submission of any information from other sources, about it. The Contracting Party concerned and any other source interested will have sixty days to submit responses and related information to the secretariat. The Secretariat, within fifteen days of receipt of these responses and related information, shall transmit the submission, the response and information to the Committee. The Committee will have ninety days to analyse and produce the recommendation or to adopt any measure, as proceeds, to ensure compliance in order to address the issue.]

[4. A Contracting Party that has received a submission regarding its compliance with the provision(s) of the International Treaty should respond and, with recourse to the Committee for assistance if required, provide the necessary information, preferably within three months and in any event not later than six months. This period of time shall commence on the date of the receipt of the submission as certified by the Secretariat. In the case where the Secretariat has not received any response or information from the concerned Party within the six months as referred to above, it shall transmit the submission to the Committee.]

5. A Contracting Party, in respect of which a submission is made or which makes a submission, is entitled to attend the deliberations of the Committee. However, this Contracting Party shall not participate in the elaboration and adoption of a recommendation of the Committee.]

## Option 2

[2. Any submission shall be addressed in writing to the Secretariat and shall set out:

- a) The matter of concern;
- b) The relevant provisions of the International Treaty; and
- c) Information substantiating the matter of concern.

[3. The Secretariat shall, within [15]/[30] days of receipt of submissions under paragraph 1b above, make the submissions available to the Contracting Party concerned, and once it has received a response and information from the Contracting Party concerned, it shall transmit the submission, the response and information to the Committee. In the case that a Contracting Party submits documentation with regard to itself the Secretariat shall, within [15]/ [30] days, forward that submission to the Committee.]

4. When the Contracting Party concerned has received a submission it should respond and, with recourse to the Committee for assistance if required, provide the necessary information preferably within three months and in any event not later than six months. This period of time shall commence on the date of the receipt of the submission as certified by the Secretariat. In the case where the Secretariat has not received any response or information from the Contracting Party concerned within the six months as referred to above, it shall transmit the submission to the Committee.

5. The Committee may reject to consider any submission made pursuant to paragraph 1b of this section that is *de minimis* or ill-founded, bearing in mind the objectives of the International Treaty.

5 bis. The Contracting Party concerned [may present responses or comments at every step of the proceedings]/[is entitled to participate in the deliberations of the Committee]. This Contracting Party shall not participate in the elaboration and adoption of a recommendation of the Committee.]

- [6. Confidentiality will be an essential requirement of the process.]
- [7. Any communication shall be addressed in writing to the Secretariat and shall set out:
- (a) the question of interpretation;
  - (b) the relevant provision of the Standard Material Transfer Agreement; and
  - (c) any relevant supporting information clarifying the question of interpretation.]

## **VI. INFORMATION**

1. The Committee shall consider relevant information from:
- a) The Contracting Party concerned;
  - b) [The Contracting Party that has made a submission with respect to another Contracting Party.]
2. The Committee may seek or receive and consider relevant information, including from:
- a) [Non-governmental organizations, the private sector and other civil society organizations and relevant inter-governmental organizations, [including the International Agricultural Research Centres] [, as directed by the Governing Body and with the consent of the Contracting Party concerned]];
  - b) The Secretariat.
- [3. The Committee may seek expert advice.]
- [4. The Committee, in undertaking all of its functions and activities, shall maintain the confidentiality of any information that is [provided to the Committee].]

## **VII. [MEASURES]/[MECHANISMS]/[ACTIONS] TO PROMOTE COMPLIANCE AND ADDRESS CASES OF NON-COMPLIANCE**

1. [[The Committee may take one or more of the following measures] with a view to promoting compliance and addressing [cases][a case] of non-compliance [which is raised in accordance with Section V.1 above and taking into account such factors as the cause, type, degree, and frequency of non-compliance, the Committee may [only]]] / [The Committee, after consultations with the Contracting Party concerned and taking into account such factors as the cause, type, degree and frequency of non-compliance, may]:
- a) [Provide]/[Offer] advice or [and or facilitate] assistance [,including legal advice or legal assistance] [or non-binding recommendations] to the Party concerned, as appropriate;
  - b) [Make recommendations to the Governing Body regarding the provision of financial and technical assistance, technology transfer, training and other capacity-building measures];

- c) Request or assist, as appropriate, the Contracting Party concerned to develop a compliance action plan regarding the achievement of compliance with the International Treaty within a timeframe to be agreed upon between the Committee and the Party concerned, [taking into account its existing capacity to comply]; and
- d) Invite the Contracting Party concerned to submit progress reports to the Committee on the efforts it is making to comply with its provisions under the International Treaty.

2. [With a view to promoting compliance and addressing an issue of non-compliance raised in accordance with Section V.1 the][The] Governing Body may, upon the recommendations of the Committee, and taking into account such factors as the cause, type, degree and frequency of non-compliance, [and the capacity of the Contracting Party concerned, in particular of developing country Contracting Parties in complying with the International Treaty,] also decide [to] [upon one or more of the following measures]:

- a) Provide [financial and technical] assistance[, including legal assistance to the Contracting Party concerned,][ technology transfer, training and other capacity-building measures][ subject to budgetary considerations];
- b) [Issue a [caution]/[notification] to the concerned Contracting Party; or]
- c) [Publish cases of non-compliance.]/[Request the Secretariat to place on the website [closed issues]/[findings] of non-compliance.]
- d) Take any other actions it deems appropriate [for capacity-building] in accordance with the International and for the fulfillment of the Treaty's objectives.]

[3. With a view to promoting consistent interpretation of the Standard Material Transfer Agreement, the Governing Body may upon the recommendation of the Committee and, as appropriate:

- (a) provide an interpretation of the Standard Material Transfer Agreement, or
- (b) amend the Standard Material Transfer Agreement.]

## **VIII. REVIEW OF THE PROCEDURES AND MECHANISMS**

[The Governing Body shall, in line with Article 21, review the effectiveness within X years of adoption of the procedures and mechanisms and/or periodically of these procedures and mechanisms and take appropriate action.]

### **[IX] [IV *ter*]. REPORTING**

The Governing Body may, from time to time, seek reports from the Contracting Parties regarding compliance with the International Treaty.

### **[[IX] [IV *ter*]. MONITORING**

1. Each Contracting Party shall submit to the Committee, through the Secretariat, a report on the measures it has taken to implement the International Treaty in one of the six languages of the United Nations [five years after the entry into force of the International Treaty, and every 5 years thereafter, in accordance with any further decisions of the Governing Body on the submission of such reports]

[periodically in conformity with decisions taken by the Governing Body].

2. The Committee shall consider the reports that it has received up to twelve months before the next session of the Governing Body taking into account any guidance of the Governing Body.

3. The Committee shall submit a synthesis report on the basis of the reports that it has considered to each session of the Governing Body, which may include recommendations to the Governing Body on possible decisions to solve identified problems, including on the invitation to Contracting Parties to make a submission in accordance with Section V.1a.

4. The Committee may develop and submit any further rules on monitoring and reporting, including a reporting format, to the Governing Body for its consideration and approval, taking into account the need to avoid duplication and to enhance synergies.]]

**APPENDIX A.3**  
**RESOLUTION 3/2009**  
**IMPLEMENTATION OF THE FUNDING STRATEGY OF THE TREATY**

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**THE GOVERNING BODY,**

**PART I**

**ANNEX 4 OF THE FUNDING STRATEGY**

**Recalling** that the aims of the Funding Strategy are the development of ways and means by which adequate resources are available for the implementation of the International Treaty, and the transparent, efficient and effective utilization of all resources made available under the Funding Strategy;

1. **Adopts** Annex 4 of the Funding Strategy, *Information and Reporting Requirements under the Funding Strategy*, as contained in Annex 1 to this Resolution;

**PART II**

**THE STRATEGIC PLAN FOR THE IMPLEMENTATION OF THE BENEFIT-SHARING  
FUND OF THE FUNDING STRATEGY**

**Recalling** that the aims of the Funding Strategy are the development of ways and means by which adequate resources are available for the implementation of the International Treaty, and the transparent, efficient and effective utilization of all resources made available under the Funding Strategy;

**Recalling** that the effective implementation of the Funding Strategy is critical to the implementation of the International Treaty;

**Emphasizing** Article 18.1, as well as Articles 18.3 and 18.4 b, c and f of the International Treaty;

**Recognizing** that successful resource mobilization requires initial investment in the resource mobilization itself;

2. **Welcomes** the Strategic Plan for the implementation of the Benefit-sharing Fund of the Funding Strategy, as contained in *Appendix 2* of document *Report of the Co-Chairs of the Ad Hoc Committee on the Funding Strategy: Draft Strategic Plan for the Implementation of the Benefit-sharing Fund of the Funding Strategy*<sup>5</sup>, and **agrees** that this plan will constitute a basis for the implementation of the Benefit-sharing Fund of the Funding Strategy by the Secretariat and the Contracting Parties;

3. **Reaffirms** the commitment of Contracting Parties to implement Article 18, in particular

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<sup>5</sup> IT/GB-3/09/7 App. 2.



Article 18.4 b and c;

4. Based on Article 18.3, **establishes** a target of US\$ 116 million between July 2009 and December 2014. This target may be reviewed by the Governing Body on a regular basis;
5. **Decides** to reconvene the *Ad Hoc* Advisory Committee on the Funding Strategy, with Terms of Reference, as contained in *Annex 2* to this Resolution:
  - i. to advise the Bureau and the Secretary on resource mobilization efforts, including on innovative approaches;
  - ii. to advise the Bureau and the Secretary on the operation of the Benefit-sharing Fund, including on the disbursement and reporting procedures;
  - iii. to address remaining issues within the full remit of the Funding Strategy, i.e. not only the Benefit-sharing Fund but also other elements of the Funding Strategy, in particular resources not under the direct control of the Governing Body;
  - iv. to advise on the monitoring of the implementation of the overall Funding Strategy and on the assessment of its efficacy;
  - v. to report on the progress of its work to the Bureau of the Governing Body and to present the result of its work in the Fourth Session of the Governing Body;
6. **Agrees** to engage “goodwill ambassadors” who will contribute to increasing public awareness, making the case for the Benefit-sharing Fund and presenting it to decision-makers, and **requests** the Secretary, in consultation with the Bureau, to invite appropriate individuals;
7. **Takes full note** of the Strategic Plan’s section on resource and staffing implications, and **requests** the Secretary to engage adequate fundraising services with the aim to reach the above-mentioned target;
8. **Invites** Contracting Parties to explore, including with relevant stakeholders, the development of innovative approaches to allow for the provision of resources to the Benefit-sharing Fund, including on a regular and predictable basis;

### PART III

#### OPERATIONALIZATION OF THE FUNDING STRATEGY

**Recalling** Resolution 1/2006 on the Funding Strategy;

**Recognizing** the importance of making concrete progress in the operationalization of the Funding Strategy;

**Taking** into account the experiences gained in the first project cycle of the Benefit-sharing Fund of the Funding Strategy of the International Treaty;

**Recalling** that the Operational Procedures for the Use of Resources under the Direct Control of the Governing Body are based on the following principles:

- 1) Transparency and impartiality;
- 2) Simplicity and accessibility;
- 3) Efficiency and effectiveness;

9. **Decides** that:
  - i. any governmental or non-governmental organization, including genebanks and research institutions, farmers and farmers' organizations, and regional and international organizations, based in countries that are Contracting Parties to the International Treaty, may apply for grants under the Benefit-sharing Fund;
  - ii. the list of Contracting Parties eligible to apply for support under the Benefit-sharing Fund will be prepared by the Secretary for each round of the project cycle, based on a complete list of developing countries derived from the most recent World Bank's classification of economies;
  - iii. plant genetic resources for food and agriculture listed in *Annex 1* of the International Treaty resulting from projects funded by the Benefit-sharing Fund shall be made available according to the terms and conditions of the Multilateral System, and information generated by projects funded through the Benefit-sharing Fund shall be made publicly available within 1 year of the completion of the project;
10. **Requests** the Secretary to:
  - i. consult within FAO, in order to find interim arrangements for the disbursement of funds, and project reporting and monitoring, for the conclusion of the first project cycle;
  - ii. make the necessary practical arrangements, and proceed with the disbursement of funds for the approved projects under the Benefit-sharing Fund of the International Treaty;
  - iii. continue collaborating with the Executive Secretary of the Global Crop Diversity Trust and other international organizations in the further development and implementation of operational procedures; and
  - iv. develop disbursement, reporting and monitoring procedures for the operation of future project cycles, for consideration and approval by the Governing Body at its Fourth Session.
11. **Thanks** the Executive Secretary of the Global Crop Diversity Trust for the support to the Secretary of the International Treaty in the development and execution of the first call for proposals under the Benefit-sharing Fund;
12. **Thanks** the experts who evaluated the projects for their valuable assistance and **decides** that in future rounds of the project cycle, the Panel of Experts for project proposal appraisal will be composed of at least two experts per region in each project cycle, selected by the Bureau, in consultation with the regions, from a roster of experts;
13. **Requests** the Secretary to bring project proposals favourably appraised but not funded during the first project cycle to the attention of relevant international mechanisms, funds and bodies, both bilateral and multilateral, in accordance with paragraph 6.c of the Operational Procedures;
14. **Invites** relevant international mechanisms, funds and bodies to consider those project proposals favourably, and to inform the Secretary of the funding and progress of those projects, as part of the Funding Strategy, for reporting to the Governing Body at its Fourth Session; and
15. **Decides** to delegate authority for the execution of the project cycle during the next biennium 2010/2011 to the Bureau.

*Annex 1***ANNEX 4 OF THE FUNDING STRATEGY****INFORMATION AND REPORTING REQUIREMENTS UNDER THE FUNDING STRATEGY**

*Annex 4* sets out the information and reporting requirements under the Funding Strategy of the Treaty, in order to facilitate the monitoring of the implementation of the Funding Strategy and the assessment of its efficacy by the Governing Body.

The relevant information is to be compiled by the Secretariat. The pertinent elements of the reports to the Governing Body will also be made available through the website of the Treaty.

**I. Periodicity of information and reporting**

Information and reporting to the Governing Body will normally be provided every two years, or according to the periodicity of the regular sessions of the Governing Body. Reporting periods will normally cover the preceding two full calendar years before meetings of the Governing Body.

**II. Information and reporting on resources under the direct control of the Governing Body**

The information and reporting on resources under the direct control of the Governing Body will be provided by the Secretariat and will include:

- General overview on and status of funds received and disbursed under the benefit-sharing fund<sup>6</sup>, according to: priorities established under *Annex 1* of the Funding Strategy; beneficiaries by stakeholder groups and geographic area; and crops addressed; and other relevant criteria; in accordance with generally accepted accounting principles, and, as soon as these have been adopted by FAO, in accordance with the International Public Sector Accounting Standards.
- Detailed data on and breakdown of funds received to the benefit-sharing fund, including information on individual contributors, corresponding amounts received, provenance of funds by contributors category and regional distribution;
- Synoptic information on projects funded from the benefit-sharing fund, including project description and status, and reflecting the information generated under the project reporting and monitoring as foreseen in the project cycle in *Annex 3* of the Funding Strategy;
- Assessment and evaluation of the sustainable effects and impacts of the use of resources under the direct control of the Governing Body, according to the independent evaluation procedures set out in the project cycle in *Annex 3* of the Funding Strategy;
- Assessment and evaluation of the overall operation of the benefit-sharing fund, including the receipt, administration and disbursement of funds, and the management of the project cycle;

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<sup>6</sup> The benefit-sharing fund will include:

- Mandatory and voluntary contributions pursuant to Article 13.2 of the International Treaty
- Voluntary contributions from any source to implement the Funding Strategy provided for in Article 18 of the International Treaty

The benefit-sharing fund will be administered through the Trust Account referred to in Article 19.3 (f) of the International Treaty.

- Emerging issues and possible measures that might be considered by the Governing Body to improve the operations of the Funding Strategy regarding resources under the direct control of the Governing Body.

### **III. Information and reporting on resources not under the direct control of the Governing Body**

The information and reporting on resources not under the direct control of the Governing Body provided by Contracting Parties, non-Contracting Parties, international organisations with which the Governing Body has entered into agreements, and relevant international mechanisms, funds and bodies, will be compiled by the Secretariat.

- 1) Information and reporting provided according to standard formats by Contracting Parties and non-Contracting Parties will include:
  - Reporting on the results of measures taken within the Governing Bodies of relevant international mechanisms, funds and bodies, to ensure due priority and attention to the effective allocation of predictable and agreed resources for plans and programmes relevant for the implementation of the Treaty;
  - Reporting on the results of actions taken to promote voluntary contributions from sources within their country for plans and programmes relevant for the implementation of the Treaty;
  - Information on bilateral funding and assistance provided relevant to the Funding Strategy from sources within their country;
  - Information on national activities, plans and programmes for building capacity in plant genetic resources for food and agriculture, and for the conservation and sustainable use of plant genetic resources for food and agriculture.
- 2) Information and reporting provided by international organisations with which the Governing Body has entered into agreements will include:
  - Reporting on resources provided and activities undertaken in support of the implementation of the Treaty.
- 3) Information and reporting provided by relevant international mechanisms, funds and bodies will include:
  - Information on their mandates, priorities, eligibility criteria, procedures and availability of resources relevant to the support of actions for the implementation of the Treaty.

***Annex 2: Terms of Reference for the Ad Hoc Advisory Committee on the Funding Strategy***

1. The Committee will comprise up to two members nominated by each Region. Two Co-chairs, one from a developing and one from a developed country Contracting Party, will be elected from the members of the Committee.
2. The Committee will hold two meetings.
3. The Committee will carry out the following tasks:
  - Advise the Bureau and the Secretary on resource mobilization efforts, including on innovative approaches;
  - Advise the Bureau and the Secretary on the operation of the Benefit-sharing Fund, including on the disbursement and reporting procedures;
  - Address remaining issues within the full remit of the Funding Strategy, i.e. not only the Benefit-sharing Fund but also other elements of the Funding Strategy, in particular resources not under the direct control of the Governing Body;
  - Advise on the monitoring of the implementation of the overall Funding Strategy and on the assessment of its efficacy;
  - Report on the progress of its work to the Bureau and present the result of its work in the Fourth Session of the Governing Body.

