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**Food and Agriculture  
Organization of the  
United Nations**



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

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**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE**

**NINTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP TO  
ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM**

**Rome, Italy, 17–21 June 2019**

**ENHANCING THE FUNCTIONING OF THE MULTILATERAL SYSTEM: NOTE BY  
THE CO-CHAIRS**

**Executive Summary**

This document contains a note prepared by the Co-chairs, with the support of the Secretariat, to provide an overview of the current possible package of measures and a summary of developments since the Eighth Meeting of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System. Moreover, building on inputs received through informal consultations and taking into account submissions received, the Co-chairs offer a number of suggestions to the Working Group on each of the elements of the package of measures, in order to further facilitate discussions at its ninth meeting.

## 1. Background

1. This ninth meeting will be the second and last meeting of the *Ad Hoc* Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) during this biennium. The Working Group will have to finalize the package of measures that it will recommend to the Governing Body for adoption.
2. In Resolution 1/2017, the Governing Body called for “rapid finalization of the elements for the enhancement of the Multilateral System.”<sup>1</sup> This call was made in the context of the contribution of the International Treaty to the 2030 Agenda for Sustainable Development, thereby linking the work of the Working Group with the broader global agenda and goals.
3. The Co-chairs firmly believe that a well balanced compromise is within reach. This process is now in its third biennium and the Working Group made significant progress since it was established by the Governing Body in 2013. The Co-chairs call upon all members of the Working Group to now make every effort for preparing a solid package of measures that the Governing Body can consider for adoption at its Eighth Session in November 2019.
4. The Working Group is invited to keep its level of ambition high and raise it even higher where necessary, to focus on negotiating and on solving problems rather than raising ever more questions and issues. There is a need to work towards compromise; and compromise necessarily means that everybody should get something and give something. The Co-chairs hope that regions have been consulting so that negotiations at this meeting will be possible on the basis of the respective regional positions.
5. The Co-chairs call upon the members of the Working Group and the representatives of stakeholder groups to be fully aware of the responsibility they have for making the Multilateral System work even better than it does now. The Co-chairs will make every effort that is needed to support the Working Group in reaching compromise.
6. Therefore, building on the all the efforts made by the Working Group in this process, especially at its last meeting in October 2018, the Co-chairs sought to outline below further possible options for compromise, taking into account, amongst other, input received during the informal consultations.
7. The progress made during the series of informal consultations organised during the biennium was encouraging and the Co-chairs would like to thank all the participants in those informal consultations for their constructive contributions and their willingness to find solutions and reach a compromise to finalize the enhancement process. Hopefully, the same positive spirit will prevail at this ninth meeting of the Working Group.
8. The Co-chairs are also very pleased with the constructive and rich submissions received from Contracting Parties and stakeholder groups further to the informal consultations. In preparing this background note, all submissions and inputs received were carefully considered and taken into account.

## 2. Purpose of this note

9. This note was prepared to set the scene and provide the Working Group with suggestions on how to move forward to finalize the process to enhance the functioning of the Multilateral System.
10. The point of departure is the package of measures as developed by the Working Group at its eighth meeting. Building on the outcomes of the informal consultations mentioned below and the wide range of submissions received,<sup>2</sup> the Co-chairs decided to provide the options and suggestions described in this document, and in its Addenda, to the ninth meeting of the Working Group for its consideration.

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<sup>1</sup> [Resolution 1/2017](#), para. 18.

<sup>2</sup> IT/OWG-EFMLS-9/19/Inf.3.

11. The suggestions and options presented in this document and its Addenda are the Co-chairs' alone and without prejudice to any Working Group member's position on the issues discussed.

### **3. Review of developments since the eighth meeting of the Working Group**

12. At its last meeting in October 2018, the Working Group agreed with the Co-chairs' objective to conduct a transparent and inclusive participatory process in preparing for the ninth meeting of the Working Group. In this context, the Co-chairs decided to convene three informal consultations to support the process to enhance the functioning of the Multilateral System. This follows the request of the Governing Body to the Working Group to take any further initiatives needed within the next intersessional period to conclude its work.<sup>3</sup>

13. Three informal consultations were held in January 2019 in San José, Costa Rica, in March 2019 in Addis Ababa, Ethiopia, and in May 2019 in Rome, Italy. During these informal consultations, the Co-chairs received important advice and inputs on key outstanding issues and possible elements for potential compromise.

14. During the informal consultations, considerable progress was made on the thinking of how the package of measures to enhance the Multilateral System could be further developed. The Co-chairs believe that the informal consultations have produced solid advice on the package of measures at the following three levels:

- (1) Content of the revised SMTA, with special emphasis on the Subscription System;
- (2) Options for a possible amendment of Annex I of the International Treaty to expand the coverage of the Multilateral System; and
- (3) Suggestions on steps that could be adopted to sequence the coming into effect of the revised SMTA and the entry into force of the amendment, on the basis of mutual trust.

15. The informal consultations held by the Co-chairs confirmed that Contracting Parties and stakeholders believe that these are the three pillars for reaching compromise and that the Working Group will need to concentrate on finalizing them. Participants in the informal consultations advised the Co-chairs to structure discussions on the entry into force of the package of measures based on concrete steps providing for a sequence of events. Based on these discussions, the Co-chairs would prefer to avoid further discussing a potentially very complex Growth Plan.

16. With this general understanding, the Co-chairs structured the Provisional Agenda for this meeting,<sup>4</sup> to allow for solutions and compromise on all elements of the package of measures, as explained in the following sections.

17. During one of the informal consultations, participants from the seed industry presented and provided extensive explanations on a proposal for a provisional application of parts of the revised SMTA and the establishment of a special trust fund (escrow account) to set aside income generated through these provisionally applied parts of the revised SMTA. This proposal is also included in a submission by the International Seed Federation to the Working Group.<sup>5</sup>

18. At the same informal consultation, participants emphasized the importance of up-to-date information about sales and profitability within the seed sector. Further to this, the Co-chairs, with the assistance of the Secretariat, commissioned the services of two institutions with proven expertise in the seed sector to provide further information on trends in relation to these two areas. The experts from these two institutions were invited to provide a short presentation during the most recent informal consultation on the data that they will use to prepare their analysis of sales and profitability in the seed sector, as well

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<sup>3</sup> [Resolution 2/2017](#), para. 5.

<sup>4</sup> IT/OWG-EFMLS-9/19/1.

<sup>5</sup> IT/OWG-EFMLS-9/19/Inf.3, *Appendix 10*.

as other useful information. The Co-chairs have requested the experts to provide a report of their preliminary key findings to the Working Group at its ninth meeting.

19. A number of issues requiring further legal advice were raised during the informal consultations. As a result, the Co-chairs decided to re-convene the Standing Group of Legal (SGLE) and requested it to provide advice on a set of legal questions. The SGLE accordingly met from 27 to 29 May 2019, in Rome, Italy, and developed legal opinions on these questions, which are available to the Working Group.<sup>6</sup>

#### **4. The way forward: overview of proposals by the Co-chairs**

20. In Resolution 2/2017, the Governing Body requested the Working Group, with support from the Secretariat, to (a) develop a proposal for a Growth Plan to attain the enhanced Multilateral System, (b) revise the Standard Material Transfer Agreement, (c) elaborate criteria and options for possible adaptation of the coverage of the Multilateral System, and (d) make recommendations to the Governing Body on any other issues related to the process for the enhancement of the Multilateral System. The Governing Body therefore expects that a package of measures to enhance the functioning of the Multilateral System is developed, for its consideration, by the Working Group.

21. Considering the discussions held and advice received during the informal consultations, as well as the submissions received by Contracting Parties and stakeholders, the Co-chairs prepared, with support from the Secretary, their draft proposal for the package of measures.

22. Consequently, the Co-chairs would like to propose working on the basis of the following understanding of the package, as a way forward:

- i. The package of measures will be adopted through a Resolution. The draft elements for the Resolution proposed by the Co-chairs are contained in *Appendix 1* of this document.
- ii. The revised SMTA will be annexed to the Resolution. The Co-chairs hope that the basis for finalizing the revised SMTA will be their proposal, which is provided in document IT/OWG-EFMLS-9/19/4 Add.1, with explanatory notes contained in the document, IT/OWG-EFMLS-9/19/4 Add.2.
- iii. The text for an amendment of Annex I of the International Treaty will be contained in another Annex to the Resolution. The Co-chairs suggest that the basis for agreeing on the amendment of Annex I and for finalizing the corresponding text for amending Annex I will be the proposals provided in document IT/OWG-EFMLS-9/19/4 Add.3.
- iv. No growth plan will be provided to the Governing Body as a stand-alone document. Those elements of the growth plan that are considered useful will be incorporated into the text of the Resolution.
- v. The entry into force of the two main measures of the package (the revised SMTA and the amendment) will be dealt with through the Resolution. Other secondary elements of the package will be added to the Resolution to enable trust building amongst Contracting Parties and stakeholders towards the enhancement of the functioning of the Multilateral System.
- vi. One such trust building measure will be to find a practical solution for dealing with digital sequence information in the enhanced Multilateral System. The Co-chairs' proposal on how to deal with this matter are contained in section 6 of this document.