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**APPENDIX A.4**  
**RESOLUTION 4/2009**  
**THE MULTILATERAL SYSTEM OF ACCESS AND BENEFIT-SHARING**

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**THE GOVERNING BODY,**

**Convinced** of the crucial importance for the International Treaty of bringing the Multilateral System of Access and Benefit-sharing into full and effective operation;

**Convinced** of the need to address the various elements of the Multilateral System as an integrated whole;

**Recalling** that, in Article 11.3 of the International Treaty, Contracting Parties agreed to take appropriate measures to encourage natural and legal persons within their jurisdictions who hold plant genetic resources for food and agriculture listed in *Annex 1* to include such plant genetic resources for food and agriculture in the Multilateral System;

**Recalling** that Article 11.4 of the Treaty provided that, within two years of the entry into force of the International Treaty, the Governing Body should assess the progress in including these plant genetic resources for food and agriculture in the Multilateral System, and that, following this assessment, the Governing Body should decide whether access shall continue to be facilitated to those natural and legal persons that have not included their plant genetic resources for food and agriculture in the Multilateral System, or take such other measures as it deems appropriate;

**Noting further** that, at its Second Session, it had decided to postpone its assessment of progress in including these plant genetic resources for food and agriculture in the Multilateral System until this Third Session;

**Convinced** of the crucial importance for the International Treaty of the Standard Material Transfer Agreement, as the instrument for the facilitated exchange of plant genetic resources for food and agriculture, and the source of monetary benefit-sharing;

**Concerned** that little information is as yet available on the implementation and operation of the Standard Material Transfer Agreement;

**PART I. IMPLEMENTATION OF THE MULTILATERAL SYSTEM**

1. **Stresses** the importance of documenting the plant genetic resources for food and agriculture within the Multilateral System, so that they may be accessed for the purpose of utilization and conservation for research, breeding and training for food and agriculture using the FAO/IPGRI Multicrop Passport Descriptor List.
2. **Welcomes** the efforts underway to coordinate and improve information systems documenting plant genetic resources for food and agriculture, based on existing information systems, which should build the basis of the Global Information System, foreseen in Article 17, consistent with Article 12.3b, of the International Treaty;

3. **Stresses** the importance of assisting developing countries in this process bilaterally, or through existing multilateral frameworks, such as the Joint FAO/International Treaty Secretariat/Bioversity International Capacity-building Programme.
4. **Requests** all Contracting Parties to report on their plant genetic resources for food and agriculture that are in the Multilateral System, in accordance with Article 11.2 of the International Treaty, and, according to national capacities, to take measures to make information on these resources available to potential users of the Multilateral System;
5. **Requests** the Secretary to prepare a comprehensive report to its Fourth Session on the status of non-monetary and monetary benefit-sharing, as provided for in Articles 13.2a, b, c and d of the International Treaty, and for this purpose to request information from Contracting Parties, international institutions having signed agreements under Article 15, and private sector entities;
6. **Decides** to again review the implementation of the Multilateral System at its Fourth Session;

## **PART II. INCLUSION OF PLANT GENETIC RESOURCE FOR FOOD AND AGRICULTURE IN THE MULTILATERAL SYSTEM BY NATURAL AND LEGAL PERSONS WITHIN THE JURISDICTION OF CONTRACTING PARTIES**

7. **Expresses its concern** that information on the inclusion of plant genetic resource for food and agriculture in the Multilateral System by natural and legal persons within the jurisdiction of Contracting Parties on which to base its assessment of the progress in including these plant genetic resources for food and agriculture in the Multilateral System, is not yet available;
8. **Reiterates** the urgency of obtaining the appropriate information it needs to assess progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons within the jurisdictions of Contracting Parties. Such information should comprise:
  - The holders of the collections;
  - The crops included;
  - The total number of accessions;
9. **Encourages** Contracting Parties, as appropriate, in reporting on their plant genetic resources for food and agriculture in the Multilateral System, to provide information on the collections of legal persons not part of the government, whom they regard as forming part of their national plant genetic resources systems and who are willing to make such information available.
10. **Further invites** all Contracting Parties to include in their reports on the plant genetic resources for food and agriculture in the Multilateral System information on the appropriate measures that they are taking, in accordance with Article 11.3 of the Treaty, to encourage natural and legal persons within their jurisdictions to include plant genetic resources for food and agriculture in the Multilateral System, according to national capacities;
11. **Decides** to postpone the assessment provided for in Article 11.4 of the Treaty until its Fourth Session, because of the current lack of information;

### PART III. IMPLEMENTATION AND OPERATION OF THE STANDARD MATERIAL TRANSFER AGREEMENT

12. **Requests** all Contracting Parties to take the policy, legal and administrative measures necessary for their national plant genetic resource systems, and natural and legal persons within their jurisdictions, to be able to use the Standard Material Transfer Agreement to provide facilitated access to plant genetic resources for food and agriculture;

13. **Stresses** the importance of assisting developing countries in this process;

14. **Urges** developed country Contracting Parties to provide appropriate assistance to developing countries, bilaterally, or through established multilateral frameworks for:

- capacity-building;
- awareness-raising;
- promotion of the exchange of experiences among those responsible for implementing the Standard Material Transfer Agreement at national level;
- electronic management of the Standard Material Transfer Agreement and related reporting.

15. **Requests** the Secretary to give priority to assisting users of the Standard Material Transfer Agreement to overcome any implementation problems such as those identified at the First Meeting of Experts on the Standard Material Transfer Agreement, including, subject to the availability of funds, through the convening of an *Ad Hoc* Advisory Technical Committee on the Standard Material Transfer Agreement and the Multilateral System, taking into account regional representation, according to the terms of reference as contained in the *Annex* to this Resolution.

16. **Decides** to again review the level of payments, with a view to achieving fair and equitable sharing of benefits, at its Fourth Session;

17. **Decides** to postpone the review of whether the mandatory payment requirement shall also apply in cases where commercialized products are available without restriction to others for further research and breeding to its Fourth Session;

18. **Welcomes** the decision of Norway to make an additional annual payment of 0.1% of the value of all seeds sold in its territory;

19. **Appeals** to other Contracting Parties to take similar decisions, with the aim of providing the International Treaty's Benefit-sharing Fund with substantial and reliable resources;

20. **Welcomes** the decision of those Recipients who have already opted for the crop-based modality of payment under Article 6.11 of the Standard Material Transfer Agreement, and **encourages** others to follow their example;

21. **Recalls** that Recipients opting for the crop-based payment modality under Article 6.11 of the Standard Material Transfer Agreement, by submitting *Annex 4* to the Standard Material Transfer Agreement, duly signed, should at the same time specify to which crop it applies; where the recipient has disclosed information to the provider before acceptance of the SMTA on the payment modality to be chosen, the provider should issue a separate SMTA for material to which the payment modality under Article 6.11 will apply. The instructions contained in explanatory notes about the SMTA should be amended accordingly;

22. **Decides** that payments due under the Standard Material Transfer Agreement should be made in US dollars, calculated at the market rate in effect on the day that the payment is made.



**PART IV. FOLLOW-UP BY THE SECRETARIAT**

23. *Stresses* the importance of adequate information being provided to the Secretary by January 2011, so that a full report may be prepared for its Fourth Session;

*Annex***TERMS OF REFERENCE FOR  
THE *AD HOC* ADVISORY TECHNICAL COMMITTEE ON THE STANDARD MATERIAL  
TRANSFER AGREEMENT AND THE MULTILATERAL SYSTEM**

1. The *Ad Hoc* Advisory Technical Committee will advise the Secretary on implementation questions raised by users of the Standard Material Transfer Agreement, which the Secretary brings to their attention on the basis of questions addressed and forwarded to the Secretary by Contracting Parties, international centres having signed agreements with the Governing Body under Article 15 of the Treaty and other users of the Standard Material Transfer Agreement. The *Ad Hoc* Advisory Technical Committee shall take into account implementation problems such as those identified at the First Meeting of Experts on the Standard Material Transfer Agreement.
2. The *Ad Hoc* Advisory Technical Committee will comprise up to two members designated by each Region and up to five technical experts, including representatives of the CGIAR. In inviting these technical experts to a meeting of the *Ad Hoc* Advisory Technical Committee, the Secretary will have regard of the specific nature of the questions brought to his notice and the expertise needed to address these. Experts will be identified with due attention to the knowledge and skills required, understanding of the International Treaty and its Multilateral System, impartiality, and geographical balance. There will be two Co-Chairs, one from a developing country and one from a developed country Contracting Party, who will be elected from the members of the *Ad Hoc* Advisory Technical Committee.
3. The *Ad Hoc* Advisory Technical Committee will hold up to two meetings subject to the availability of funds.
4. The *Ad Hoc* Advisory Technical Committee will prepare a report at the end of a meeting, with responses to matters brought to its attention, and, where necessary, opinions on specific questions. These reports will be made available as information documents to the Fourth Session of the Governing Body. Where necessary, the *Ad Hoc* Advisory Technical Committee should discuss and consider questions regarding the Standard Material Transfer Agreement and the Multilateral System that may need to be brought to the attention of the Governing Body through the Secretary.
5. The *Ad Hoc* Advisory Technical Committee will report on the progress to the Secretary who will in turn report on this progress to the Fourth Session of the Governing Body.

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**APPENDIX A.5**  
**RESOLUTION 5/2009**  
**PROCEDURES FOR THE THIRD PARTY BENEFICIARY**

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**THE GOVERNING BODY,**

**Recalling** that the objectives of the International Treaty on Plant Genetic Resources for Food and Agriculture are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security;

**Recalling**, that Part IV of the Treaty establishes a Multilateral System of Access and Benefit-sharing, which is efficient, effective, and transparent, both to facilitate access to plant genetic resources for food and agriculture, and to share, in a fair and equitable way, the benefits arising from the utilization of these resources, on a complementary and mutually reinforcing basis;

**Recalling** that under Article 12.4 of the Treaty, facilitated access to the Multilateral System shall be provided pursuant to a Standard Material Transfer Agreement adopted by the Governing Body at its First Session;

**Recalling** that under Article 13.2 of the Treaty, benefits arising from the use, including commercial, of plant genetic resources for food and agriculture under the Multilateral System shall be shared fairly and equitably through the mechanisms specified under that Article;

**Noting** that the Governing Body, at its First Session, had invited the Food and Agriculture Organization of the United Nations ('FAO'), as the Third Party Beneficiary, to carry out the roles and responsibilities as identified and prescribed in the Standard Material Transfer Agreement, under the direction of the Governing Body, in accordance with procedures to be established at this Third Session;

**Noting** also that, in December 2006, the Director-General of FAO informed Contracting Parties to the Treaty of his agreement in principle for FAO to act as the Third Party Beneficiary foreseen in the Standard Material Transfer Agreement and that this agreement in principle was subject to formal approval, upon review of the procedures to be established by the Governing Body defining the roles and responsibilities of the Third Party Beneficiary;

**Recognizing** that the Third Party Beneficiary will require adequate financial and other resources and that FAO acting as Third Party Beneficiary shall not incur any liabilities in excess of the funds available in the Third Party Beneficiary Operational Reserve;

**Noting** further that the *Ad Hoc* Third Party Beneficiary Committee has prepared draft Third Party Beneficiary Procedures for the consideration of the Governing Body at this Session in accordance with its decision at the Second Session;

**Thanking** the Mediation and Arbitration Centre of the World Intellectual Property Organization (WIPO), the United Nations Commission on International Trade Law (UNCITRAL), and the International Chamber of Commerce (ICC), for their excellent technical advice to the Secretariat, and **welcoming** the offer of the WIPO Mediation and Arbitration Centre to provide additional technical

advice and support to the Treaty, in particular in the development of the operational guidelines for the commencement and management of amicable dispute resolution and mediation proceedings;

1. **Adopts** these *Procedures for the Operation of the Third Party Beneficiary* ('Third Party Beneficiary Procedures'), as in *Annex 1* to this Resolution;
2. **Thanks** the Director-General of FAO for having agreed in principle that FAO shall act as the Third Party Beneficiary, and requests him to bring these procedures to the attention of the relevant bodies of FAO, for formal approval;
3. **Requests** the Secretary of the International Treaty to establish the "Third Party Beneficiary Operational Reserve", for the purpose of defraying costs and expenses that may be incurred by the Third Party Beneficiary in the fulfilment of its roles and responsibilities under the Third Party Beneficiary Procedures;
4. **Incorporates** the Third Party Beneficiary Operational Reserve into the Core Administrative Budget and, for this purpose, **amends** the Financial Rules of the Treaty as given in *Appendix B* to this Report;
5. **Calls** upon Contracting Parties, States that are not Contracting Parties, intergovernmental organizations, non-governmental organizations and other entities to contribute periodically, as necessary, to the Third Party Beneficiary Operational Reserve, in order to maintain it at a level commensurate with the needs;
6. **Authorizes** the Secretary of the International Treaty, subject to the availability of financial resources, to draw upon the Third Party Beneficiary Operational Reserve, in order to implement, as appropriate, the Third Party Beneficiary Procedures;
7. **Requests** the Secretary of the International Treaty to provide, at each session of the Governing Body, a report in accordance with Article 9 of the Third Party Beneficiary Procedures;
8. **Requests** the Secretary of the International Treaty to develop operational guidelines for the commencement and management of amicable dispute resolution and mediation proceedings under the Third Party Beneficiary Procedures in order to promote the effective functioning of the Third Party Beneficiary, which shall include appropriate cost containment measures. In developing the operational guidelines, the Secretary shall seek, as appropriate, technical support from relevant organizations, such as the WIPO Mediation and Arbitration Centre, and other relevant international organizations;
9. **Decides** that the current *Ad Hoc* Third Party Beneficiary Committee will reconvene in order to review and finalize the operational guidelines on the basis of a draft text prepared by the Secretary of the International Treaty in close cooperation with the FAO Legal Office, for adoption by the Governing Body at its Fourth Session;
10. **Decides** to establish a list of experts from which the parties to a Standard Material Transfer Agreement may appoint mediators and arbitrators in accordance with the Third Party Beneficiary Procedures; and
11. **Requests** the Secretary of the International Treaty to invite Contracting Parties to provide names of experts to be placed on the list in accordance with the criteria of expertise contained in *Annex 2* to the Third Party Beneficiary Procedures;
12. **Requests** the Secretary of the International Treaty to establish a mechanism on the Treaty's website, where the nomination form for inclusion in the list of experts could be obtained, and invite nominations through the website;

13. **Stresses** the importance of having adequate regional representation and gender balance, in the placement of experts on the list;
14. **Decides** that the parties to the Standard Material Transfer Agreement shall provide to the Governing Body and Third Party Beneficiary, in accordance with the relevant provisions of the Standard Material Transfer Agreement and in order for the Third Party Beneficiary to be able to effectively carry out its roles and responsibilities, the information contained in Parts III and IV of Annex 2 to the Third Party Beneficiary Procedures;
15. **Accordingly decides** that the information required in accordance with Article 5e of the Standard Material Transfer Agreement shall be provided according to the following schedule; at least once every two calendar years or within an interval that shall be, from time to time, decided by the Governing Body;
16. **Stresses** the importance of the Provider and the Recipient fulfilling their reporting obligations as foreseen in the Standard Material Transfer Agreement of the Treaty;
17. **Requests** the Secretary to develop, in consultation with relevant organizations, appropriate and cost-effective processes to facilitate the submission, collection and storage of such information in the implementation of Article 4.1 of the Third Party Beneficiary Procedures. In so doing, the Secretary shall apply adequate measures to ensure the integrity of information and, where required, confidentiality of the information so provided.

*Annex***PROCEDURES FOR THE OPERATION OF THE THIRD PARTY BENEFICIARY  
(‘THIRD PARTY BENEFICIARY PROCEDURES’)****Article 1****Designation of Third Party Beneficiary**

1. The Food and Agriculture Organization of the United Nations (‘FAO’) shall act as Third Party Beneficiary of the Standard Material Transfer Agreement under the direction of the Governing Body.
2. FAO will administer its roles and responsibilities under these Procedures in accordance with the Basic Texts of FAO and in particular FAO’s Financial Regulations, Rules and directives of its Governing Bodies.
3. Nothing in these Procedures shall be deemed a waiver of FAO’s privileges and immunities.

**Article 2****Scope**

These Procedures apply to the Third Party Beneficiary, when carrying out its roles and responsibilities as identified and prescribed in the Standard Material Transfer Agreement referred to in Article 12.4 of the International Treaty on Plant Genetic Resources for Food and Agriculture, under the direction of the Governing Body.

**Article 3****Principles**

1. The Third Party Beneficiary shall act on behalf of the Governing Body of the International Treaty and its Multilateral System of Access and Benefit-sharing, as foreseen in the Standard Material Transfer Agreement.
2. The Third Party Beneficiary shall perform its roles and responsibilities effectively, in a transparent, cost-effective, expeditious and, to the extent possible, in a non-adversarial manner.

**Article 4****Information**

1. The Governing Body shall make available to the Third Party Beneficiary the information provided to it, in accordance with the provisions of the Standard Material Transfer Agreement.
2. The Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement from the parties under the Standard Material Transfer Agreement or any other natural or legal persons. The information shall only be used for the purposes of initiating dispute settlement procedures under the Standard Material Transfer Agreement.
3. The Third Party Beneficiary has the right to request that the appropriate information, including samples as necessary, be made available by the parties, regarding their obligations in accordance with Article 8.3 of the Standard Material Transfer Agreement.
4. Except as may be required in the settlement of disputes and for the purposes specified in

Article 9 of these Procedures, and unless otherwise agreed by the parties to the Standard Material Transfer Agreement, information received by the Third Party Beneficiary shall be treated as confidential.

#### **Article 5 Amicable dispute settlement**

1. Where the Third Party Beneficiary has received information on possible non-compliance with the obligations of the parties under a Standard Material Transfer Agreement, it may request information in accordance with Article 8.3 of the Standard Material Transfer Agreement.

2. If the Third Party Beneficiary has reason to believe that obligations under a Standard Material Transfer Agreement may not have been complied with, it shall attempt in good faith to resolve the dispute by negotiation in accordance with Article 8.4a of the Standard Material Transfer Agreement and, in doing so, will send in writing to the parties to the Standard Material Transfer Agreement:

(a) a summary of the relevant provisions of the Standard Material Transfer Agreement which may not have been complied with, and other relevant information ('summary of information');

(b) a notice requesting the party that may not have complied with the Standard Material Transfer Agreement or the parties to the Standard Material Transfer Agreement to attempt, in good faith, to resolve the dispute not later than six months after the issuance of the summary of information and the notice.

#### **Article 6 Mediation**

1. If the dispute cannot be resolved by negotiation within six months after the issuance of the summary of information and the notice referred to in Article 5, paragraph 2 above, or any shorter period of time agreed on by the parties to the dispute, the Third Party Beneficiary shall commence or encourage the parties to the Standard Material Transfer Agreement to commence mediation proceedings through a neutral third party mediator, to be mutually agreed in accordance with Article 8.4b of the Standard Material Transfer Agreement.

2. The Third Party Beneficiary may propose as neutral third party mediator an expert from the list established by the Governing Body in accordance with Article 8.4c of the Standard Material Transfer Agreement.

#### **Article 7 Arbitration**

1. If a dispute has not been resolved by mediation within six months of the commencement of the mediation or any shorter period of time agreed on by the parties to the dispute, or if it otherwise appears that the dispute cannot be resolved within twelve months after the issuance of the summary of information and the notice referred to in Article 5, paragraph 2 above, the Third Party Beneficiary may submit the dispute for arbitration in accordance with Article 8.4c of the Standard Material Transfer Agreement.

2. The Third Party Beneficiary may propose as arbitrator an expert from the list established by the Governing Body in accordance with Article 8.4c of the Standard Material Transfer Agreement.

## **Article 8 Expenditure**

1. The Secretary of the Governing Body shall, as necessary, draw upon the Third Party Beneficiary Operational Reserve to cover all costs and expenses incurred by the Third Party Beneficiary in carrying out its roles and responsibilities in accordance with these Procedures, provided that FAO, acting as the Third Party Beneficiary, shall not incur any liabilities in excess of the funds available in the Third Party Beneficiary Operational Reserve.
2. Before initiating mediation and arbitration in accordance with Articles 6 and 7 above, the Secretary shall assess the adequacy of funds available within the Third Party Beneficiary Operational Reserve. To this end, the Secretary shall prepare an estimated budget for the dispute settlement in question, covering, where relevant, both the current and following biennia.
3. If adequate funds are not available for activities foreseen within the current biennium, the Secretary shall inform Contracting Parties of the additional funds required within the current biennium and six months of the following biennium, and call for immediate additional voluntary contributions to the Third Party Beneficiary Operational Reserve.

## **Article 9 Reporting**

The Third Party Beneficiary shall submit to the Governing Body, at each of its Regular Sessions, a report setting forth:

- (a) the number, and a summary, of cases where it received information regarding non-compliance with the terms and conditions of a Standard Material Transfer Agreement;
- (b) the number, and a summary, of cases where it initiated dispute settlement;
- (c) the number, and a summary, of disputes settled through amicable dispute settlement, mediation or arbitration;
- (d) the number, and a summary, of pending disputes;
- (e) any legal questions that appeared in the context of dispute settlement and that may require the attention of the Governing Body;
- (f) the expenditure from the Third Party Beneficiary Operational Reserve;
- (g) any estimate of the needs of the Third Party Beneficiary Operational Reserve in the forthcoming biennium;
- (h) any other relevant non-confidential information.

## **Article 10 Amendments**

These procedures may be amended by a decision of the Governing Body.

## **Article 11 Entry into force**

These procedures and any amendments thereto shall enter into force upon decision by the Governing Body and the approval of the competent bodies of FAO.



*Annex 2****OPERATIONS OF THE THIRD PARTY BENEFICIARY******Part I. Criteria for the nomination of experts***

- a) Highest professional qualities, qualification and expertise in relevant fields;
- b) Reputation for independence, fairness, competence and integrity;
- c) Appropriate language skills;
- d) Expressed willingness to accept the role of mediator, arbitrator or expert in dispute settlement in relation to the Treaty's Multilateral System.

***Part II. Procedures for nomination of experts***

- a) Contracting Parties are invited to make nominations, at any time. Such persons will automatically be included in the list.
- b) Professionals wishing to be included in the list are invited to put themselves forward. The Secretary will authorize inclusion in the list.
- c) The Secretary of the International Treaty may invite professionals to put their name forward, in particular in order to secure wide geographical representation and gender balance, and language proficiency, as well as wide coverage of relevant technical areas, and of relevant experience.
- d) All nominees to the list must meet the criteria of Part I (a)-(d) notwithstanding their nomination by a Contracting Party, their self-identification or their identification by the Secretary.

***Part III. Information to be provided to the Governing Body by parties to the SMTA***

For the purpose of carrying out its roles and responsibilities in accordance with the Third Party Beneficiary procedures, the Third Party Beneficiary shall need the following information provided by the parties to the Standard Material Transfer Agreement (SMTA).

- A.** The Provider transmitting a copy of the completed SMTA,  
or
- B.** In the event that the Provider does not transmit a copy of the SMTA
  - i. ensuring that the completed SMTA is at the disposal of the Third Party Beneficiary as and when needed;
  - ii. stating where the SMTA in question is stored, and how it may be obtained; and
  - iii. providing the following information:
    - a) The identifying symbol or number attributed to the SMTA by the Provider;
    - b) The name and address of the Provider;
    - c) The date on which the Provider agreed to or accepted the Standard Material Transfer Agreement, and in the case of shrink-wrap, the date on which the shipment was sent;
    - d) The name and address of the Recipient, and in the case of a shrink-wrap agreement, the name of the person to whom the shipment was made;

- e) The identification of each accession in *Annex I* to the SMTA, and of the crop to which it belongs.
- iv. The Third Party Beneficiary shall at all times ensure the confidentiality of electronic data. This obligation comprises :
- Industry-standard secured environment encryption during data transmission;
  - Secure hosting of the datastore in the UN International Computing Centre (UNICC), Geneva; and
  - Encryption of the data, with separate encryption in the datastore of Provider and Recipient data, and of accession data.

Access to the datastore shall be strictly restricted to the Third Party Beneficiary, in the context of the possible initiation of dispute settlement. The Third Party Beneficiary shall not provide any data to any other person, except to the persons who need to know in the context of dispute settlement, and dispute settlement proceedings shall, in accordance with normal commercial practice, be confidential.

**C.** The Recipient shall:

- a) when transferring material to a subsequent Recipient, it shall do so in accordance with Articles 6.4 or 6.5 of the SMTA, as appropriate;
- b) submit to the Governing Body, when appropriate, an annual report, in accordance with *Annex 2.3* of the SMTA;
- c) in case of opting for the payment modality provided for under Art 6.11h, notify the Governing Body;
- d) make available to the Multilateral System non-confidential information.

***Part IV. Information to be provided to the Third Party Beneficiary***

When triggered under Article 4.2 of the Third Party Beneficiary Procedures, both parties shall provide information stipulated under Article 8.3 of the SMTA.

Both parties to the SMTA shall provide to the Third Party Beneficiary upon its request appropriate information, including samples as may be necessary, regarding their obligations in the context of the Material Transfer Agreement in question.

Except as may be required in the settlement of disputes and for the purposes specified in Article 9 of the Third Party Beneficiary Procedures, and unless otherwise agreed by the parties to the SMTA, information received by the Third Party Beneficiary shall be treated as confidential.

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**APPENDIX A.6**  
**RESOLUTION 6/2009**  
**IMPLEMENTATION OF ARTICLE 9, FARMERS' RIGHTS**

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**THE GOVERNING BODY,**

**Recalling** the recognition in the International Treaty of the enormous contribution that local and indigenous communities and farmers of all regions of the world have made, and will continue to make, for the conservation and development of plant genetic resources as the basis of food and agriculture production throughout the world;

**Recalling** the importance of fully implementing Article 9 of the International Treaty;

**Recalling** also that according to Article 9 of the International Treaty, the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments and is subject to national law;

**Acknowledging** that there is uncertainty in many countries as to how Farmers' Rights can be implemented and that the challenges related to the realization of Farmers' Rights are likely to vary from country to country;

**Recognizing** that exchange of experiences and mutual assistance between Contracting Parties can significantly contribute to making progress in the implementation of the provisions on Farmers' Rights in the International Treaty;

**Recognizing** the contribution the Governing Body may give in support of the implementation of Farmers' Rights;

**Recalling** Resolution 2/2007 adopted by the Second Session of the Governing Body, in which Contracting Parties and relevant organizations were encouraged to submit their views and experiences on Farmers' Rights as set out in Article 9 of the International Treaty;

**Recalling** also that the Governing Body through Resolution 2/2007 decided to consider these views and experiences as a basis for an agenda item at its Third Session to promote Farmers' Rights at the national level;

**Noting** that the number of contributions on views and experiences received by the Secretariat has been limited;

**Based** on the received views and experiences from Contracting Parties and other organizations;

1. **Invites** each Contracting Party to consider reviewing and, if necessary, adjusting its national measures affecting the realization of Farmers' Rights as set out in Article 9 of the International Treaty, to protect and promote Farmers' Rights.

2. **Encourages** Contracting Parties and other relevant organizations to continue to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International

Treaty, involving, as appropriate, farmers' organizations and other stakeholders;

3. **Requests** the Secretariat to convene regional workshops on Farmers' Rights, subject to the agreed priorities of the Work Programme and Budget and to the availability of financial resources, aiming at discussing national experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders;

4. **Requests** the Secretariat to collect the views and experiences submitted by Contracting Parties and other relevant organizations, and the reports of the regional workshops as a basis for an agenda item for consideration by the Governing Body at its Fourth Session, and to disseminate relevant information through the website of the International Treaty, where appropriate; and

5. **Appreciates** the involvement of farmers' organizations in its further work, as appropriate, according to the Rules of Procedure of the Governing Body.

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**APPENDIX A.7****RESOLUTION 7/2009****COOPERATION WITH THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

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**THE GOVERNING BODY,**

1. **Requests** the Secretary to continue to foster close cooperation with the Secretary of the Commission in the implementation of the Treaty, especially the Supporting Components and related activities;
2. **Requests** its Secretariat to continue cooperating with the Secretariat of the Commission *ad interim* on the basis of the Joint Statement pending its adoption by the Commission;
3. **Encourages** a close cooperation between the Commission and the Governing Body that may gradually lead to an agreed functional division of tasks and activities between the Commission and the Governing Body within the terms of the Treaty;
4. **Recalls** Article 19.9 of the Treaty and the decision of the Commission at its Eleventh Regular Session requesting its Secretariat to organise sessions of the Commission, as far as practical, back-to-back with those of the Governing Body of the International Treaty; and **requests** the Secretary to explore with the Secretary of the Commission, the feasibility and modalities of holding the Fourth Session of the Governing Body back-to-back with the 13th Regular Session of the Commission, and any other future sessions of both bodies, and invite the Commission to direct its Secretariat accordingly;
5. **Encourages** the Bureaus of the Governing Body and the Commission, whenever possible, to hold joint meetings to coordinate the agendas of both bodies, as appropriate.

***The State of the World's Plant Genetic Resources for Food and Agriculture***

6. **Welcomes** the preparation of the draft updated *State of the World's Plant Genetic Resources for Food and Agriculture* and looks forward to its finalization;
7. **Invites** Contracting Parties to continue to actively participate in the process for the finalization of the updated *State of the World's Plant Genetic Resources for Food and Agriculture*, including, in particular, by providing any necessary additional information to FAO and comments on the draft prepared by FAO;
8. **Notes** that the Fourth Session of the Commission's Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture will review the first draft of the updated *State of the World's Plant Genetic Resources for Food and Agriculture*;
9. **Invites** the Commission to include in future revisions or updates of *The State of the World's on Plant Genetic Resources for Food and Agriculture* information on the implementation of the provisions of the Treaty, in particular, Articles 5, 6 and 9 of the Treaty, and coordinate, as appropriate with the Governing Body;

### ***Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture***

10. **Notes** the need to ensure close collaboration between the Commission and the Governing Body with regard to the *Global Plan of Action*, **recognises** that the Governing Body has used the *Global Plan of Action* as a basis for priority-setting for the Benefit-sharing Fund and **invites** the Commission, in the revision of the *Global Plan of Action*, to take into account specific issues of relevance to the Treaty and to adequately reflect the provisions of the Treaty in the *Global Plan of Action*;
11. **Invites** the Bureaus of the two Bodies to hold a joint meeting to review the first draft updated *Global Plan of Action*;
12. **Invites** Contracting Parties to participate actively in the process for the updating of the *Global Plan of Action*, in particular, by providing any necessary information to FAO and comments on any draft prepared by FAO;
13. **Requests** Contracting Parties that are also Members of the Commission, in their discussions of the revision of the *Global Plan of Action* under the Commission, to ensure that issues of relevance to the Treaty and its implementation are adequately taken into account;
14. **Requests** the Secretary to continue coordinating with the Secretary of the Commission and FAO in the processes related to the updating of the *Global Plan of Action*.

### ***International Plant Genetic Resources Networks***

15. **Recognizes** the important role that International Plant Genetic Resources Networks can play in the implementation of the Treaty and decisions of the Governing Body;
16. **Requests** Contracting Parties to continue supporting the functioning of effective networks, and strengthening of collaboration among networks;
17. **Invites** relevant International Plant Genetic Resources Networks to continue to be involved in the implementation of the Treaty and all relevant processes;
18. **Requests** the Secretary to coordinate with the Secretary of the Commission to ensure that their respective activities in collaboration with the relevant networks maintain coherence and efficiency, and do not duplicate each other;
19. **Further requests** the Secretary to cooperate with the Secretary of the Commission in facilitating the involvement of International Plant Genetic Resources Networks, when necessary or relevant in the implementation of the Treaty, including through joint activities and programmes, technical support and capacity building.

### ***Genebank Standards***

20. **Invites** the Commission to commence and coordinate the process for the revision of the Genebank Standards, in collaboration with competent institutes, including the International Agricultural Research Centres of the CGIAR, the Global Crop Diversity Trust and other relevant organizations, taking into account relevant ongoing work and initiatives;
21. **Requests** its Bureau to coordinate with the Bureau of the Commission the agendas of the

respective bodies for the purpose of discussing modalities for such revision and the ways and means for input of the Governing Body in the process.

### ***The Global Information System on Plant Genetic Resources for Food and Agriculture***

22. **Requests** the Secretary to continue to collaborate with FAO and other relevant stakeholders on information technologies to facilitate their contribution to the continuous development of the global information system in the context of Article 17 of the Treaty, in order to promote greater access to relevant information and information systems by Contracting Parties and other relevant stakeholders, and **requests** the Secretariat to develop a vision paper to be presented to the Fourth Session of the Governing Body to take stock of existing information systems and to outline a process for the development of this global information system.

### ***Other policy issues related to the specificity of plant genetic resources for food and agriculture or their uses***

23. **Notes** the major outputs and milestones that the Commission has adopted in the context of its Multi-year Programme of Work, including its decision to consider access and benefit-sharing issues at its Twelfth Regular Session;

24. **Invites** the Commission, in the context of its Multi-year Programme of Work, to collaborate with the Governing Body so that issues related to the access and benefit-sharing in plant genetic resources for food and agriculture may be dealt with in an integrated and harmonious manner, in order to ensure policy coherence, promote synergies and avoid duplication of efforts;

25. **Re-affirms** its willingness to continue cooperating with the Commission in matters of common interest, especially in the context of its Multi-year Programme of Work, in order to ensure that the distinctive features and problems of the plant genetic resources sector in general are duly addressed;

26. **Requests** its Bureau to coordinate the agendas of the Commission and the Governing Body for the purpose, *inter alia*, of initiating, as appropriate, processes for consultations on the relevant issues related to plant genetic resources for food and agriculture.

### ***Funding Strategy***

27. **Invites** the Commission to continue monitoring progress made to develop the Facilitating Mechanism as necessary, and **encourages** Contracting Parties to take full advantage of the information made available through the Facilitating Mechanism;

28. **Requests** the Secretary to coordinate with the Secretary of the Commission to ensure that their respective activities of relevance to the Funding Strategy maintain coherence and efficiency, and avoid duplication of efforts;

29. **Notes** the development of the Funding Strategy for the *Global Plan of Action for Animal Genetic Resources* by the Commission, and **requests** the Secretary to coordinate with the Secretary of the Commission, as appropriate, in order to maximize any synergies that may be available in the relevant practical aspects of the implementation of both Funding Strategies.

### ***FAO Reform***

30. **Invites** coordination of the Secretariats of the Commission and the Governing Body as well as

between the Commission and the Governing Body to ensure that adequate attention is given to genetic resources issues, and that genetic resources issues are appropriately integrated into the FAO Regular Programme, Mid-Term Plan and Strategic Framework.



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**APPENDIX A.8****RESOLUTION 8/2009****COOPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS, INCLUDING AGREEMENTS BETWEEN THE GOVERNING BODY AND THE INTERNATIONAL AGRICULTURAL RESEARCH CENTERS OF THE CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL RESEARCH AND OTHER RELEVANT INTERNATIONAL INSTITUTIONS**

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**THE GOVERNING BODY,**

**Recognizing** the importance of the cooperation between the Secretary of the International Treaty and other organizations in accordance with the Treaty and the guidance of the Governing Body;

**Welcoming** the strategy of technical cooperation with relevant international institutions and entities which the Secretariat of the International Treaty has employed to facilitate the implementation of the Treaty and **recognizing** that the maintenance of such partnerships constitutes a major workload and expenditure of effort by the Secretariat;

**Acknowledging** the ongoing fruitful collaboration between the International Treaty and, in particular, the Convention on Biological Diversity, the International Union for the Protection of New Varieties of Plants, the United Nations Framework Convention on Climate Change, the World Health Organization, the World Intellectual Property Organization, and the World Trade Organization;

**Recalling** the invitation made by the eight Conference of the Parties of the Convention on Biological Diversity to the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture to join the Liaison Group of Biodiversity-related Conventions;

**Stressing** the need to exchange information and coordinate capacity building initiatives for implementation of the Treaty by relevant organizations and institutions;

**Welcoming** the progress made within the Joint Capacity Building Programme for Developing Countries set up by the International Treaty, FAO and Bioversity International to provide technical assistance with implementation of the Treaty and in particular its Multilateral System of Access and Benefit-sharing by developing countries;

**Recognizing** the need to expand the duration of the Joint Capacity Building Programme to the full biennium 2010-2011 and the number of countries that receive assistance by voluntary contributions to the Special Funds for agreed purposes;

1. **Requests** the Secretary to continue enhancing the collaboration with other international organizations, especially the Convention on Biological Diversity in regard to the conservation and sustainable use of agricultural biological diversity, access to plant genetic resources and benefit-sharing; stressing the importance of collaboration during forthcoming negotiations on the International Regime on Access and Benefit-sharing which are to be completed at the earliest possible time before the 10<sup>th</sup> Meeting of the Conference of Parties in 2010 in Japan;

2. **Requests** the Secretary to continue participating in relevant meetings of the World Intellectual

Property Organization, the International Union for the Protection of New Varieties of Plants and the World Health Organization;

3. **Requests** the Secretary to continue overseeing the Joint Capacity Building Programme for Developing Countries set up by the International Treaty, FAO and Bioversity International to provide technical assistance with implementation of the Treaty and in particular its Multilateral System of Access and Benefit-sharing as well as *invites* on a voluntary basis additional funding and partners for its expansion;

4. **Requests** the Secretary to convene, in accordance with the terms of references appended to this Resolution, the second and third meetings of the Capacity Building Coordination Mechanism to exchange information and coordinate capacity building initiatives for implementation of the Treaty by relevant organizations and institutions as well as indicate areas where further guidance from the Governing Body may be required based on experiences and lessons learned;

5. **Requests** the Secretary to facilitate cooperation for the development and strengthening of a global information system for the exchange of information, based on existing information systems, on scientific, technical and environmental matters related to plant genetic resources for food and agriculture as envisaged in Article 17 of the Treaty and in accordance with the Conclusions of the Second Technical Consultation on Information Technology Support for the Implementation of the Multilateral System;

6. **Requests** the Secretariat to foster cooperation with other organizations and strengthen existing cooperative arrangements with a view to developing synergies and reducing inefficiencies in a manner consistent with their respective mandates, governance arrangements and agreed programs, based on available resources;

7. **Requests** the Secretary to report to the Governing Body at its Fourth Session on relevant activities undertaken by the Secretary to maintain, strengthen and extend the partnerships, synergies and cooperation with other organizations.

*Annex***TERMS OF REFERENCE FOR THE SECOND AND THIRD MEETINGS OF THE  
CAPACITY BUILDING COORDINATION MECHANISM***Background*

The Capacity Building Coordination Mechanism (CBCM) is a platform of providers of capacity building. This platform serves organizations and institutions involved in capacity building activities for the implementation of the Treaty as a central point for information exchange and coordination on capacity building initiatives.

The platform includes the actual providers of capacity building for the implementation of the Treaty, i.e. staff from international and regional organizations, non-governmental organizations, bilateral development aid agencies, private foundations as well as other stakeholders in capacity building for implementation of the Treaty.

*Scope and objectives of the CBCM meetings*

Based on information gathered by the Secretariat on ongoing capacity building initiatives of relevance to Treaty implementation and Contracting Parties' needs and priorities for capacity building, the CBCM shall:

1. Facilitate the channelling of capacity building needs and priorities, as expressed by developing countries that are Contracting Parties to the Treaty, to capacity building providers;
2. Conduct a review of recent and ongoing capacity building projects and programmes undertaken by national, regional and international organizations and institutions;
3. Identify gaps in the geographic and thematic coverage of capacity building initiatives;
4. Identify best practices and refine appropriate methodologies for the coordination of capacity building activities for Treaty implementation; and
5. Report to the Fourth Session of the Governing Body on its activities and indicate areas where guidance from the Governing Body may be required.



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**APPENDIX B<sup>31</sup>**  
**FINANCIAL RULES**

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**Rule I**  
**Applicability**

- 1.1 These rules shall govern the financial administration of the Treaty.
- 1.2 The Financial Regulations of the FAO shall apply, *mutatis mutandis*, to all matters not specifically dealt with under the Treaty or the present Rules.

**Rule II**  
**The Financial Period**

The financial period shall be two calendar years, coinciding with the financial period of FAO.

**Rule III**  
**The Budget**

- 3.1 The Budget shall cover income and expenditures for the financial period to which it relates, and shall be presented in United States dollars.
- 3.2 The Budget shall include the programme of work for the financial period, and such information, annexes or explanatory statements as may be requested by the Governing Body.
- 3.3 The Budget shall comprise the following parts:
- a) The Core Administrative Budget, relating to:
    - the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO under Rule V.1a;
    - the voluntary contributions of Contracting Parties under Rule V.1b;
    - the voluntary contributions of States that are not Contracting Parties, of inter-governmental organizations, of non-governmental organizations and other entities, under Rule V.1c; and
    - funds carried over under Rule V.1h, and miscellaneous income, including interest derived from the investment of funds held in trust under Rule V.1i.
  - b) Special Funds, relating to additional voluntary contributions by Contracting Parties, and voluntary contributions by States that are not Contracting Parties, by inter-governmental organizations, by non-governmental organizations and other entities:
    - for agreed purposes, under Rules V.1d and e;
    - to support the participation of representatives of developing country Contracting

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<sup>31</sup> The changes adopted by the Third Session of the Governing Body to the Financial Rules deal with the incorporation of the Third Party Beneficiary Operational Reserve into the Core Administrative Budget.]

Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, under Rules V.1f and V.1g.

3.4 The draft Budget shall be prepared by the Secretary and shall be circulated to Contracting Parties not less than six weeks before a regular session of the Governing Body.

3.5 The Core Administrative Budget for the financial period shall provide for Administrative Expenditures under the Treaty including expenses of the Secretariat.

3.6 The Secretary may make transfers within each of the main appropriation lines of the approved Core Administrative Budget. The Secretary may also make transfers between such appropriation lines up to limits that the Governing Body may set as appropriate.

#### **Rule IV Appropriations**

4.1 After the Core Administrative Budget has been adopted, the appropriations therein shall, subject to Rule III.6, constitute the authority for the Secretary to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted, provided that commitments shall be covered by related contributions received or funds available in the Working Capital Reserve, subject to the provisions of Rule VI.4, and interest earned on funds held in trust.

4.2 The Secretary may incur obligations and make payments under Rules V.1d and V.1e, in accordance with guidelines established by the Governing Body, or for purposes specified by agreement between the contributor and the Secretary, from the date at which the contributions are received.

4.3 The Secretary may incur obligations and make payments under Rules V.1f and V.1g to support the representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, in accordance with relevant decisions of the Governing Body, subject to funds being available.

4.4 Any unliquidated prior year obligation relating to voluntary contributions shall at the end of the financial period be cancelled or where an obligation remains a valid charge, retained for future disbursement.