23. As noted above, reaching a compromise on the way forward requires finding a workable and acceptable solution in terms of sequencing all the steps and elements related to the adoption of the revised SMTA and the entry into force of the amendment of Annex I. In this perspective, the following

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<sup>6</sup> IT/OWG-EFMLS-9/19/Inf.4

section summarises the content of a proposal made by the Co-chairs during the most recent informal consultation. The proposal by the Co-chairs outlines steps and elements that could be considered in sequencing the adoption and coming into effect of the SMTA and the adoption and subsequent entry into force of the amendment.

## 5. Adoption and entry into force of the package of measures

24. At its eighth meeting, the Working Group discussed a way forward in relation to the Growth Plan proposed by the Co-chairs and contained in Annex 1 of Resolution 2/2017.<sup>7</sup> An alternative to the Growth Plan was proposed and discussed, and divergent views were expressed about it. Some Regions noted that elements of the Growth Plan remain useful and that these could be presented in a simpler form, focusing on the following four steps:

1. The Governing Body would, at the same session, adopt a decision approving the revised SMTA as well as a decision amending the coverage of the Multilateral System;
2. The revised SMTA would then be opened for Subscription;
3. Contracting Parties, based on their national processes and priorities, would decide on the timing of ratification of the amendment;
4. Both the revised SMTA and the amendment of Annex I of the International Treaty would enter into force at the same time.

25. Some regions expressed a divergent view noting that there was no need for a growth plan and that instead the two measures should be adopted at the same time.

26. The Working Group discussed that the Growth Plan could be useful in addressing the following issues:

- The interlinkages between the expansion of the coverage and the realization of benefit sharing and *vice versa*;
- Trust building measures among Contracting Parties and between Contracting Parties and users of the Multilateral System, especially the private sector.<sup>8</sup>

### *Interlinkages between the expansion of the coverage and the realization of monetary benefit sharing*

27. Discussions held during the informal consultations and submissions received suggest that consensus is forming on the idea of working towards a Governing Body Resolution simultaneously adopting the revised SMTA and the amendment of the coverage of the Multilateral System. Some submissions received suggest that some countries remain however reluctant to agree to the expansion of the Treaty's crop coverage before seeing proof of principle that monetary benefit-sharing has been shown to work and that such expansion, coupled with the coming into effect and use of the revised SMTA, will lead to a predictable and sustainable flow of user-based income to the Benefit-sharing Fund.

28. During the recent informal consultation in Rome, the Co-chairs made a compromise proposal outlining possible steps, in order to replace the growth plan, that could be adopted to sequence the coming into effect of the revised SMTA and the entry into force of the amendment. Participants welcomed the proposal and agreed that it provides a good basis for further discussing the sequencing and implementing of the various steps. The proposal made by the Co-chairs is reproduced in box 1.

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<sup>7</sup> IT/OWG-EFMLS-8/18/Report, paragraph 14-16.

<sup>8</sup> IT/OWG-EFMLS-8/18/Report, para 16.2.

**Box.1 Adoption of the revised SMTA and the amendment of Annex I: compromise proposal by the Co-chairs during the informal consultation - 30 May 2019**

The Resolution agrees on a package of measures that simultaneously adopts the revised SMTA and the amendment of Annex 1:

1. The revised SMTA comes into effect in January 2020.
2. The new SMTA comes into force directly, including registration to the Subscription system.
3. The Subscription System applies to current Annex I until the entry into force of the amendment.
4. Resolution would invite Contracting Parties to ratify the amendment at the earliest opportunity.
5. Amendment will enter into force after two-thirds of the Contracting Parties have ratified, accepted or approved it.
6. After entry into force of the amendment, the subscription system under the revised SMTA applies to the amended Annex I.
7. The Resolution will contain an inbuilt review for the enhancement. Consequently, the Resolution will state that the Governing Body will review before January 2025 the state of ratifications and decide on how to continue. If there are ratifications by two-thirds of the Contracting Parties, the amended Annex I will come into force. If there are not enough ratifications, the Governing Body has to determine the next steps. If not enough ratifications are foreseeable, the Governing Body has and could consider several options.

29. The following paragraphs further describe key aspects of the proposal by the Co-chairs.

*The revised SMTA*

30. The revised SMTA would be adopted by the Governing Body in November 2019 and it would come into effect in January 2020. This would mean that, as of January 2020, all transfers of PGRFA would be done using the revised SMTA which would then effectively replace the current SMTA. The current SMTA would only remain in effect for users having accessed material prior to the Governing Body's decision adopting and giving effect to the revised SMTA.