#### **Rule V Provision of Funds**

5.1 The resources of the Treaty shall comprise:

- a) Upon approval by the Governing Bodies of FAO, the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO;
- b)

##### *Option 1 for V.1b*

[Voluntary contributions to the Core Administrative Budget from Contracting Parties based on such indicative scale of contributions as shall be adopted by the Governing Body by consensus, based on the scale of contributions adopted from time to time by the United Nations, adjusted so as to ensure [that no developing country Contracting Party shall be required to pay more than any developed country Contracting Party ensuring] that no Contracting Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 22 per cent of the total and that no contribution from a

least developed country Contracting Party exceeds 0.01 per cent of the total];

OR

***Option 2 for V.1b***

[Voluntary contributions to the Core Administrative Budget from Contracting Parties for the purposes of administration and implementation of the Treaty in general;]<sup>32</sup>

- c) Voluntary contributions to the Core Administrative Budget from States that are not Contracting Parties, from inter-governmental organizations, from non-governmental organizations or other entities, for the purposes of administration and implementation of the Treaty in general;
- d) Other voluntary contributions made by the Contracting Parties in addition to those under above to be used in accordance with guidelines established by the Governing Body, or for purposes specified by agreement between the contributor and the Secretary;
- e) Other voluntary contributions made by States that are not Contracting Parties, by inter-governmental organizations, by non-governmental organizations or other entities in addition to those under (c) above to be used in accordance with guidelines established by the Governing Body, or for purposes specified by agreement between the contributor and the Secretary;
- f) Voluntary contributions made by the Contracting Parties to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;
- g) Voluntary contributions made by States that are not Contracting Parties, by inter-governmental organizations, by non-governmental organizations or other entities, to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;
- h) The uncommitted balance of voluntary contributions from previous financial periods carried forward;
- i) Miscellaneous income, including interest derived from the investment funds held in trust, in accordance with Rule V.7;
- j) Mandatory and voluntary contributions pursuant to Article 13.2 of the Treaty, and
- k) Voluntary contributions from any source to implement the Funding Strategy provided for in Article 18 of the Treaty.

[5.2 In respect of contributions made pursuant to Rule V.1b:

- a) Contributions for each calendar year are expected on or before 1 January of that year;

<sup>32</sup> *Note by the Secretariat:* There are two drafting texts for Rule V.1b; option 1 foresees voluntary contributions “based on [an] indicative scale of contributions”; option 2 does not foresee such a scale of contributions. Brackets are maintained around Rules V.2, V.4 and V.5, because these depend entirely on which option is adopted for Rule V.1b.

- b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the Secretary of the contribution it intends to make and of the projected timing of that contribution.]<sup>33</sup>

5.3 Contracting Parties that are not Members of FAO shall contribute towards the amount provided for the Treaty in the FAO Regular Programme of Work and Budget in a proportionate amount to be determined by the Governing Body.

[5.4 For determining the indicative annual contributions of each Contracting Party, the assessed contribution for such Contracting Party for the financial period pursuant to Rule V.1b above, shall be divided into two equal instalments, one of which is payable in the first calendar year and the other in the second calendar year of the financial period.]<sup>34</sup>

[5.5 At the beginning of each calendar year the Secretary shall inform Contracting Parties of their indicative annual contributions to the budget.]<sup>35</sup>

5.6 All contributions to the Administrative Budget shall be paid in United States dollars or its equivalent in a convertible currency. Where a contribution is paid in a convertible currency other than United States dollars, the applicable rate shall be the bank currency conversion rate in effect on the day the payment is made.

5.7 Contributions not immediately required shall be invested at the discretion of the Director-General of FAO. The resulting income shall be credited to the specific Trust Fund from which the invested moneys derive.

## **Rule VI Funds**

6.1 All contributions and other receipts shall be placed in Trust Funds administered by FAO.

6.2 With respect to the Trust Funds referred to in Rule VI.1, FAO shall maintain the following Funds:

- a) A General Fund, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1b, Rule V.1c, and the uncommitted balance of voluntary contributions carried forward under Rule V.1h;
- b) Special Funds, for purposes consistent with the objectives and the scope of the Treaty, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1d, and by States that are not Contracting Parties, by intergovernmental organizations, by non-governmental organizations, or other entities, under Rule V.1e;
- c) A Fund to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, to which shall be credited all contributions made by Contracting Parties under Rule V.1f and by States that are not Contracting Parties, by inter-governmental organizations, non-governmental organizations or other entities, in accordance with Rule V.1g;

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<sup>33</sup> *Note by the Secretariat:* Rule V.2 would apply in the case of there being no indicative scale of assessment.

<sup>34</sup> *Note by the Secretariat:* Rule V.4 would apply in the case of there being an indicative scale of assessment.

<sup>35</sup> *Note by the Secretariat:* Rule V.5 would apply in the case of there being an indicative scale of assessment.



6.3 In addition, with respect to Rules V.1j and V.1k, upon request by the Governing Body, FAO shall maintain a Trust Account or Accounts, as provided for in Article 19.3f of the Treaty, to implement Article 18 of the Treaty, and to receive the funds foreseen in Article 13.2 of the Treaty.

6.4 Within the General Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Governing Body by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

6.5 Within the General Fund there shall be maintained a Third Party Beneficiary Operational Reserve at a level to be determined for each biennium by the Governing Body by consensus, to which shall be credited as priority an adequate part of contributions under Rule V.1b, Rule V.1c, and the uncommitted balance of voluntary contributions carried forward under Rule V.1h. The purpose of the Third Party Beneficiary Operational Reserve shall be to cover all costs and expenses incurred by the Third Party Beneficiary in carrying out its roles and responsibilities, in accordance with the Third Party Beneficiary Procedures.

### **Rule VII Reimbursement**

The Trust Funds referred to in Rule VI.1 shall make provision for Project Servicing Costs to reimburse FAO for the administrative and operational support services provided to the Governing Body, its subsidiary bodies, and the Treaty Secretariat, under such terms as may, from time to time, be established by the Governing Bodies of the FAO.

### **Rule VIII Accounts and Audit**

8.1 The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external auditing procedures of FAO.

8.2 During the second year of the financial period FAO shall provide the Contracting Parties with an interim statement of accounts for the first year of the financial period. FAO shall also, as soon as practicable, provide to the Contracting Parties a final certified statement of accounts for the full financial period.

### **Rule IX Amendments**

Amendments to these Rules may be adopted by consensus. Consideration of proposals of amendments to these rules shall be subject to Rule V of the Rules of Procedure and documents on the proposals shall be circulated in accordance with Rule V.7 of the Rules of Procedure, and in no case less than 24 hours prior to their consideration by the Governing Body.

### **Rule X Over-riding Authority of the Treaty**

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

### **Rule XI**

### **Entry into force**

These Rules and any amendments thereto shall come into force upon their approval by consensus by the Governing Body unless, by consensus, the Governing Body decides otherwise.

## SOURCE AND USE OF MONEYS, AND TRUST FUND STRUCTURE

REFERENCE IN RULE V	CORE ADMINISTRATIVE BUDGET	TRUST FUND STRUCTURE RULE VI
<b>Rule V.1a</b>	The amount provided for the Treaty's Core Administrative Budget in the FAO Regular Programme of Work and budget	
<b>Rule V.1b</b>	Voluntary contributions by Contracting Parties for the purposes of administration and implementation of the Treaty in general	<b>GENERAL FUND</b> <i>Income in the biennium</i> <b>Rule VI.2a</b>  <i>includes the</i> <i>Working Capital Reserve</i> <b>Rule VI.4</b>  <i>and the</i>  <i>Third Party Beneficiary</i> <i>Operational Reserve</i> <b>Rule VI.5</b>
<b>Rule V.1c</b>	Voluntary contributions by states that are not Contracting Parties, from IGOs, or NGOs or other entities, for the administration and implementation of the Treaty in general	
<b>Rule V.1h</b>	The uncommitted balance of voluntary contributions carried forward	
<b>Rule V.1i</b>	Miscellaneous income, including interest derived from investment of the funds in the General Trust Fund	

### SPECIAL FUNDS

<b>Rule V.1d</b>	Other voluntary payments by Contracting Parties, for purposes agreed between the contributor and the Secretary	<b>MULTIDONOR FUND</b> <i>where agreed with donor</i>  ----- <b>SEPARATE FUNDS</b> <i>where required by donor</i> <b>Rule VI.2b</b>
<b>Rule V.1e</b>	Other voluntary payments by Contracting Parties, by IGOs, or NGOs or other entities for purposes agreed between the contributor and the Secretary	
<b>Rule V.1f</b>	Voluntary payments by Contracting Parties to support the participation of developing countries	<b>FUND TO SUPPORT THE PARTICIPATION OF DEVELOPING COUNTRIES</b>  <b>Rule VI.2c</b>
<b>Rule V.1g</b>	Voluntary payments by contributions by states that are not Contracting Parties, from IGOs, or NGOs or other entities, to support the participation of developing countries	

**BENEFIT-SHARING IN ACCORDANCE WITH ARTICLE 13.2 OF THE TREATY**

<b>Rule V.1j</b>	Mandatory and voluntary contributions pursuant to Article 13.2d	<b>BENEFIT-SHARING FUND</b> <b>Rule VI.3</b>
<b>Rule V.1k</b>	Contributions from international mechanisms, funds and bodies	

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**APPENDIX C****AGENDA OF THE THIRD SESSION OF THE GOVERNING BODY**

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1. Adoption of the Agenda and Timetable
2. Election of the *Rapporteur*
3. Appointment of the Credentials Committee
4. Establishment of a Budget Committee
5. Report of the Chair
6. Report of the Secretary
7. Financial Rules of the Governing Body
8. Adoption of procedures and operational mechanisms to promote compliance and to address issues of non-compliance
9. Implementation of the Funding Strategy of the Treaty
  - 9.1 Report of the Co-Chairs of the *Ad Hoc* Advisory Committee on the Funding Strategy
  - 9.2 Implementation of the Funding Strategy
10. Consideration of the Business Plan of the Governing Body
11. Relationship between the Governing Body and the Global Crop Diversity Trust
12. Implementation of the Multilateral System of Access and Benefit-sharing
  - 12.1. Assessment of progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons
  - 12.2. Review of the implementation and operation of the Standard Material Transfer Agreement and the Multilateral System
  - 12.3. Review of the Material Transfer Agreement being used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions, for Plant Genetic Resources for Food and Agriculture not included in *Annex I* of the Treaty
- 12bis Procedures for the Third Party Beneficiary
  - 12bis.1 Report of the Chair of the *Ad Hoc* Third Party Beneficiary Committee
  - 12bis.2 Procedures for the operation of the Third Party Beneficiary
13. Implementation of Article 6, *Sustainable Use of Plant Genetic Resources*
14. Implementation of Article 9, *Farmers' Rights*
15. Relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture
16. Report on the status of cooperation with other international organizations, including Agreements between the Governing Body and the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions

17. Matters relevant to the Treaty arising from the Report of the Independent External Evaluation of FAO
18. Adoption of the Work Programme and Budget for 2010/2011 biennium
19. Date and place of the Fourth Session of the Governing Body
20. Election of the Chair and Vice-Chairs of the Fourth Session of the Governing Body
21. Other business
22. Adoption of the report

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**APPENDIX D**  
**OPENING CEREMONY STAMENTS**

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**APPENDIX D.1**

**Opening Ceremony of the Third Session of the Governing Body of the International Treaty on  
Plant Genetic Resources for Food and Agriculture**

**Tunis, 1 June 2009**

**Statement by H.E. Mr Abdesslem Mansour, Minister for Agriculture and Water Resources,  
Tunisia**

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I am honoured to open-with Allah's blessing – the proceedings of this Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.

I am pleased on this occasion, to welcome your gathering in Green Tunisia, the land of assembly, dialogue and communication that is happy to host you today wishing you all a pleasant stay in our country.

I take also this opportunity to express our thanks to the Management of the Food and Agriculture Organization of the United Nations, and the Governing Body of The International Treaty on Plant Genetic Resources for Food and Agriculture for choosing Tunisia to host this important international gathering and for their magnificent role in fostering and promoting consultation and coordination between nations to ensure the conservation of plant genetic resources and the fair and equitable sharing of resulting benefits.

We are confident that this meeting will provide an opportune occasion to review the progress made since the Second Session held in Rome in 2007 in implementing the various components of the Treaty. It is also an opportunity to take necessary actions to speed up the execution of agreed activities and decisions with the aim sharing our experiences.

Conservation of plant genetic resources and their optimal utilization constitute today, more than ever, a priority considering of the depletion this wealth has seen during the ages. Furthermore, the extreme climatic phenomena such as draught, green house effects, fires and flash floods make it imperative upon us to use new plant varieties that can adapt to changing climatic conditions. Plant genetic races are the vital source to develop high-yield genetically improved plant varieties to counter the shrinking agriculture lands in the world on the one hand, and to meet increasing food consumption due to demographic growth, on the other hand.

However, these genetic resources that constitute the foundation for food production are experiencing noticeable deterioration in their diversity, where statistics point to the rapid decline of varieties by more than a hundred times their natural trend. Nearly 40 per cent of natural forests are now lost and 10

per cent of coral reefs.

The Treaty represents a huge achievement for the international community in terms of food and agriculture making it possible to incorporate 64 plant varieties representing 80 per cent of our food, with the aim of their conservation, evaluation and facilitating their exchange. Yet, the Treaty needs to be further advanced, particularly through the support of developed nations and donors to the developing countries to assist them in fulfilling their obligations and implement their national programs under the Treaty.

Although we are highly appreciative of the level of coordination and of the progress made worldwide to improve our actions and ways to conserve the genetic resources, we are well aware there is need for more diligent work in order to reduce the level of loss in plant genetic resources and reestablish the ecological balance in our present world.

On the national level, Tunisia has been able by virtue of the comprehensive development policies championed by our president Zein al'Abadien Bin Ali, to establishing a rich legal framework aiming to conserve genetic resources and biodiversity, promoting scientific research in developing new varieties able to adapt to climatic changes, and protecting the intellectual property rights of developers. These pilot legislations contributed to the registration of numerous local innovations that helped increase productivity and improve the profitability of the agriculture sector.

As part of implementing the Convention on Bio-diversity, Cartagena Protocol on Biological Safety, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the International Treaty on Plant Genetic Resources for Food and Agriculture, our country conducted national studies and developed strategic scenarios and programmes of action covering several projects and programmes for the conservation and responsible utilization of biodiversity, and to ensure the sustainability of these resources in a participatory framework. These efforts gave positive results that enabled us to determine shortcomings and difficulties, develop the appropriate methods and enhance the effectiveness of national efforts aiming to improve biodiversity and maintain our plant and animal genetic resources and their viable utilization for increased agricultural production.

National studies on biodiversity has revealed that the total number of continental plant species reaches nearly 3 000, of which 45 are endangered species in the center and the south of the country, whereas there are more than 600 species in marine and wet areas, 22 of which are endangered and 12 are considered rare species. Farmers have throughout history played a major role in conserving and increasing this biodiversity, which benefited many developed countries in improving their agricultural production.

Our national efforts in the field of biodiversity conservation led in 2007 to the creation of a national gene bank, operating, through nine networks covering all regions, in coordination with research and development institutions and various actors engaged in the field of genetic resources including GMOs to ensure their optimal utilization and the development of new varieties with high yields and better adapted to climatic conditions in Tunisia.

Furthermore, 24 protected areas were established, comprising 8 parks and 16 national preserves covering nearly 218 000 hectares, in addition to 3 areas of moderate importance enjoying special protection, i.e the Zambra and Zambarta national park, Jalla archipelago and Kavais islands. All of them exhibit some of the most distinctive natural and marine examples in the Mediterranean.



Biodiversity is undoubtedly essential for the continuity of life as it provides a rich depositary of biological sources that can be exploited through biotechnological techniques for agricultural, medical and industrial purposes. It is also a solid pillar for modern biotechnology, food industries, etc.

This biodiversity, however, faces today grave challenges threatening its shrinkage, or even its extinction, as a result of or abuse, climatic changes and their negative impact on natural environmental systems, and the persistent quest for high yield sophisticated, cross-bred or genetically modified varieties. In the face of these challenges, promoting international cooperation in the field of plant genetic resources for food and agriculture, for the welfare and benefit of all and the harmonization of our legislation on this regard, are indispensable to ensure stability and security in our countries.

We are convinced that the Food and Agriculture Organization of the United Nations with its capabilities, experience and expertise it acquired in the areas of food and agriculture, is able to devise the approaches and methods to make accessible to all the benefits of the International Treaty on Plant Genetic Resources for Food and Agriculture, taking into account the situation of countries facing food shortages, and ensuring that sharing of benefits is for the good of all.

In conclusion, I should like to reiterate my welcome to you, and to thank for your attention, wishing you all success in your deliberations.

*APPENDIX D.2***Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by H.E. Mr Afioga-Taua Tavaga Kitiona Seuala, Minister for Agriculture, Samoa**

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I am very pleased to be here at the 3rd Session of the Governing Body of the International Treaty for Plant Genetic Resources for Food and Agriculture, representing my country, Samoa, and the Pacific region.

The 22 Pacific Island Countries and Territories are made up of thousands of islands scattered over some 33 million sq km of ocean, a third of the Earth's surface. Only 2% of this area is land, but it is home to 8 million people speaking 50% of the world's languages. The region is home to some of the world's smallest island states and territories, such as Nauru, Tuvalu and Tokelau.

The agriculture and forestry sectors are important throughout the Pacific. They remain the mainstay of the economy and employment in Papua New Guinea, Solomon Islands and Vanuatu and contribute significantly to household income and increasingly, export earnings. In contrast, in the smaller islands, agriculture is mainly based on subsistence farming.

The region faces numerous social and physical challenges in maintaining and improving productivity of their agriculture and forestry sectors, and protecting their biological diversity. They are prone to natural disasters and their size and geographical isolation results in a narrow genetic and production base with limited opportunities to develop their economies by scaling up production. In the forest-rich countries, unsustainable logging is destroying valuable forest resources with negative, social and environmental impacts on rural communities. Climate change will, and is exacerbating many of these challenges. Related disasters such as tropical cyclones, flash floods and droughts impose serious constraints on development in the islands, so much so that some islands seem to be in a constant 'recovery-mode'. Food availability and people's access to food are among the first essentials to be affected following such disasters.

The Pacific is a centre of diversity and/or origin for a small number of crops, but in general, due to its history of human colonization, crop genetic diversity in the mostly vegetatively propagated crops of the region, declines markedly from west to east. The diversity – already limited in many cases – is under threat. As rural people move to cities and adopt modern lifestyles, they change their eating habits, often abandoning their traditional crop varieties. Outbreaks of new pests and diseases, expected to increase in many places due to climate change, can wreak havoc with crops which do not include resistant varieties. This was dramatically illustrated in Samoa in the early 90s when taro leaf blight totally destroyed taro production, because of the susceptibility of the cultivar being used.

In 1996 the Pacific Ministers of Agriculture, at a meeting of the Secretariat of the Pacific Community (SPC), resolved to put in place, both in their countries and through regional cooperation, policies and programmes to conserve, protect and use their plant genetic resources effectively and efficiently for development. The establishment of the Centre for Pacific Crops and Trees (originally the Regional Germplasm Centre) was the key component of SPC's response to this recommendation from the Ministers.

Since 1998, genetic resources activities in SPC have not stopped with the establishment of the regional genebank. An active network – PAPGREN – has been working since 2004 to strengthen capacity in the region in conservation and utilization of plant genetic resources for food and agriculture. Much has

been achieved by both the Centre and PAPGREN to raise the importance of crop diversity in the region, especially in the light of challenges, such as climate change. The message is loud and clear – we need diversity to ensure food and nutritional security for future generations.

In late 2004, the first regional conference of the Ministers and Heads of Agriculture and Forestry took place in Fiji. Presentations were made on the Treaty and the Global Crop Diversity Trust, and the important role they played in supporting conservation and utilization of plant genetic resources for food and agriculture. A Ministerial communiqué was issued from this meeting which stated “Ministers and Representatives acknowledged that access to genetic resources (crop, tree and animal) is necessary to ensure food security in the long-term. Broadening the genetic base of crops, trees and livestock, genetic improvement and diversification are crucial in coping with rapid change. To ensure continued access to genetic resources the countries of the region should consider ratifying the International Treaty and signing the Establishment Agreement for the Global Crop Diversity Trust”.

In 2008 the second regional conference of the Ministers and Heads of Agriculture and Forestry took place in Samoa. A paper was presented on “Sharing Plant Genetic Resources for Food and Agriculture: Foundation for Strengthened Food and Nutritional Security”. The paper reinforced the message from the 2004 meeting, but highlighted that climate change was creating an environment of unpredictability, making planning food production and supply more difficult. Countries, where possible, had to become more self-reliant in food production, with local food production and consumption being a major component of any long-term solution to a food crisis, as recently witnessed. The challenge was to produce more food in the face of the problems posed by climate change. The paper also pointed out that an over-reliance on imported foods in many of the countries of the region had seen an increase in lifestyle related diseases, such as diabetes. Utilizing crop diversity within local food production systems could address this serious problem through increasing the availability of nutritionally rich foods.

The Ministers recognized and acknowledged that although significant diversity exists in the Pacific, the Pacific cannot ensure that this diversity is sufficient to sustain food production in the future. The region must be able to access the global pool of genetic diversity, which can be achieved through ratification of the Treaty. At the same time, the Ministers also saw the importance of putting in place mechanisms that would establish the key collections of the Pacific within the global system, so that the Pacific contributes to global food security and is part of a global network that will add to the sustainable conservation and use of these collections in the future. The Ministers therefore supported that SPC and the Secretariat to the Treaty proceed with the establishment of an agreement to place the ex situ collections of the Centre for Pacific Crops and Trees into the Multilateral System of the Treaty. The Ministers further supported that SPC signs an agreement with the Global Crop Diversity Trust to provide support to SPC for the ex situ collections of Pacific aroids and yams.

I had the pleasure, as the Minister for Agriculture and Fisheries, to chair this 2nd regional conference, and in that capacity I am here, representing my fellow Ministers and the region to inform you that SPC has now signed an agreement with FAO on behalf of the Governing Body of the Treaty, placing the Pacific collections held in the Centre for Pacific Crops and Trees into the Multilateral System of the Treaty. Further, an agreement has also been signed with the Global Crop Diversity Trust. The signing of these agreements by SPC has been fully endorsed by the Pacific region, recognizing we live in one world, despite the miles that often exist between us all, and to survive the many challenges of this century we need to work together, sharing our resources and importantly further recognizing that the genetic diversity found in genebanks today may become the most important resource we have in shaping an effective response to climate change.

Finally I would like to extend to you this plaque symbolically representing the placing of the Pacific collections into the Multilateral System of the Treaty.

**APPENDIX D.3****Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by H.E. Mr Efrain Figueroa, Vice Minister for Agriculture, Honduras**

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It is a great honour for me to be attending this important event, as plant genetic resources are very special in that they are directly linked to food for people and to agriculture in countries.

Plant genetic resources have provided us over time with a sustainable and diverse source of food for our population and that of the world.

For many years, not to say decades, the stakeholders have worked hard so that present and future benefits derived from the use of plant genetic resources can be shared in a fair and equitable manner, especially for those who have been traditionally active in the stewardship and conservation of those resources.

These processes of conservation in the countries of the Third World need to be consolidated so they can meet the aims of the International Treaty.

As you know, Mesoamerica has contributed hugely to the nutrition of the people of our continent and the world population in general; it is the cradle or centre of origin of many species, notably the cultivation of cocoa (*Theobroma cocoa*) and maize (*Zea mays*), which has been conserved, domesticated and bred for its many uses. That is why the Secretariat of State for Agriculture and Livestock, as a member of the National Commission on Biodiversity and aware of the importance of genetic resources in the country and the region, has been supporting and will continue to support this activity, in order to safeguard our heritage, using and sharing those resources in such a way that the conservation of species is not endangered.

Honduras is mindful that farmers need to have a voice in national affairs, so that they can participate in decision-making on the conservation and use of plant genetic resources. It recognizes that farmers possess traditional knowledge for the protection of those resources, so related issues need to be discussed first at local and national level, before they are addressed in international fora.

Before concluding, I should like to remind my audience that the management, conservation and use of plant genetic resources will depend on the level of harmony that exists among stakeholders, on the degree of commitment of industrialized countries, especially in terms of financial provisions, and on the active role played by farmer organizations.

Lastly, I should like to state that the Treaty is a new opportunity to continue exchanging experiences and to pool our efforts, so that we can strengthen our actions to enhance the protection and conservation the important source of food that are plant genetic resources.

Distinguished Representatives, I invite you to participate actively in the discussions in working groups, so that the organizers' intended outcome may be realized for the benefit of future food for our peoples and thus for agriculture in the world.

**APPENDIX D.4****Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by Ms Alicia Crespo Pazos, Director of the Spanish Plant Variety Protection Office Ministry of Environment, Rural and Marine Affairs, Spain**

I stand before you as Representative of the Spanish Government and Head of Delegation of my country.

After many years of work and negotiation, we adopted the International Treaty in 2001 and thereby established the framework needed to ensure the conservation and sustainable use of plant genetic resources. This is closely allied with the commitment to maintain biodiversity, sustainable agriculture and global food security, and the ability to confront climate change.

The Treaty only became operational with the First Session of its Government Body in Madrid in 2006 and, as my Minister said at the Opening Ceremony of that Session under the Chair of the Vice-President of the Government of Spain, we had not reached a point of arrival, but were rather embarking on a new phase.

Three years later, we can be proud that the Treaty now has 120 Contracting Parties and that hundreds of thousands of accessions have been included in the Multilateral System.

However, work goes on and the Treaty is still only at the (critical) phase of inception of its activities and implementation. We now have the instruments and mechanisms needed for the Treaty to function, but we still have a long way to go to pursue its contents even-handedly and to achieve its broad aims and aspirations. As we all know, plant genetic resources for food and agriculture are fundamental to feed the world and to achieve world food security. They are the raw materials that farmers and researchers use to enhance the quality and productivity of our crops. All countries are interdependent in their needs for these resources, which are also an integral part of our natural resources, our cultural heritage and our distinct identities. Finally, the future of agriculture depends on international cooperation and the free exchange of crops and their genes.

Spain is therefore keen for the International Treaty be a success and wishes to contribute to that end. Spain also wants its new Secretariat to have sufficient resources from the very outset to conduct its important and exclusive mission. A first phase of rapid, coherent and effective execution is crucial for the Treaty's success. This will only occur with the provision of sufficient funds and resources. The contributions to the Core Administrative Budget are fundamental.

In addition, the Special Fund for Agreed Purposes serves to finance technical support and training for implementation of the Treaty, beyond the activities approved in the Core Administrative Budget.

As you know, the third major fund of the Treaty and a key issue to be discussed this week, is the Benefit-sharing Fund, which is central to the balanced functioning of the Treaty. On the one hand, this Fund will be fed with a percentage of sales of products that incorporate Treaty material (which could take several years given the long lead times for variety improvement), and on the other, it will receive voluntary contributions from Contracting Parties, international organizations, and so forth.

Regrettably, the Contracting Parties have only partially delivered on the voluntary economic contributions to the Core Administrative Budget and other funds they committed to at the First Session of the Governing Body. This has delayed the activities set out in the agreed programme of work and has even seriously jeopardized the functioning of the Treaty's Secretariat.

Because of this lack of funds, I believe that we must remind Contracting Parties to contribute to the Treaty and to honour their commitments, also for reasons of cost and efficiency. Otherwise, why did

we spend so much time and money on the negotiations? And what example would we be setting and precedent leaving on the international stage? The political support that the Treaty has received all these years must be reflected in economic support that will enable it to function normally, with predictable and sufficient funds.

That economic support should first come from the Contracting Parties, after which there will be or we can seek other sources. If the very governments that ratified the Treaty do not provide the wherewithal for it to be successful, there is little hope of other institutions or entities doing so. That does not mean that we cannot be creative in seeking other sources of funding, but I believe that we should support the Funding Strategy and the Strategic Plan that the Secretariat will be submitting to us.

On the subject of creativity, we should note the interest of certain private sector operators in the alternative payment of 0.5% to the Multilateral System for access to a particular crop, and not per variety produced. As regards country contributions, I should like to recall that 75% of the world's hungry live in rural areas but that only 4% of international assistance to development is allocated to agriculture (much lower for plant genetic resources). It is also important to stress that conservation and access to genetic resources should not be considered solely in terms of assistance to development but also in terms of national development.

With this economic situation in mind and in view of the political support that Spain has given to FAO's work on genetic resources, my Government has formulated a strategy to finance the International Treaty and thus provide it with a degree of financial security over a number of years. This will enable the Secretariat to focus its work and resources on the crucial, difficult and complex phase of implementation, rather than having to concentrate on (and worry about) the mobilization of funds for it to operate.

I thus have the great satisfaction and honour to announce that Spain has agreed with the Secretariat of the Treaty a contribution (which is already operative) during the present and the next three biennial budgets of 3 million euros.

This does not mean that Spain will not continue contributing to the Administrative Budget in accordance with the indicative scale of voluntary contributions and even making further substantial contributions.

In conclusion, I should like to remind you that the Treaty is broad in scope and aspiration, as laid out in its text, which we should not constrict but rather build upon. For example, the potential of underutilized crops has been highlighted by the food crisis. Such crops are not subject to international food prices and are therefore not affected by the crisis. Climate change is also prompting a reappraisal of plant genetic resources in general and such crops in particular, as these are not traded internationally but are nevertheless of significant nutritional importance at the national and the regional level.

We have many topics to discuss: the Multilateral System of exchange of plant genetic resources and the Funding Strategy to support implementation of the Treaty in aspects such as in-situ and on-farm conservation, sustainable use and training. It is important to recall that, when negotiating the Treaty, we forged consensus through compromise on its articles and provisions. To remain true to that spirit of compromise, we must implement the Treaty in a manner that is fair to each and every of its components. That will enable us to accommodate the different aspirations that reside in the Treaty, to generate trust between Contracting Parties and to foster their confidence in the Treaty.

We need to be realistic but also ambitious in our aspirations. We must never forget that the underlying aim of the Treaty is to combat hunger and poverty and to ensure that future generations live in dignity.

**APPENDIX D.5****Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by Ms Cinzia Scaffidi, Director of the Slow Food Study Centre, Slow Food Movement, Italy**

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In over twenty years' activity we have seen how sensitivity towards issues such as the importance, function and protection of agro-biodiversity has grown in the world in general. More specifically, all the work that went into the drawing up and ratification of the Treaty has also exerted an educational and cultural impact on contemporary societies.

Turning to the concrete measures taken by individual States — including those that ratified the agreement — a lot of work still has to be done, but a number of positive signals, unfortunately among many contradictory actions namely the decisions in favour of the cultivation and commercialisation of GMO crops, are nonetheless evident.

In Italy, the 2008 decree on the marketing of conservation variety seeds clearly upheld the treaty recommendations, not only facilitating and protecting crops grown from such seeds, but also envisaging their commercialisation and direct selling.

Internationally, at least two important events provide grounds for hope:

- the Environment G8 recommendations outlined in the Siracusa Charter in April recognise the importance of local economies as promoters of biodiversity, along with the need to provide them with incentives;
- the Agriculture G8 document outlining the recommendations of agricultural and farming organisations — including those in African countries — highlights the invaluable role of small-scale traditional family agriculture and the distribution methods most suitable for it to achieve sustainable development in environmental, social and nutritional terms.

All this moves in the same direction as the work which Slow Food, present today in about 180 countries, has been performing since its inception. Slow Food in fact believes that only in a highly variable system is it possible to ensure food security and sovereignty from the political, economic and cultural points of view.

However, it is also necessary:

- for concrete biodiversity protection activities to multiply and for farmers promoting biodiversity to receive recognition — not least economic recognition — for the invaluable work they have made and will continue to make both for the conservation and development of plant genetic resources - which constitute the basis of food and agriculture production throughout the world - and for the environment on the whole.
- for economic efforts to be concentrated not only and not so much on *ex situ* conservation— which, of course, have an important role to play when devastating catastrophes happen — as on *in situ/ on-farm* conservation which can lower the likelihood of such catastrophes happening, in the first place by ensuring populations life, beauty and health day by day. Individually, collectively and environmentally.

- for concrete actions to be taken simultaneously to inform consumers and rebuild a food culture that in many countries — mostly the wealthiest ones — would appear to be eroded away at the same speed as genetic resources.
- for public research to return to the top of government agendas and for significant actions to be implemented to support studies that can lay the bases for laws oriented by the environment and not only by the market.



*APPENDIX D.6***Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by Mr Jean Beigbeder, Pro-Mais, France**

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It is a great honour for the Pro-Mais Association to be invited to address this assembly.

For more than 40 years, we have brought together private breeders and agricultural and industrial cooperatives active in the improvement of maize plants in France. We work closely with researchers of INRA on projects upstream of breeding that focus on developing knowledge and resources that can be used by all our partners. Since the 1970s we have sought to maintain our genetic diversity and have pooled our genetic resources to enhance their conservation, characterization and utilization.

We are convinced that the genetic progress that we bring to farmers and, through them, to the food security of our fellow citizens can only exist through facilitated access to genetic resources, which is why eagerly welcomed the signature of the International Treaty that brings us together today.

In reaffirming State sovereignty over resources, the Convention on Biological Diversity had raised concern among breeders and farmers, especially in the developing and the emerging countries.

By recognizing the need for a multilateral framework that facilitates access to genetic resources and that allows better utilization of those resources and the sharing of derived benefits, the International Treaty has reassured the world's breeders by securing their access to the genetic material they require.

The Treaty is foremost the responsibility of the Contracting Parties, in other words the States, but you have always wanted as many people as possible to share its benefits, which necessarily entails the sharing of resources. That is why it seemed logical for the enterprises affiliated with Pro-Mais to take a concrete step in making available to the International Community, through the Multilateral System, 500 accessions which we considered the most representative and interesting for the world's breeders and farmers working with maize.

Of course, some of the resources that we have pooled were already accessible, but we felt that the measures taken by certain States, which we wished to emulate, to make those resources known and to facilitate their access, were very positive. They have of course been characterized, which is essential to optimize their conservation and utilization.

Before finishing, I should like to highlight three aspects on behalf of French breeders:

- Application of the Standard Material Transfer Agreement that you have adopted provides technical and juridical security that is essential to the users of the resources, whoever they might be, so they can work under the best conditions and continue to make the vital genetic progress that, alone, will meet the challenge of sustainable food and agriculture.
- The Treaty's recognition of the balance needed, in the protection of new plant varieties, between remuneration of research and free access to protected varieties, for breeding purposes, provides crucial support to conventional breeding.
- Finally, the Treaty rightly recognizes the contribution of farmers to the biodiversity that is available today. For us, facilitated access is vital if we are to propose improved varieties to the world's

farmers, which is their most legitimate right.

The Pro-Maïs member enterprises are proud to contribute each day to those objectives and to have demonstrated by contributing our collection that we belong to the “Community of the Treaty”.

*APPENDIX D.7***Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by Mr Abdelmajid Labidi, Tunisian Union for Agriculture and Fishing (UTAP), Tunisia, on behalf of the International Federation of Agricultural Producers (IFAP)**

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I should like to start, if I may, by warmly thanking the Food and Agriculture Organization of the United Nations (FAO) for having kindly invited the International Federation of Agricultural Producers (IFAP) to take part in the Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture, hosted by Tunisia from 1 to 5 June 2009.

It is an immense pleasure for me to represent the International Federation of Agricultural Producers in my capacity as member of the Executive Bureau of the Tunisian Union of Agriculture and Fisheries, a long-standing member of IFAP.

IFAP is a global farmers' organization representing more than 600 million agricultural producers grouped within 120 national organizations in 80 countries. It is a global network in which farmers from industrialized countries and from developing countries come together to discuss their concerns and determine their shared priorities. The mission of IFAP, which has defended farmers' interests internationally since 1946, is to build farmers' capacity and influence decisions that affect them at national and international level.

IFAP pays special attention to issues associated with biodiversity and protection of natural resources. For many centuries, farmers have been the guardians of the biological and agricultural biodiversity that underpins the wealth of agricultural production and ensures a healthy foundation against phenomena such as climate change or disease.

For us producers, the International Treaty on Plant Genetic Resources for Food and Agriculture is of crucial importance.

It is a multilateral framework for access to plant genetic resources and for sharing resulting benefits. Such sharing includes the exchange of information, access to technologies and their transfer, as well as training. In this regard, the Treaty contributes to the sustainable development of agricultural activity.

For IFAP, the importance of the International Treaty on Plant Genetic Resources lies in the fact that it is a framework that recognizes farmers' rights.

Farmers are the principal stewards of land. They safeguard a portion of global biodiversity in their fields. They work hard to feed an ever-growing world population with limited resources, while at the same time safeguarding biodiversity.

Yet, there are growing pressures on biological and genetic diversity. Communities and indeed human society are now more vulnerable than ever, because there is less scope for change. Some 75 percent of the genetic diversity of cultivated plants disappeared in the last century.

Agriculture is the sector that makes greatest use of the biological and genetic diversity of plants and their components. According to projections, world food production will have to double by 2050, either through intensification or expansion. In both cases, there will be major repercussions on biodiversity.

### Recognition of the farmers' contribution

When we talk of conservation of plant genetic resources, we need to highlight the specific characteristics of agriculture.

Farmers need to address food security while at the same time conducting non-food activities. Farmers are willing participants in protecting the environment and enhancing natural resources. Those efforts need to be recognized and the major challenge is to devise mechanisms for them to play this multiple role.

Article 9 of the International Treaty recognizes the enormous contribution that farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources, which are the foundation of food and agriculture production throughout the world. However, measures need to be taken to protect and promote those rights.

The cost of farmers' efforts to maintain and enhance plant genetic diversity, a service that they provide to all of humanity, should be shared. Farmers are key players in a solutions-oriented approach to protecting biodiversity and should play a strong participatory role in policy decisions.

### Recognition through action: need to implement incentive measures

As part of the International Day for Biological Diversity 2008 devoted to agriculture, IFAP, as spokesperson for farmers and key partner of the CBD, expressed its acute concern about the lack of resources available to farmers to sustain and develop biodiversity, while seeking to maintain and increase productivity to meet humanity's food requirements.

Farmers should be remunerated for the ecoservices that they provide and that serve to safeguard resources, while at the same time ensuring food security. Throughout the world, farmers need measures that will encourage them to take ecological initiatives, for example the initiative to produce indigenous species to prevent the loss of genetic resources. IFAP asks that farmers be encouraged to conserve local species and to reintroduce on their land species that have been eradicated. Farmers should benefit from the production and conservation of those species. Governments should allow farmers to register local varieties to encourage their conservation in their respective territories.

The stewardship programmes that have been introduced to reward farmers that have adopted agricultural practices that protect and enhance biodiversity have proved successful in many countries.

Let us recall that plant genetic abundance is concentrated in the developing countries. We must therefore promote payment for ecoservices in those countries that are in shortest supply of funds, expertise and communication networks. Capacity-building programmes in those countries (involving women and the young) and the creation of partnerships with conservation groups are required.

There is a wide information gap on agricultural diversity and what farmers can best do to protect it. IFAP therefore calls for data on the world's diversity of plant genetic resources for food, and requests that such data be collected, harmonized and made available to farmers. "Through education, farmers will feel ownership of biodiversity in their farming activities, and will be in a better position to work with their governments to find appropriate solutions", noted David King at the International Day for Biological Diversity.

In its chapter on farmers' rights, the ITPGRFA leaves it to the governments to ensure the realization of those rights. However, farmers face a web of often conflicting government regulations relating to protection of the plant heritage. Governments need to elaborate national strategies for the conservation and sustainable use of agricultural diversity, and to eliminate any laws or policies that undermine biodiversity programmes. Governments need to recognize the universal right of farmers to save and

reuse seed produced on their own farms.

IFAP also sees a need to examine the issue of intellectual property rights to enable farmers to protect their own innovations and to facilitate farmer access to new agricultural technologies (e.g. seeds).

In conclusion, we need to address policy formulation and implementation with a positive, constructive and participatory mindset. Incentives need to be put in place, especially in countries whose markets do not reward farmers for their food or other production. Concrete measures need to ensure the right of farmers and their organizations to participate in national decision-making on issues relating to the conservation and sustainable use of plant genetic resources for food and agriculture.

*APPENDIX D.8***Opening Ceremony of the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture****Tunis, 1 June 2009****Statement by Mr Modibo Traoré, Assistant Director-General, Agriculture and Consumer Protection Department of the Food and Agriculture Organization of the United Nations**

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It is a signal honour for me to address this Assembly to wish you, on behalf of the Director-General of FAO, Dr Jacques Diouf, a warm welcome to this Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.

Since it came into effect on 29 June 2004, the Treaty has gone through several significant stages in the implementation of its objectives; and without wishing to prejudge its achievements (which you will be assessing when the time comes), I should like to state that there is already good reason for satisfaction. More than 120 countries and member organizations of FAO have ratified the Treaty and new adhesions to the Multilateral System are expected in the next weeks. The Standard Material Transfer Agreement has been adopted and the mechanisms for benefit-sharing have been determined. You can justifiably be proud of the progress that you have made in this period: whether it be the funding strategy; the procedures relating to third party beneficiary; information technology to facilitate the functioning of the Multilateral System; or the building of capacity.