*The Subscription system*

31. Further to the adoption of the revised SMTA by the Governing Body, the Subscription System would be opened for registration as of January 2020. This means that users wishing to do so would be, as of January 2020, allowed to register to the Subscription system of the revised SMTA.

32. As the revised SMTA would come into effect as of January 2020, but before the entry into force of the amendment, access to PGRFA would be based on all PGRFA under the current Annex I. This means registered Subscriber would be granted access to PGRFA listed in the current Annex I. Once the amendment comes into force, the Subscription would apply to the expanded Annex I.

33. The income generated by the Subscription System will flow to the Benefit-sharing Fund and will be used in accordance with its Operational Manual.

*Ratification of the amendment*

34. To promote the timely entry into force of the amendment of Annex I, the Resolution adopting the revised SMTA and the amendment will contain a provision encouraging Contracting Parties to ratify the amendment at the earliest opportunity so as to attain 2/3 of ratifications needed for the entry into force of the amendment as soon as possible.

*Incorporation of in-built review in the Resolution of the Governing Body*

35. The Resolution will contain an inbuilt review clause for the enhancement providing that the Governing Body will review the state of ratifications and decide on the next steps depending on where things stand with regards to the number of ratifications before January 2025. If ratifications by two-thirds

of the Contracting Parties required for the entry into force are achieved, the amended Annex I will come into force. If however the number of ratifications are not achieved at the time of the review, the Governing Body will have to decide on next steps and possible options. In this case, possible options and way forward will be defined depending on the number of ratifications remaining to reach the threshold required for entry into force.

### **Other trust building measures**

36. During the past three Informal Consultations held in San Jose (Costa Rica), Addis Ababa (Ethiopia), Rome (Italy) participants had constructive discussions on other possible options and trust building measures to consider in facilitating the implementation of the package of measures.

37. One option discussed in relation to the amendment was the possibility of amending only Annex I, without amending any provision of the main body of the International Treaty. This could constitute a key element for enabling a “fast-track” adoption. Participants reiterated that national ratification processes vary from one jurisdiction to another entailing varying timelines for completing these processes. Keeping the amendment text as simple as possible would have the potential to allow for timely ratification by as many countries as possible for a timely entry into force of the amendment.

38. Another trust building measure discussed relates to the possibility of having a provisional application of the amendment. This would entail providing for a provisional application in the text of the amendment or through a Resolution by the Governing Body adopting the possible amendment, to encourage the voluntary provisional application of the expanded coverage by Contracting Parties wishing to do so, to show their commitment to the enhanced Multilateral System. The practical effect will be that any Contracting Party making the declaration to agree to the amendment provisionally will act as if the provisions governing the amendment were already in force, during the period between the declaration and the entry into force of the amendment for that Contracting Party. A provisional application could thus act as a trust building measure to overcome the reluctance of a number of countries, who may only agree to the expansion of the Treaty’s crop coverage after benefit-sharing has been shown to work, and of a number of other countries, who maintain that adequate, user-based income for the Benefit-sharing Fund can only be achieved if and once the Treaty’s crop coverage has been expanded, preferably to all plant genetic resources for food and agriculture.

## **6. Digital Sequence Information**

39. At its eighth meeting, the Working Group discussed whether and how to reflect issues related to “digital sequence information” (DSI) in the draft revised SMTA. There were divergent views on the matter.

40. During the informal consultations, several participants expressed their preference not to limit access to DSI related to PGRFA, given its possible benefits to the broader society and the role it can play in the context of reaching the objectives of the Treaty. Consequently, users should be encouraged to make DSI freely available to the wider public, including through the Treaty’s Global Information System. On the other hand, participants also pointed out the possible challenges DSI might create for the access and benefit-sharing mechanism of the Treaty. However, the discussions held during the informal consultations and the submissions received suggest that there still remain divergent views on how to deal with DSI in the context of the enhancement of the Multilateral System and especially in the text of the revised SMTA.

41. Some regions remain of the view that DSI may be considered as being part of the Treaty and the SMTA, while others seem to be of the view that DSI is not captured in the Treaty. Some submissions explicitly oppose the inclusion of DSI in the revised SMTA, reiterating that access to DSI should not be regulated through the SMTA and stating that it does not fit the structure and terminology used in either the SMTA or the Treaty.

42. Discussions held during the informal consultations and some views raised through the submissions also noted that the terminology of DSI is still unclear and will be almost impossible to define in legal terms. The term “DSI” is not yet agreed upon and the term “genetic sequence data”, which was

previously used in the process to enhance the functioning of the Multilateral System, might be more appropriate to address the subject matter.