Dynamic and innovative partnerships have been established and developed with several institutional and non-institutional players involved in the conservation, management and improvement of plant genetic resources, such as the CGIAR centres and the Global Crop Diversity Trust. The Treaty has posted achievements at a pace that could be the envy of many older international instruments. But we know it is not a perfect world and we understand the frustrations that have been voiced on account of the unavoidable delays in securing some of the benefits that are legitimately expected by Members.

But it is not by happenstance that the Treaty and the multilateral solution that it strongly promotes now serve as points of reference for many other international instruments.

The Convention on Biological Diversity and its recent negotiations on access and sharing benefits (due to be concluded in 2010) and actors in other spheres engaged in similar exercises, such as animal genetic resources, health for the exchange of viruses and other pathogens or the International Law of the Sea, are looking with interest at the model of governance promoted by the Treaty.

The recent events that have punctuated the 18 months since the First Session of the Governing Body, in particular the food crisis and soaring agricultural prices, the financial crisis and now the economic crisis, cast new light on the principles underlying the Treaty. What are they? First, the reality of increased interdependence between countries and, second, the need for an internationally coordinated approach that puts equity among countries at the heart of its strategy to tackle common challenges. We have to recognize that this approach, devised more than 10 years ago, was probably ahead of its time.

Those achievements are yours and must be attributed first and foremost to the work of the Governing Body of the Treaty and the Secretariat which implements the guidelines that result from your deliberations.

The Director-General congratulates you and urges you to intensify your efforts to accelerate the mobilization of resources whose inadequacy has hindered implementation of certain key elements of the Treaty. We must learn not only from our successes during this short period, but also from the

failures that are integral to the challenges we face and to the complexity of the approach that we have deliberately adopted.

We need to avoid the trap of futile, facile competition and to resolutely seek synergies with other actors in the same fight, so that we can together forge genuine partnerships based on complementarity and reciprocal emulation. We do not have much time!

There are now close to one billion people suffering from hunger and malnutrition in the world; and the most optimistic projections are that we will have to at least double the present level of agricultural production if we are to feed a world population expected to reach 9 billion people in 2050. Raising the productivity of available plant genetic resources and constantly adapting those resources to ecosystems under transformation since the acceleration of climate change are necessary strategies to meet this significant increase in demand. FAO stands with you to play its part in this fight. The reforms that are currently under way in its system of planning and in its central and field structures are part of that framework. 'Food Security for All' is not a bluff! It really can be achieved on our Planet!

Before concluding, I should like to express by heartfelt thanks to the Government of Tunisia, through the Minister for Agriculture, for its generous hospitality and for all the facilities that have been made available to us in this exceptional, stimulating venue of the Hotel Ramada.

I wish you every success in your deliberations.





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*APPENDIX E*

**REPORTS BY THE CHAIR OF THE GOVERNING BODY  
AND THE SECRETARY OF THE TREATY**

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*APPENDIX E.1*

**REPORT OF THE CHAIR OF THE GOVERNING BODY OF THE INTERNATIONAL  
TREATY ON PLANT GENETIC RESOURCES ON FOOD AND AGRICULTURE,  
MR MODESTO FERNÁNDEZ DÍAZ-SILVEIRA**

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The entry into force, in 2004, of the International Treaty on Plant Genetic Resources for Food and Agriculture, and the First Session of the Governing Body, in Madrid, Spain, in 2006, marked the beginning of the international work of this Treaty, which many consider to be the first Multilateral Environmental Agreement of the 21<sup>st</sup> Century, with clear social and economic implications. The fact that, as of May 15, 2009, 121 sovereign countries from all regions of the world had already become Contracting Parties to the Treaty shows the wide acceptance of, and interest in the Treaty.

In the meantime, much has changed in the world: food security is increasingly at risk because of insufficient production and growing difficulties in access to food; high and rapidly raising food prices are putting a heavy pressure on all countries' economies; the unpredictable results of the current economic and financial crisis will have an impact on almost all countries; and it is now clear that the consequences of climate change will impose an enormous burden on all humanity. All those factors may result in a most grave crisis, a social and even an environmental crisis.

In such a time, the importance of the Treaty is even more obvious.

Climate change is not a cliché: it is a reality. There is growing, world-wide concern about the possible consequences for all countries of climate change, although the consequences are likely to be worse for some than others, for example, for small islands developing states. Our task is to help adapt agriculture to climate change, by making available to all countries, as needed, plant genetic resources for food and agriculture that contain genes able to give plant varieties the characteristics they need to resist, and be productive, under stress. Drought, excessive rain, high or low temperatures, and several other challenges— some perhaps unexpected or as yet unknown—can be overcome with the appropriate genes to be found in the wealth of our plant genetic resources for food and agriculture.

The continuing political will of the Parties remains the bed-rock of a Treaty able to support national strategies to overcome poverty and hunger and to make available to them all, without distinction, the plant genetic resources for food and agriculture that can help ensure food security for all humanity. This political will shall also be needed to continue supporting the developing countries that for centuries have contributed so much to the conservation and improvement of the plant genetic resources for food and agriculture, now at the disposal of all humanity. They will need financial support, capacity-building, and the transfer of environmentally sound technologies, if they are to be able to continue this work, to the benefit of us all.

**What is before us now**

The Third Session of the Governing Body is crucial. If the First Session in Madrid made it possible to launch the Treaty's work, and if the Second Session in Rome started to speed up implementation of the Treaty, this, our Third Session, will decide the future of the Treaty itself. I have asked the

Secretary to give us a thorough report on the status of implementation of the Treaty, so that the Contracting Parties can have a more complete overview of the current situation.

The lack of the necessary financial resources is hampering the implementation of the Treaty as a whole, which is the aim of all Parties. The Secretary's Financial Report on the Work Programme and Budget 2008-09 provides the Parties with detailed and substantive information on the lack of adequate funding that has characterized the biennium we are now ending. For this reason, the Funding Strategy must be adequate to support the Treaty's Work Programme, and for this to be the case, it must receive financial resources on a scale commensurate with that foreseen by the Governing Body. This is a task of all Parties to the Treaty.

When we talk of the implementation of the Treaty as a whole, we mean the implementation of all the Articles of the Treaty, and not only some of them. Without any doubt, the Multilateral System is the best-known part of the Treaty, but we must work so as to ensure that not only access, but benefit-sharing as well, is a reality under the Multilateral System. For this reason, the Third Party Beneficiary needs to have adequate information on all Material Transfer Agreements, and on cases of benefits that arise from the use of plant genetic resources for food and agriculture that must to be shared with the Parties, through the established mechanism.

Almost all Contracting Parties wish to see the implementation of Farmers' Right, and it is our task to ensure that this important concept, developed by the Treaty, is fully implemented. Something similar can be said about the sustainable use of plant genetic resources for food and agriculture, as provided for in Article 6 of the Treaty. These will be important tasks for all Contracting Parties, during the Third Meeting of the Governing Body.

The Business Plan, which we need to prepare in response to a decision of the Second Session of the Governing Body, should be a tool to support and foster the implementation of the Treaty, but never a tool to limit the Governing Body's sovereignty. The Business Plan should be constructed in a way that contributes to the implementation of the Treaty as a whole, and to a better development, every two years, of the Work Programme and Budget. But the Governing Body must never have its power of decision limited by the Business Plan.

We need to follow closely the process of the FAO's Independent External Evaluation. In one way or another, it may affect how the Treaty's Core Administrative Budget is funded. We need also to pay more attention to the way in which the International Treaty on Plant Genetic Resources for Food and Agriculture functions under Article XIV of FAO Constitution, and how the relationship between the Treaty, as an independent Body, and the FAO, will in future develop.

### **Developments since the Second Session of the Governing Body**

I am delighted to say that the Bureau, in line with the mandate you gave it at your last session, yesterday approved the first eleven projects under the Benefit-sharing Fund of the Funding Strategy: this is a clear demonstration that benefit-sharing, one of the objectives (pillars) of the Treaty, is a reality. Although the initial sum involved is modest, the message we are sending to the Contracting Parties, and to all persons and relevant organizations interested in these matters, is that benefit-sharing arising from the use of plant genetic resources for food and agriculture is not only possible, but already here. We must continue to work hard to ensure the continuity of this process.

The development, by the Third Meeting of the Governing Body, of an appropriate Work Programme and Budget for the forthcoming biennium, with resources adequate to enable the Treaty to undertake all the activities for this period on which we will decide, is the only way in which we can ensure its success. It is not a secret that, without resources, the whole Work Programme is only a pretty document, perhaps even a wise document, but in the end only an empty document.

I will not list, one by one, the various processes and activities developed or supported by the Bureau in

the biennium. The Secretary's Report is very explicit on these matters.

### **The Bureau and the Secretariat**

After almost a year of remarkable work, the former Chair of the Third Session of the Governing Body, Mr Godfrey Mwila, resigned for personal reasons, and in July, 2008, the Bureau decided to pay me the honour of requesting me to take up the role as the new Chair, and complete the mandate that the Governing Body gave to the current Bureau, in other words, chair the Treaty's inter-sessional work, and the Third Session of the Governing Body, until its conclusion. The Secretariat immediately informed Parties to the Treaty of this substitution of the Chair of the Bureau.

During the period between the Second and the Third Sessions of the Governing Body of the Treaty, the Bureau's work became ever more relevant, and we discovered that there were many pending or unresolved issues forwarded to the Bureau by the Governing Body, and even issues arising from former issues, that the Bureau needed to consider. The lack of clear Terms of Reference, and the Governing Body's minimal Rules of Procedure, sometimes made the work of the Bureau a little difficult. Let me note that I recommend that this issue be addressed, so as to make the Bureau's work speedier and, at the same time, more consonant with the mandate the Governing Body gives it at each Session, which may sometimes involve making decisions in order to be able to fulfil that mandate.

Commitment, professionalism and cooperation, along with flexibility and understanding, are five words to sum up the way the Bureau worked between the Second and the Third Session. I have the pleasure to recognize this, to thank all Bureau members, and to encourage the Bureau that will be elected at the end of this Session to work with the same spirit.

The close relationship with the Secretariat has been crucial in achieving what we have. The Secretary, Mr Shakeel Bhatti, will present in detail the work undertaken in this biennium, in his Report. I should like to also recognize the excellent work carried out by our small and compact Secretariat. All worked in a most professional way, and gave much of their free time to making it possible, today, to show all Parties that the Treaty is a reality, and can implement all its articles. The pivot and head of the whole Secretariat, Mr. Bhatti, deserves the thanks of us all, to which I should like to add my personal thanks.

### **In closing**

On behalf of the Bureau of the Third Session of the Governing Body, I wish to thank, and pay tribute to, the Government and authorities of Tunisia, for generously hosting this Session of the Governing Body of the International Treaty on Plant Genetic Resource for Food and Agriculture. I should also like to mention the splendid arrangements that have been made, and the excellent organization with which the facilities, personnel and other resources have been put in place, and made ready for this meeting.

I want to end my report by stressing the need to continue to give full support to the Treaty; to continue supporting and making operative its Funding Strategy; to continue supporting, perfecting and making the Multilateral System and its Benefit-sharing process ever more efficient; to continue building our understanding, and launching activities in the ambit of those remaining issues that have not yet been sufficiently addressed, issues such as Sustainable Use and Farmers' Rights. In order to achieve this, we will need to develop mechanisms to make the Treaty more manageable and accountable, such as the Business Plan, and the compliance mechanism; to continue strengthening the importance and power of the Treaty's Governing Body; to continue working on the Treaty's specificities, as an independent body, under FAO, but with its own personality. Through the Treaty's individual government and management structures, accountable to the Governing Body of the Treaty, we can pursue our highest objectives.

As Chair of this Third Session of the Governing Body of the Treaty, I am totally in your hands. I am convinced that we will be able to make substantial progress, with your usual commitment, flexibility

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and capacity for work. Our ultimate objectives—the conservation of all plant genetic resources for food and agriculture, its sustainable use, and the sharing of the benefits arising from this—are long-term objectives. We pursue these objectives not only for our own benefit, but also for the benefit of generations to come, who, I am certain, will look back critically on what we do, our decisions, and the final outcome. If we work together, we will succeed in meeting the challenges before us.

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**APPENDIX E.2****REPORT OF THE SECRETARY OF THE INTERNATIONAL TREATY ON PLANT  
GENETIC RESOURCES ON FOOD AND AGRICULTURE,  
MR SHAKEEL BHATTI**

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Last month, UN Secretary General, Ban Ki Moon, and European Commission President, Emmanuel Barroso, both called for “a new multilateralism which is centred around the delivery of global public goods”, to address the interrelated crises of food, energy and climate. As the Secretary General put it at the Summit of the Americas:

*We need a new vision, a new paradigm, a new multilateralism. A multilateralism that is organized around delivering a set of global goods. A multilateralism that harnesses both power and principle. A multilateralism that recognizes the interconnected nature of global challenges.”*

Your Treaty, I believe, already exemplifies this new paradigm, and it is recognized as doing so even beyond the food and agriculture sector. Your Treaty was the first Treaty of the 21<sup>st</sup> century — and it remains at the cutting edge of such a new, results-driven and output-oriented multilateralism. Together we have made the Multilateral System of this Treaty into the first multilaterally managed global public good of the 21<sup>st</sup> century — a global genepool of more than 1.1 million samples of plant genetic material that you, the Contracting Parties, govern collectively and multilaterally. Through this genepool you control – and are responsible for - the basis of more than 80% of the world's food from plants, and our most important tool for adapting to climate change in agriculture in years to come.

In the past 18 months, we have made this Multilateral System work. You will now address the other multilateral goods flowing from the Treaty, through multilateral benefit-sharing mechanisms that deliver concrete and sustained support to the conservation and improvement of food crops, particularly by those who maintain our agrobiodiversity. In summary, in just eighteen months, your Treaty has gone from a legal text to a practical reality for agriculture worldwide.

In this transition from theory to practice, the Treaty foresees new and specific monitoring and guidance functions for you, as the Governing Body. At your second session, you set me, as your Secretary, a number of very demanding tasks in managing this transition. My secretariat and I have worked day and night since then with utmost dedication and effort, and I am happy to report to you today that all the main elements of the mandate that you gave me have been achieved, even though some activities could not be completed, because of resource constraints that we were under. We have had to work creatively within these constraints and I had to take some hard decisions. But with commitment, effort and prudent resource management, the concrete outcomes of this biennium's work are before you in the technical working documents of this session, and the functioning systems that they describe. We have tried to make our documents as transparent, complete and accessible as possible. You have, I hope you will agree, a solid information base for you to take your decisions and guide this Treaty.

**Achievements and results of the 2008-09 biennium**

I want first to sketch out for you the main results of an intense Work Programme, achieved despite significant under-funding of the Treaty at a much higher resource-to-results ratio than is usual.

***The Multilateral System***

As you decided at your First Session, my first focus has been “to make the Multilateral System

functional.” During the last biennium, I have put special effort into getting the various elements of the Multilateral System up and running. We have tried to give you, in the documents before you, as complete a picture as possible of the current state of play. Looking at it globally, I am convinced that all the necessary elements are functional, or require merely your final decisions.

You adopted the Standard Material Transfer Agreement at your first meeting: it is working, and working well, but two things need to be addressed. A number of legal, technical and administrative uncertainties need attention, which will mean working closely with Providers and Recipients of genetic material worldwide, and this will be one of my priorities in the next biennium. Developing countries, in particular, will require assistance in factoring the Standard Material Transfer Agreement into their administrative practice.

In our documents, I have drawn attention to the importance of having a clear and accurate picture of what is actually available “in” the Multilateral System. This requires a number of things: first, that countries—particularly developing countries—take the legal and administrative steps to identify their materials that, in accordance with the Treaty, are part of the Multilateral System; and that these be adequately documented, so that they can be used by plant breeders, farmers, researchers and others. Several Contracting Parties have already specifically informed me of the materials which are included in their countries. I would like to thank Brazil, Germany, Namibia, Netherlands, Switzerland, all the Nordic Countries, through their common genebank, and Zambia, as well as the first private sector bodies who have included material, namely PRO-MAIS<sup>36</sup> and AFSA,<sup>37</sup> both in association with the French National Institute of Agricultural Research.<sup>38</sup> I am delighted to say that, through ever more efficient coordination and integration of existing information systems on agricultural plant genetic resources, the necessary documentation tools are being developed, in a wide partnership that we have been able to establish with the CGIAR Centres, the Global Crop Development Trust, and national and regional genebanks.

As Contracting Parties, through the regionally representative *Ad Hoc* Committee on the Third Party Beneficiary, which you set up at your last Session, you have prepared and brought for decision to this Session a very coherent draft set of procedures for the Third Party Beneficiary, including recommendations for possible measures to contain costs; information to be made available by users, and a reporting schedule; as well as for the establishment of a roster of experts.

However, if my review of the status of the Multilateral System tells us anything, it is that the Multilateral System and the implementation of the Standard Material Transfer Agreement are not self-executing: we must engage with the System, we must manage the System and we must provide minimum support to users, to overcome initial uncertainties and hesitations.

Contracting Parties and users of the System have put many complex questions to me, and we need to be able to respond, if the Treaty and its systems are to be credible. Some non-technical examples include:

- The farmer who needs to be assured that the seeds which his community has developed over generations will benefit humanity, and that he will, in his turn, have access to the seeds he needs in his farming system;
- The genebank manager who needs to be convinced that his collections will also benefit from facilitated exchange.
- The user who wants to ship seeds next week, but whose Legal Office is telling him it

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<sup>36</sup> L’Association pour l’Étude et l’Amélioration du Maïs.

<sup>37</sup> L’Association Française des Semences de cereals à paille et autres Autogames.

<sup>38</sup> INRA.

needs first to understand the meaning of a particular clause in the Standard Material Transfer Agreement;

- The researcher who worries about the intellectual property rights over his research results;
- The breeding company, perfectly willing to share benefits in accordance with the Treaty, but wanting legal certainty that it will not be accused of biopiracy.

The Multilateral System is for all of them, and must interact transparently and honestly with all stakeholders. You as the Governing Body have the global, multilateral responsibility for governing this crucial genepool, and, as the Secretariat must translate your guidance into day-to-day management of the Treaty's systems and interaction with stakeholder communities, we urgently need your decisions and guidance on this.

My review has also put clearly before you what I believe are the priorities for the moment: to resolve the uncertainties that are preventing some Providers, including some Contracting Parties, from effectively incorporating their materials in the Multilateral System; and to document and make visible the materials that are in the Multilateral System, which is the *sine qua non* for addressing the challenges the world currently faces: climate change, population growth, and persistent poverty.

### ***The Funding Strategy***

A second pillar of the Treaty is the Funding Strategy. In the Ministerial Declaration which you adopted at your First Session and again, more recently, at your Second Session, you reaffirmed that the successful mobilization of adequate financial resources is essential to the implementation of the Treaty, and that the Funding Strategy is an essential element in this regard. You have adopted most of the necessary procedures, and established an *Ad Hoc* Advisory Committee to complete this work, and to develop a strategic plan for the implementation of the Funding Strategy, in particular appropriate mechanisms for its operationalization, and a fundraising strategy for the funds under the control of the Governing Body.

There have been two quantum leaps which the Treaty has achieved under the Funding Strategy since your last session. First, in accordance with the mandate you gave it, to approve "small-scale projects [...] under exceptional circumstances", your Bureau was able to open the first Call for Proposals under the Benefit-sharing Fund, and I am profoundly grateful to Norway, Italy, Spain and Switzerland for their generous contributions to the Benefit-sharing Fund, which made this possible. I wish to congratulate the Bureau, which has, just yesterday, in a marathon session, approved the first eleven benefit-sharing projects in the history of plant genetic resources. By successfully completing this first test-run of benefit-sharing under the Treaty, it has proved that international benefit-sharing within a binding legal architecture can work on a multilateral basis. These grants amount to a total cost of more than half a million US\$. The ratio of needs expressed in the Call for Proposals in relation to funded projects may be low, but these first projects prove that the System can work - and that it is working. Through your Treaty, international benefit-sharing is now working in practice, on the ground, for those who conserved the plant genetic diversity that feeds us all, such as, concretely, through these newly funded projects:

- the Andean farming community that needs to conserve *in situ* the crop, namely potato, that its center of origin has given to the world;
- the African genetic resource center that is struggling to adapt its national crops to climate change and ensure food security;
- the Asian NGO that is developing locally adapted cultivars for small scale enterprises to ensure local livelihoods; and

- the Near Eastern genebank that is conserving on farm and *in vitro* its rich local citrus varieties.

The second advancement offers a concrete and practical perspective on how to address the needs that were expressed by very many agricultural stakeholders worldwide within a few weeks of the Call for Proposals: the *Ad Hoc* Advisory Committee that you nominated has submitted for your consideration, as you requested at your last session, a Strategic Plan for the Benefit-sharing Fund of the Funding Strategy. In preparing this plan, they benefited from the possibility that you gave them of drawing on the expertise of one of the best international fund-raising firms advising international institutions, and they based this Strategic Plan on models that have been successfully used by other funds, treaties or conventions. The *Ad Hoc* Advisory Committee also prepared the last and final Annex of the Funding Strategy, on transparent and precise Monitoring and Reporting, for your approval. These advances have brought the entire Funding Strategy to a stage where it can now, I believe, begin to fulfil its potential to provide tangible support for the three priorities which you have set at your last Session, namely on-farm conservation, sustainable use of plant genetic resources and information exchange, and, as the Treaty says in Article 18.5, [I quote], “Priority being given to farmers in developing countries who conserve and sustainably use plant genetic resources”. Thus, the Treaty can complete the virtuous cycle of facilitating exchange and practically supporting the conservation and sustainable use of agricultural plant genetic resource, particularly by and for those who have developed and conserved them over the ages.

### ***Capacity-building***

At your Second Session, you decided to create a “Capacity Building Coordinating Mechanism” to support the national implementation of the Treaty, and called for voluntary contributions for this purpose. I am very pleased to say that we were able to put the mechanism in place as of May 2008. You also stressed the importance of collaboration between FAO, Bioversity International and the Treaty Secretariat, and with new bridges and a new partnership that we were able to create, we now have a Joint Capacity Building Programme with a budget of over US\$ 1 million, through the generosity and commitment of Sweden and Spain. We now have a capacity to respond to countries that are seeking assistance in developing the policies, legislation, and institutional and administrative practices necessary to implement the Treaty. I am most grateful to Sweden and Spain for their sustained and substantial commitment to the Treaty.

### ***Developing the Secretariat***

As Susan Rice has recently said, “the global challenges we face demand global institutions that work” - and, I would add, that work efficiently. Efficiency and dynamic alignment of financial and human resources to the goals you have set have been my guidelines in establishing your Secretariat. I have an excellent interdisciplinary staff team, although they are over-extended, in the light of the enormous workload that they have shouldered. They believe in this Treaty, and have worked hours much longer than the norm. They have delivered results of very high quality under very high pressure. I would ask you to join me in recognizing this, and thanking them.

I envisage the Secretariat as a lean, nimble and dynamic institution which, under your guidance, executes the management of a global public good transparently and multilaterally as foreseen by the Treaty. Multilateralism also means that the Secretariat should never attempt to substitute itself for stakeholders in the conservation and sustainable use of plant genetic resource. This would be a most wasteful and ineffective way of working. Instead, I have tried to create outcome-oriented partnerships, and have provided platforms for cooperation, so that the whole can be larger than any one input. The Treaty makes such a strategy explicit, for example, in Article 17, where the Global Information System will be built “based on existing information systems”. This has been my goal and my experience in this biennium has been that establishing and nurturing such partnerships involves a substantial ongoing investment of time and labour by the Secretariat, but this is a *sine qua non* of making the Treaty work.



I intend to continue with a transparent, good governance and Contracting Party-driven approach to establishing the Treaty's operational, management and budget systems, and in this I seek your continued support, guidance and participation, so that the Treaty becomes a model of a forward-looking and dynamic management for the 21<sup>st</sup> century, a small, flexible and new institution shining out of the grey of old and inefficient practices.

Besides my staff, there are many people I want to thank for their support during an intense two years: first, you, Mr Chairman for the balanced and sensitive way in which you have guided us based on your experience of having participated in the Treaty process and negotiations for many years; the Bureau as a whole, which has been a constant source of support and wise advice; the Director-General and all my colleagues at FAO, especially Mr Modibo Traoré, Assistant Director-General for Agriculture, and Mr Shivaji Pandey, Director of the Plant Protection and Production Division, who have always made a special effort to support the Treaty and its Secretariat, even during a time of radical transformation of FAO itself; as well as my colleagues at the Commission on Genetic Resources and my predecessors in this work, Jose Esquinas Alcázar and Clive Stannard, for the inspiration and support that they have always given me.

### ***Financial matters***

You will, I hope, allow me to be frank about the very real financial problems which the Treaty has experienced. I have given you an un-whitewashed and very realistic account of these in our report on the implementation of the 2008/09 Work Programme and Budget. You would, I am sure, not want anything less from a Secretary who has the long-term health of your Treaty at heart. The unpredictability of both the level and the timing of voluntary contributions by Contracting Parties, combined with the lack of a Working Capital Reserve, created very real difficulties. I had to take some very hard decisions. Posts were left unfilled, and a number of important activities had to be cancelled, including planned training for National Focal Points, and capacity-building for developing countries. A large fraction of those that remained could only be realised because Italy generously allowed us the temporary use of funds it had contributed for other purposes to the Special Funds. If we have been able to advance the Treaty's operational systems right across the board to the favourable position they are now in, this is due to only two things: the understanding and continuing support of Italy, and the absolute dedication of my small staff. As a result of this situation, until now the Treaty has been running on the midnight oil of the Secretariat staff. Unfortunately, it is my duty to tell you, Mr Chairman, that this cannot continue. It is not sustainable.

I have laboured to give you transparent, realistic and accountable, state of the art budgeting and reporting. Like everyone, I am very aware of the current world financial crisis, and have worked to give you a responsible budget that is an absolute minimum level, if the Treaty is not to stand still, or even go backwards at this crucial juncture. Once more, I must be frank and crystal clear with you: the Treaty is not yet stable - financially or operationally. Despite intense work, its systems are still not fully operational, mature and recognized. The coming biennium will be critical in stabilizing the Treaty, its core operations and its political credibility.

### **The Treaty in a changing world**

I would like to end on a personal note. When you first appointed me and I arrived in Rome in 2007, I found no Secretariat, no staff, no pre-existing infrastructure, no operational Treaty systems and no administrative procedures for the Secretariat: in other words, there was no tangible existence of the Treaty in the form of its global operational systems or a dedicated Secretariat. What I did find was a mountain of work for the start-up of the Treaty systems, and the simultaneous task of convening the Second Session of the Governing Body. For two years, I have had to work around the clock to make your Treaty work, and to carry out the tasks that you have set me to do in your last Session.

As we started to put in place the Secretariat and the Treaty's operational structures, I began to see more clearly the tasks before us. I benefited greatly from close interaction with your excellent Bureau,

and with many Contracting Parties and from constant help of my colleagues at FAO. After one operational biennium, and half-way through my term of contract, I do feel that, though the Treaty is still fragile and its parts are at different stages of development, I can see the parts coming together. I hope that you will allow me, in closing, to share some of my reflections on the opportunities and challenges before the Treaty at this stage.

First, since we had to build the Treaty's administrative and financial procedures from the ground up, we were able to draw on evolving best practices, at the international level and in Rome. As the Bureau of the Governing Body has put it, the Treaty maintains its own distinctive governance and management structures, responsive to you as the Contracting Parties. I hope you will agree that the Treaty, as a unique institution, is accountable, transparent, dynamic, well governed, and value for money. Beyond the progress in one particular part or area of the Treaty or another, I feel that if there is anything through which I can make my own limited contribution to helping the Treaty for the future, it is by giving it such a governance and management structure from the very beginning. I hope that this would instill confidence in those Contracting Parties who may have had negative experiences in the past in the food and agriculture sector, and that it would allow them to distinguish the Treaty in this way from those negative experiences. I have done everything I can to make this the case.

Second, the Treaty itself is becoming a model, in other international processes. Other United Nations bodies, such as the World Health Organization in its process on virus-sharing and benefit-sharing; the Convention on Biological Diversity in the elaboration of its international regime on access and benefit-sharing; and the UN Convention on Law of the Sea, in regard to the genetic resources of the deep sea-bed; are all looking at the Treaty as their reference in crafting customized multilateral systems. We must continue in the vanguard of public international law, implementing the law into practical operational systems for the global genepool and for supporting conservation and sustainable use through the Funding Strategy.

Third, the Treaty is all about building bridges, connecting people, about pooling, collaborative, cooperative and common action. The Treaty is about the global community working together for food security, adaptation to climate change, and the sound management of agro-biodiversity, always keeping in focus the needs of farming communities and the poor and hungry.

Fourth, one of the strengths of the Treaty is that it has a very specific subject matter, and practical objectives. It is fine-tuned to suit the needs of our community, the agricultural and plant genetic resources sector, building on thirty years of discussions, but the solutions it embodies are increasingly relevant to many policy communities because they address the broadest global policy challenges we face today, including in the environment, trade and development sectors.

Finally, the Treaty offers you—Governments and Ministries of Agriculture—a unique opportunity—to put agriculture back on the international policy map, to regain policy initiative for our sector, at a time when food security, particularly in the face of climate change, is one of the world's hottest topics. Agriculture, as I am sure you, the representative of Ministries of Agriculture can attest, has for too many years been increasingly marginal in the larger debates. The world food crisis is turning this around, and a successful Treaty, going from strength to strength, will strengthen your hands and give you access to resources, in your own administrations, and on the international stage. Do not lose sight of this common opportunity for us as a sector, as you discuss your differences this week.

For this reason, the Treaty community needs to keep in mind the bigger policy picture. The Treaty is more relevant than ever in the broader policy context: it is at the crossroads where many policy-making processes converge: conservation and sustainable use of biodiversity; recognition of traditional knowledge; commerce and trade; sustainable economic growth and development; innovation policy and intellectual property; adaptation to climate change; food security policy, and above all the moral imperative to feed a still growing and often unacceptably poor world population.

This week, the stakes are high for the Treaty, for you as Contracting Parties At this critical crossroads,

the future of this instrument lies in your hands. You here have the ability to put the Treaty on a long-term trajectory, as a functioning, operational, consensual global system. I hope that the groundwork we have tried to do for you will assist you in this task, and wish you much wisdom in your work this week.



**APPENDIX F**  
**CONTRACTING PARTIES AND CONTRACTING STATES**  
**AS OF 1 JUNE 2009**

Afghanistan	Cuba	Guinea
Algeria	Cyprus	Guinea-Bissau
Angola	Czech Republic	Honduras
Armenia	Democratic People's Republic of Korea	Hungary
Australia	Democratic Republic of the Congo	Iceland
Austria	Denmark	India
Bangladesh	Djibouti	Indonesia
Belgium	Ecuador	Iran, Islamic Republic of
Benin	Egypt	Ireland
Bhutan	El Salvador	Italy
Brazil	Eritrea	Jamaica
Bulgaria	Estonia	Jordan
Burkina Faso	Ethiopia	Kenya
Burundi	European Community	Kiribati
Cambodia	Fiji	Kuwait
Cameroon	Finland	Kyrgyz Republic*
Canada	France	Lao People's Democratic Republic
Central African Republic	Gabon	Latvia
Chad	Germany	Lebanon
Congo, Republic of	Ghana	Lesotho
Cook Islands	Greece	Liberia
Costa Rica	Guatemala	Libyan Arab Jamahiriya
Côte d'Ivoire		Lithuania
Croatia*		

Luxembourg
Madagascar
Malawi
Malaysia
Maldives
Mali
Mauritania
Mauritius
Morocco
Myanmar
Namibia
Netherlands
Nicaragua
Niger
Norway
Oman
Pakistan
Palau
Panama

Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Romania
Saint Lucia
Samoa
Sao Tome and Principe
Saudi Arabia
Senegal
Seychelles
Sierra Leone
Slovenia
Spain
Sudan
Sweden

Switzerland
Syrian Arab Republic
Togo
Trinidad and Tobago
Tunisia
Turkey
Uganda
United Arab Emirates
United Kingdom
United Republic of Tanzania
Uruguay
Venezuela
Yemen
Zambia
Zimbabwe

\*Contracting State

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**APPENDIX G.1****OTHER STATEMENTS MADE DURING THE SESSION**

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**STATEMENT BY LA VIA CAMPESINA**

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**Statement by Mr Alberto Gomez, International Coordination Committee, La Via Campesina, facilitated through the IPC (International Planning Committee for Food Sovereignty), by social movements, including small scale farmers' and Indigenous Peoples' and other civil society organizations present in Tunis at the Third Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture**

The women and men who practice small-scale biodiverse farming not only create and conserve the world's crop genetic diversity but in the context of the food, climate, energy and economic crises, they provide the only solution for feeding the world's hungry. And the resilience and adaptability of these systems is our best defence against climate chaos. It is therefore urgent to implement legally-binding Farmers' Rights. Realising these rights will underpin the dynamic conservation and sustainable use of agricultural biodiversity and will ensure equitable sharing of benefits – these are the principal goals of this Treaty.

The monopoly privileges conferred on legal persons through intellectual property laws on seeds undermine farmers' collective rights to sow, save, exchange and sell farm-grown seeds and these have facilitated concentration of ownership over seeds by a handful of multinational seed companies. These contribute to the destruction of cultural, spiritual and biological diversity and prevent the majority of farmers from conserving and sustainably using the millions of varieties of food crops they develop and adapt to changing needs and local agro-ecosystems.

The *ex situ* gene banks and cultivated biodiversity are threatened in their very homelands and in their diversification, by contamination from patented GMOs, wars, and the lack of public finance necessary for the conservation of cultivated biodiversity.

We therefore call on the Governing Body of the Treaty at its third session here in Tunis to implement the following proposals:

1. Ensure all parties to the Treaty permit the collective rights of small-scale farmers, Indigenous Peoples and pastoralists:
  - a. to conserve, use, exchange and sell any non-GM variety of farm-grown seeds<sup>39</sup>;
  - b. protect their seeds from biopiracy and contamination by patented genes, including GMOs; and
  - c. recognize and protect the farming social systems and cultures that conserve these seeds and associated traditional knowledge.
2. Call a "state of emergency", in the context of the food, climate, energy and economic crises, in which all constraints to plant breeding - especially intellectual property over plant varieties and

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<sup>39</sup> Seeds in this context include all consumable and reproductive materials including grains, roots, grafts and cuttings etc.

germplasm - must be immediately suspended on the basis of *ordre publique* for, at least the duration of the crisis, because exclusive monopolies over plant varieties and germplasm limit diversity and farmers' ability to adapt seeds.

3. Commit to a biennial report on "The State of the World's Farmers and Farmers' Rights" prepared by small scale farmers' organisations, Indigenous Peoples and pastoralists, under an FAO or Treaty budget line for presentation and debate at each meeting of the Governing Body. The report should include the results and analysis of a questionnaire to governments on the national implementation of Farmers' Rights.
4. Create working groups of the Treaty comprising governments and civil society organisations including small-scale farmers organisations, Indigenous Peoples and pastoralists that will:
  - a. oversee the conformity of practices with the rules of the Treaty by those who participate in the multilateral system of access and benefit sharing (MLS), and, in particular, to report to the Governing Body on instances of biopiracy affecting both species under *Annex I* of the Treaty and a wider range of species of importance to food and agriculture;
  - b. define a framework for on-farm/*in situ*<sup>40</sup> conservation of PGRFA, including in community controlled seed banks<sup>41</sup>, that protects and develops farmer-led innovation systems, including participatory plant breeding, and to secure financing for implementation;
  - c. and, also with the CGIAR and the GCDT, define the role and effectiveness of *ex situ* gene banks and a code of practice for unrestricted access and use by, and benefit sharing with, small-scale farmers, Indigenous Peoples and pastoralists, who are the originators of the stored seeds. Any funding to *ex situ* conservation should be dependent on and linked to prior funding for on-farm/*in situ* conservation on small farms.

If the Governing Body of the Treaty is not able to meet these demands, we, representatives of small scale food producers including farmers, Indigenous Peoples and pastoralists and support NGOs call upon a coalition of States, who are willing, to implement these rights immediately and to work with us for a separate Protocol on Farmers'/Peasants' Rights that will include these measures under another governing body in FAO (e.g. CGRFA, CFS) or the Human Rights Council.

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<sup>40</sup> As defined in the Leipzig GPA and by small-scale farmers movements.

<sup>41</sup> Community controlled seed banks include the full range from family and household -based collections that are exchanged within the community up to and including a formal community facility.



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*APPENDIX G.2*

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**STATEMENT BY THE SECRETARIAT OF THE UNITED NATIONS COMMISSION  
ON INTERNATIONAL TRADE LAW (UNCITRAL) RECEIVED IN WRITING DURING  
THE SESSION**

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The UNCITRAL Secretariat would like to express its appreciation to the Chairman of the Third Session and the Secretariat of the Treaty on Plant Genetic Resources for Food and Agriculture for the invitation to the UNCITRAL Secretariat to attend the Third Session of the Treaty Governing Body and to submit a statement. We note with appreciation that working document IT/GB-3/09/18 on the status of cooperation with other international organizations summarizes in paragraph 51 our cooperation with the Treaty Secretariat so far. We discuss briefly below our cooperation with the Treaty Secretariat on the three areas of common interest, that is, electronic commerce, arbitration and security interests, referring also to the relevant texts of UNCITRAL.

In the area of electronic commerce, UNCITRAL has prepared several texts widely considered as global standards in the field, including the United Nations Convention on the Use of Electronic Communications in International Contracts (2005), the UNCITRAL Model Law on Electronic Signatures (2001) and the UNCITRAL Model Law on Electronic Commerce (1996). The use of the relevant provisions of these texts in conjunction with the Standard Material Transfer Agreement (“SMTA”) may be particularly desirable in light of the supranational nature of those provisions and of their compatibility with all levels of economic and technological development. Accordingly, the UNCITRAL Secretariat looks forward to continuing the fruitful cooperation with the Treaty Secretariat with a view to adopting an effective and efficient enabling legislative environment for the SMTA operations taking place through electronic means.

In the area of International Commercial Arbitration and Conciliation, UNCITRAL has prepared several well known and widely adopted texts, including the UNCITRAL Model Law on International Commercial Arbitration (1985, amended in 2006), the UNCITRAL Model Law on International Commercial Conciliation (2002), the UNCITRAL Arbitration Rules (1976) and the UNCITRAL Conciliation Rules (1980). UNCITRAL is also responsible for the promotion of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). So far, the UNCITRAL Secretariat shared its expertise in this field with the Ad Hoc Third-Party Beneficiary Committee and provided advice on a number of substantive and procedural questions regarding the dispute resolution mechanism under the SMTA and the roles and responsibilities of the Third Party Beneficiary (“TPB”). Information and material relevant to the establishment of the TPB Procedures on mediation have also been communicated. The UNCITRAL Secretariat is ready to explore further support which could be provided in the field of dispute resolution to facilitate implementation of the International Treaty. The Treaty Governing Body may wish to note that a revised version of the UNCITRAL Arbitration Rules, reflecting modern international arbitration practice, and including standards acceptable in all legal traditions, are scheduled for adoption by UNCITRAL AT ITS 43<sup>rd</sup> session to be held in New York from 21 June to 9 July 2010.

In the area of Security Interests, UNCITRAL has prepared the UNCITRAL Legislative Guide on Secure Transactions (2007) and the United Nations Convention on the Assignment of Receivables in International Trade (2001). These texts are designed to promote access to secured credit, which is likely to assist all countries, in particular developing countries with economies in transition, in their economic development and in fighting poverty. The Treaty Governing Body may wish to note that UNCITRAL is in the process of preparing a Supplement of the UNCITRAL Legislative Guide on Secured Transactions dealing with security interest in intellectual property. Further to a discussion

between the Treaty Secretariat and the UNCITRAL Secretariat, the Supplement recognizes that plant genetic resources may be protected by intellectual property rights and have value to be used as security for credit. The Treaty Secretariat may wish to participate in the work of the relevant UNCITRAL Working Group which is scheduled to be completed at the 43<sup>rd</sup> session of UNCITRAL in 2010.

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*APPENDIX G.3*

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**STATEMENT ON BEHALF OF MR. AHMED DJOGLAF, EXECUTIVE  
SECRETARY, CONVENTION ON BIOLOGICAL DIVERSITY**

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Thank you for the opportunity to address this meeting and to provide you with an update of ongoing activities under the framework of the Convention on Biological Diversity of relevance to this Governing Body.

More than a year ago, the ninth meeting of the Conference of the Parties was held in Bonn, Germany, in May 2008. As we approach the target date of 2010, a major effort is being made by Parties to the Convention to achieve the target of a significant reduction of the current rate of biodiversity loss by 2010, adopted by Heads of State at the World Summit on Sustainable Development in 2002.

Of particular interest to the Governing Body are the new developments related to:

- 1) The extension of the mandate of the Working Group on Access and Benefit-sharing (decision IX/12) with instruction to finalize the negotiation of the international regime by the first quarter of 2010, as well as
- 2) Further work on the Global Strategy for Plant Conservation.

I would therefore like to focus briefly on recent developments in these two areas of work of the Convention.

Negotiations of the International Regime on Access and Benefit-sharing

With respect to access to genetic resources and benefit-sharing, the expected adoption of the International Regime on Access and Benefit-sharing will be a major contribution to the full and effective implementation of the Convention and its three objectives.

At its ninth meeting, the Conference of the Parties adopted a calendar of meetings to achieve this objective and decided that the Working Group on ABS should meet three times prior to its tenth meeting, in October 2010.

In addition, in order to inform the negotiation process regarding key substantive issues, the COP decided to establish three distinct groups of technical and legal experts on: (i) compliance; (ii) concepts, terms, working definitions and sectoral approaches; and (iii) traditional knowledge associated with genetic resources.

The expert group on concepts, terms, working definitions and sectoral approaches, which met in Namibia in December 2008, examined some basic terminology relevant to the international regime, in particular the different ways of understanding biological resources, genetic resources, derivatives and products with a view to the development of the scope and the main components of the International Regime on Access and Benefit-sharing. Furthermore, distinct sectoral approaches were

identified and discussed. With reference to the ITPGRFA, experts noted that, while many lessons could be drawn from the ITPGRFA, the agricultural sector is unique due to a number of factors and, therefore, the Treaty is a special case addressing a specific sub-sector.

The expert group on compliance, which met in Japan, in January 2009, addressed one of the most important concerns of provider countries: how to ensure compliance with their ABS requirements and how to ensure compliance with access and benefit-sharing contracts once the genetic resources have left the provider country. Issues related to access to justice and to the enforcement of foreign judgments in situations of breach of compliance with ABS obligations therefore were further explored in order to determine whether and how they will need to be addressed by the international regime on ABS.

The reports of these meetings fed into the 7<sup>th</sup> meeting of the Working Group on ABS held at UNESCO, Paris from 2-8 April, 2009.

The 3<sup>rd</sup> expert group meeting on the subject of traditional knowledge associated with genetic resources will be held from 16-19 June, in Hyderabad, India. Experts will consider what measures should be included in the international regime to ensure that indigenous and local communities obtain a fair share of the benefits deriving from the use of their knowledge associated with genetic resources and that access to such knowledge is subject to their prior informed consent. This matter will then be taken up by the Working Group at the 8<sup>th</sup> meeting, in November 2009.

At COP 9, the Parties also requested the Executive Secretary to commission a study, among others, on how an international regime on access and benefit-sharing could be in harmony and be mutually supportive of the mandates of and coexist alongside other international instruments and forums that govern the use of genetic resources, such as the International Treaty. The study addressing the ITPGRFA was carried out by Ms. Jane Bulmer of the IUCN Environmental Law Centre and presented by the author during a side event at the 7<sup>th</sup> meeting of the Working Group on ABS. The study offers a comprehensive overview of the developing international regime on ABS, the ITPGRFA and the FAO Commission on Genetic Resources for Food and Agriculture, and analyzes their respective relationships. The study identifies different options for addressing the relationship between the international regime on ABS and the relevant regimes under the FAO.

The Working Group met in Paris from 2 to 8 April 2009 for its first meeting since COP-9, to advance the process with regard to the objective and scope of the Regime, as well as the main components related to compliance, fair and equitable benefit-sharing, and access. The issues of the legal nature of the International Regime, as well as the remaining main components traditional knowledge associated with genetic resources and capacity building will be addressed at the eighth meeting of the Working Group on ABS in Montreal. Then, at its ninth meeting, to be held from 18 to 24 March 2010, the Working Group is to consolidate all operational and submit the final text to the tenth meeting of the Conference of the Parties for adoption.

As you will appreciate from this brief overview of developments, significant progress is being made in the negotiations of the international regime.

Finally, I would like to highlight the special attention given to the ITPGRFA during the negotiations of the International Regime. As the only fully operational international access and benefit-sharing system for plant genetic resources, the Treaty offers important lessons learned. The negotiators of the International Regime are indeed mindful of the existence of the ITPGRFA as a precedent. Its role in relation to the International Regime has been particularly addressed in the

discussions on scope at the most recent meeting of the Working Group.

In this regard, I would also like to express our gratitude to the Secretary of the ITPGRFA, Dr. Shakeel Bhatti and the staff of the Secretariat for their continuous support during the negotiations. In response to a request by COP-9, the Secretariat of the ITPGRFA presented a comprehensive overview on the “Information technology work on operations of the Multilateral System”, as well as a briefing on progress of the ITPGRFA during a side-event at the recent seventh meeting of the Working Group on ABS in Paris, France. The event was very well attended and provided the participants with valuable information for the ongoing negotiations. I encourage the Secretary and the staff of the Secretariat of the ITPGRFA to continue supporting the negotiations, sharing their experiences and updating delegates on the progress of the ITPGRFA.

### Global Strategy for Plant Conservation

Turning now to the Global Strategy for Plant Conservation, in line with the multi-year programme of work of the Conference of the Parties up to 2010, the Ninth meeting of the Conference of the Parties noted that the Strategy has provided a useful framework to harmonize and bring together various initiatives and programmes in plant conservation at both the national and regional levels. Indeed, the Strategy has been notably successful in stimulating the engagement of the botanical and plant conservation communities in the work of the Convention, through, *inter alia*, the establishment of national, regional and global networks, including in particular the Global Partnership for Plant Conservation, of which UN FAO and Bioversity International are key players. The national implementation of the Strategy provides opportunities for addressing the Millennium Development Goals especially poverty reduction (goal 1), the health crisis (goal 6) and environmental sustainability (goal 7).

However, it was noted that while the emerging global environmental challenges, namely, the impact of climate change and nutrient loading were not addressed during the formulation of the Strategy, there was ample opportunity to address these further during the implementation of targeted activities under the existing targets.

The ninth Conference of the Parties, among others, requested the Subsidiary Body on Scientific, Technical and Technological Advice to provide, prior to its tenth meeting, proposals for a consolidated update of the Strategy, taking into account the Plant Conservation Report, the third edition of the Global Biodiversity Outlook, the fourth national reports and additional inputs from the Global Partnership for Plant Conservation and other relevant organizations.

In response to these decisions, a Liaison Group will consider options for development and update of the Strategy beyond 2010, make recommendations for a framework to update and/or revise the targets, prepare preliminary proposals for presentation to the next meeting of the SBSTTA and provide guidance on how these proposals should link to the overall process of the 2010 target review.

Of specific relevance to this meeting is Target 9 of the Strategy (‘70% of the genetic diversity of crops and other major socio economically valuable species conserved and associated indigenous and local knowledge maintained’). The in depth review and consultation with partners and stakeholders indicated that good progress had been made in addressing this target. There was an indication for the need to increase the threshold for this target beyond 2010 especially given the increasing challenge of climate change and the rapid loss of associated indigenous and local knowledge. Further, it was noted that there is a need to enhance implementation at national level, through improved and increased interaction between the ITPGRFA focal points and CBD, including Global Strategy for Plant Conservation focal points. Undoubtedly, the outcomes of the 2<sup>nd</sup> State of the World report on Plant Genetic Resources for Food and Agriculture will provide a useful baseline for further reviewing this target beyond 2010.

I therefore welcome the ITPGRFA constituency and its partners to continue to implement target 9 and other related targets of the Strategy, and further provide proposals for the review and update of the Strategy and specifically target 9, beyond 2010.

The CBD Secretariat looks forward to continued collaboration with the FAO, and the Secretariat of the ITPGRFA. Clearly, and as provided in the text of the ITPGRFA itself, there are many areas of mutual interest in the work of our respective institutions.

I wish you every success in the continuation of your deliberations in the course of the Third Session of the Governing Body of the ITPGRFA, confident that they are in harmony with the Convention on Biological Diversity, and will also contribute to and complement the work of the Convention on Biological Diversity, especially with regard to access to genetic resources and benefit-sharing, the Global Strategy for Plant Conservation, as well as our other activities in the area of how biodiversity underpins food and agriculture.

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**APPENDIX G.4**

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**STATEMENT OF THE INTERNATIONAL UNION FOR THE PROTECTION OF  
NEW VARIETIES OF PLANTS (UPOV)**

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Reference was made, in the context of agenda item 14, Farmers' Rights, to the International Union for the Protection of New Varieties of Plants (UPOV). I thank you for the opportunity to make some remarks.

The International Union for the Protection of New Varieties of Plants (UPOV) is an intergovernmental organization, established by the International Convention for the Protection of New Varieties of Plants (the "UPOV Convention"). The Mission of UPOV, based on the UPOV Convention, is: *"To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society."*

As of May 26, 2009, UPOV has 67 members. Furthermore, 17 States and one intergovernmental organization have initiated, with the Council of UPOV, the procedure for becoming members of the Union and 45 other States have been in contact with the Office of the Union for assistance in the development of legislation on plant variety protection. UPOV members grant more than 10,000 titles of protection per year. Those titles concern new plant varieties of more than 2000 genera and species. New varieties increase biodiversity. They are valuable plant genetic resources and, thanks to the breeder's exemption under the UPOV Convention, they can be freely used for further breeding. In this context, it is important to clarify that plant variety protection is independent from seed and market regulations.

In the UPOV Report on the Impact of Plant Variety Protection, the former Secretary-General of UPOV explained that "the introduction of the UPOV system of plant variety protection and membership of the International Union for the Protection of New Varieties of Plants (UPOV) can open a door to economic development, particularly in the rural sector. [...] an important conclusion is that the UPOV system of plant variety protection provides an effective incentive for plant breeding in many different situations and in various sectors, and results in the development of new, improved varieties of benefit for farmers, growers and consumers. In the same Report, Ing. Enriqueta Molina Macías, Director, National Service for Inspection and Seed Certification (SNICS), Mexico and former President of the UPOV Council stated that "as a representative of a developing country, it has been particularly interesting to see that, in addition to the benefits seen from the introduction of plant variety protection based on the UPOV Convention, specific positive impacts have been seen with regard to membership of UPOV. [...] As the study concludes 'farmers, growers and breeders have access to the best varieties produced by breeders throughout UPOV member territories'."

UPOV supports the view that the instruments dealing with genetic resources and relevant international instruments dealing with intellectual property rights, including the UPOV Convention, should be mutually supportive. In that respect, UPOV has noted that the International Treaty on Plant Genetic Resources for Food and Agriculture (IT), Article 9 states as follows:

"9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national

governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, [...]"

"9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate."

On that basis, the IT can be implemented in a mutually supportive way with national law implementing the UPOV Convention.

The UPOV Convention contains a compulsory exception to the breeder's right whereby the breeder's right does not extend to acts done privately and for non-commercial purposes. Therefore, activities of subsistence farmers, where these constitute acts done privately and for non-commercial purposes, are excluded from the scope of the breeder's right and such farmers freely benefit from the availability of protected new varieties.

The provision in the 1991 Act of the UPOV Convention on "farm-saved seed" is an optional mechanism provided by the UPOV Convention, under which UPOV members may permit farmers, on their own farms, to use part of their harvest of a protected variety for the planting of a further crop. Under this provision, members of UPOV are able to adopt solutions, which are specifically adapted to their agricultural circumstances. However, this provision is subject to reasonable limits and requires that the legitimate interests of the breeder are safeguarded, to ensure there is a continued incentive for the development of new varieties of plants, for the benefit of society. For example, certain members of UPOV apply the provision on farm-saved seed only to certain species and limit its application using criteria such as the size of the farmer's holding or the level of production.

The Office of UPOV would be glad to provide information on:

- provisions of the UPOV Convention,  
in particular the
  - conditions of protection;
  - scope of protection;
  - exceptions to the breeder's right;
- the functioning of the UPOV system;
- its impact and benefits.

It is important to note that the use of traditional varieties is not prevented by the implementation of the UPOV system. Furthermore, under the UPOV system:

- private and non commercial use of a protected variety is not subject to the breeder's authorization;
- the saving of seed of a protected variety may be permitted (within limits and while respecting the breeder's interests);
- the breeder's exemption also applies to farmers;
- the protection is limited in time.

In conclusion, there is no obstacle to implement Article 9 of the International Treaty in a mutually supportive way with the UPOV Convention.



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**APPENDIX H****SELECTION OF CANDIDATES AND APPOINTMENT OF MEMBERS TO THE EXECUTIVE BOARD OF THE GLOBAL CROP DIVERSITY TRUST**

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**The Governing Body,**

**Recalling** the terms of the *Relationship Agreement between the Global Crop Diversity Trust and the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture* and the importance of the Trust's work in safeguarding globally important crop diversity;

**Noting** the Interim and Normal Selection and Appointment Procedures set out in document, *Relationship between the Governing Body and the Global Crop Diversity Trust*<sup>42</sup>;

**Further recalling** that, in accordance with the Interim Procedures, the Governing Body, at its First Session, delegated to the Bureau the power of appointment of the first four members of the Executive Board of the Global Crop Diversity Trust to be appointed by the Governing Body;

**Conscious** that a further decision of the Governing Body is required in order to make the Normal Selection and Appointment Procedures fully operational;

**decided** as follows:

- i. To delegate to the Bureau the power to select and appoint members of the Executive Board to the Global Crop Diversity Trust to replace those members whose term will expire during the intersessional period between the Third and Fourth Sessions of the Governing Body. The Bureau should consult Contracting Parties on the nomination of candidates and should consult with the Selection Committee appointed by the Donor Council of the Global Crop Diversity Trust to ensure regional balance and balance of skills;
- ii. To appoint the Bureau to oversee the selection process for the appointments to be made in 2012, in accordance with the Normal Selection and Appointment Procedures;
- iii. To delegate to the Bureau the power to take action to fill any unforeseen vacancies that may arise in the intersessional period between the Third and Fourth Sessions of the Governing Body, in consultation with Contracting Parties and with the Selection Committee appointed by the Donor Council as set out in paragraph i. above; and
- iv. To request the Bureau, in conjunction with the Secretariat and on the basis of its experience with application of the Normal Selection and Appointment Procedures during the intersessional period between the Third and Fourth Sessions of the Governing Body, to prepare a report for presentation to the Fourth Session of the Governing Body on possible options for simplification of the Normal Selection and Appointment Procedures.



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**APPENDIX I****LIST OF DOCUMENTS**

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**Working Documents**

IT/GB-3/09/1 Rev.1	Draft Provisional Agenda Rev.1.
IT/GB-3/09/2	Draft Provisional Annotated Agenda and Indicative Time-table
IT/GB-3/09/3	Report of the Chairperson
IT/GB-3/09/4	Report of the Secretary
IT/GB-3/09/5	Financial Rules of the Governing Body
IT/GB-3/09/5 Add 1	Financial Rules of the Governing Body – Background Information
IT/GB-3/09/6 Rev. 1	Draft Procedures and operational mechanisms to promote compliance and to address issues of non-compliance Rev.1
IT/GB-3/09/7	Report of the Co-Chairs of the <i>Ad Hoc</i> Advisory Committee on the Funding Strategy
IT/GB-3/09/8 Rev.1	Report on actions taken by the Secretary on the implementation of the Funding Strategy
IT/GB-3/09/9	Consideration of the Business Plan of the Governing Body
IT/GB-3/09/10	Report from the Global Crop Diversity Trust
IT/GB-3/09/11 Rev.1	Report of the Chair of the <i>Ad Hoc</i> Third Party Beneficiary Committee
IT/GB-3/09/12	Assessment of progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons
IT/GB-3/09/13	Review of the implementation of the Multilateral System
IT/GB-3/09/14	Review of the implementation and operation of the Standard Material Transfer Agreement
IT/GB-3/09/15	Review of the implementation of the Material Transfer Agreement being used by the International Agricultural Research Centers of the Consultative Group on International Agricultural Research and other relevant international institutions, for plant genetic resources for food and agriculture not included in <i>Annex I</i> of the Treaty
IT/GB-3/09/16	Implementation of Article 6
IT/GB-3/09/17	Cooperation between the Governing Body and the Commission on Genetic Resources for Food and Agriculture, and coordination of their fields of intergovernmental work
IT/GB-3/09/18	Progress report on partnerships, synergies and cooperation with other organizations
IT/GB-3/09/19	Matters arising from the Report of the Independent External Evaluation of FAO related to the Treaty

IT/GB-3/09/20 Rev.1	Work Programme and Budget 2008-09: Financial Report
IT/GB-3/09/21	Draft Work Programme and Budget for the 2010/2011 Biennium
IT/GB-3/09/21 Add. 1	Addendum 1 to the Draft Work Programme and Budget for the 2010-11 Biennium: possible supporting activities to be funded by Contracting Parties under the Special Fund for Agreed Purposes

### **Information Documents**

IT/GB-3/09/Inf.1	List of documents
IT/GB-3/09/Inf.2	Statement of competence and voting rights submitted by the European Community (EC) and its member states
IT/GB-3/09/Inf.3	Compilation and analysis of submissions made by contracting Parties and observers on procedures and mechanisms to promote compliance and address issues of non-compliance
IT/GB-3/09/Inf.4	Report of the expert consultations on information technologies to support the implementation of the Multilateral System
IT/GB-3/09/Inf. 5	Compilation of Submissions Sent by Contracting Parties, Other Governments, and Relevant Institutions and Organizations on the Implementation of Article 6
IT/GB-3/09/Inf. 5 Add.1	Addendum: Compilation of Submissions Sent by Contracting Parties, Other Governments, and Relevant Institutions and Organizations on the Implementation of Article 6
IT/GB-3/09/Inf. 6	Collection of views and experiences submitted by Contracting Parties and other relevant organizations on the Implementation of Article 9
IT/GB-3/09/Inf. 6 Add.1	
IT/GB-3/09/Inf. 6 Add.2	
IT/GB-3/09/Inf. 6 Add.3	
IT/GB-3/09/Inf. 6 Add.4	
IT/GB-3/09/Inf. 6 Add.5	
IT/GB-3/09/Inf. 7	Report on FAO activities related to the supporting components of the Treaty
IT/GB-3/09/Inf. 8	Draft fund disbursement strategy of the Global Crop Diversity Trust
IT/GB-3/09/Inf. 9	Compilation of submissions made by Contracting Parties on the implementation of the Funding Strategy
IT/GB-3/09/Inf. 10	Pollinators: Neglected Biodiversity of Importance to Food and Agriculture
IT/GB-3/09/Inf. 11	Report by the Bureau on the First Project Cycle of the Benefit-sharing Fund
IT/GB-3/09/Inf.12	The Draft Business Plan of the Governing Body
IT/GB-3/09/Inf.13 Rev.1	List of observers who have requested approval to be represented at the Third Session of the Governing Body in accordance with rule VII.2 of the Rules of procedure
IT/GB-3/09/Inf.15	Experience of the CG Centres with the Implementation of the Agreements with the Governing Body, with particular reference to the

	Use of the Standard Material Transfer Agreement for <i>Annex I</i> and Non-Annex 1 Crops
IT/GB-2/09/Inf.5 (from the Second Session of the Governing Body)	Compilation and analysis of submissions made by Contracting Parties and observers on compliance
IT/GB-1/06/Inf.7 (from the First Session of the Governing Body)	Compilation of submissions and comments on the draft procedures and mechanisms to promote compliance and to address issues of non-compliance

### **Other Documents**

#### **Reports of previous meetings**

GB-1/06/REPORT	Report of the First Session of Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture
GB-2/07/REPORT	Report of the Second Session of Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture
IT/ACFS-3/08/REPORT	Reports of the Third and Fourth Meetings of the <i>Ad Hoc</i> Advisory Committee on the Funding Strategy
IT/ACFS-4/09/REPORT	
IT/ACFS-4/09/REPORT Appendix 4	Reports of the Third and Fourth Meetings of the <i>Ad Hoc</i> Advisory Committee on the Funding Strategy: Appendix 4
IT/TPBC-1/09/REPORT	Reports of the First and Second Meetings of the <i>Ad Hoc</i> Third Party Beneficiary Committee
IT/TPBC-2/09/REPORT	



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LIST DES PARTICIPANTS  
LISTA DE PARTICIPANTES**

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