43. There also seem to be elements of a possible compromise in the recognition that the Subscription System could resolve the issue by obviating the need to define the nature of DSI. Moreover, the possibility of including text on the issue in the Resolution adopting the package of measures is considered as a helpful approach to be further explored.

44. Building on these two key elements of a possible compromise, which are reflected in the submissions received and the discussions held during the informal consultations, the Co-chairs would suggest the following way forward.

45. It is clear that the Working Group cannot resolve the issue of “DSI” in all of its complex dimensions, starting with the difficulties of agreeing on a commonly acceptable terminology and its definition. DSI is not only being dealt with in several fora, while scientific work and technological innovations go on with an incredible pace, but it has many different dimensions and facets, only part of which directly relate to the mandate of the Working Group.

46. Besides access to DSI on PGRFA, the Co-chairs think that this relates to monetary benefit-sharing from the use of DSI on PGRFA and non-monetary benefit-sharing including capacity-building and information exchange.

47. The Co-chairs suggest that the Subscription System could be framed in such a way as to provide a compromise solution to make sure monetary benefits generated by using information associated with or related to PGRFA accessed in the context of the Subscription System are captured in the subscription fee payments. This might be an acceptable approach to be reflected in (1) the Resolution adopting the package of measures, and (2) the agreement on the payment rate for the Subscription System. Therefore, it might not be needed to explicitly mention the issue in the text of the revised SMTA.

48. For the single access mechanism, due to the conceptually stronger link between the benefit-sharing payment and the PGRFA accessed, this solution cannot be simply mirrored. The Co-chairs appeal to the members of the Working Group to seek a creative and practical solution, without prejudice to other ongoing processes, that might not necessarily have to address the issue directly.

49. The Co-chairs suggest avoiding the term “DSI” and rather making every effort to agree on “information associated with PGRFA” or “information related to PGRFA”, or alternatively using the term “genetic sequence data”.

50. If the Working Group could agree on addressing DSI in draft elements of a Resolution, it would benefit from greater flexibility in dealing with a range of issues that are currently fluid and fast evolving, as compared to having to agree on concise legal language in the revised SMTA. The Governing Body could, for example,

- Make interpretations of any adopted instrument (revised SMTA, amendment), for example by explicitly stating that the subscription payments reflect the value of access to and use of both physical material and associated information/“DSI”;
- Create incentives to ensure that DSI is shared freely, for example by including it in publicly accessible databases and the Global Information System; and,
- Call for capacity development efforts so as to aim at creating a level playing field for all users of the Multilateral System when it comes to access to and use of DSI;

51. The Co-chairs urge members of the Working Group to focus on reaching a well balanced compromise to address this complex issue, considering the mandate of the Working Group and the concrete tasks it was requested by the Governing Body to deliver on.



## 7. Conclusions

52. The package of measures for the enhancement of the Multilateral System will need to be adopted by the Governing Body. The Co-chairs have prepared elements for a draft Resolution of the Governing Body, in *Appendix 1*, for consideration by the Working Group.

*Appendix 1:***ENHANCEMENT OF THE MULTILATERAL SYSTEM: ELEMENTS FOR A DRAFT RESOLUTION***Potential elements for the revised SMTA*

1. *Adopts* the Standard Material Transfer Agreement as revised and contained in Annex 1 to this Resolution;
2. *Decides* that the revised Standard Material Transfer Agreement as contained in Annex 1 to this Resolution shall replace the current Standard Material Transfer Agreement as of 31 January 2020;
3. Further *decides* that a Provider and a Recipient who signed or accepted a Standard Material Transfer Agreement before 31 January 2020 shall have the right to jointly agree on replacing such Standard Material Transfer Agreement with the revised Standard Material Transfer Agreement as contained in Annex 1 to this Resolution;
4. *Urges* Contracting Parties to the International Treaty, as well as institutions that have concluded agreements with the Governing Body under Article 15 of the International Treaty, to take measures necessary for the implementation of the revised Standard Material Transfer Agreement as contained in Annex 1 to this Resolution;
5. *Notes* that the revisions to the Standard Material Transfer Agreement do not alter the rights, roles and responsibilities of the third party beneficiary and *invites* the Food and Agriculture Organization of the United Nations, as the third party beneficiary, to continue to carry out the roles and responsibilities, as identified and prescribed in the revised Standard Material Transfer Agreement, under the direction of the Governing Body, in accordance with the procedures adopted by the Governing Body through Resolution 5/2009;
6. *Requests* the Secretary of the International Treaty to monitor the implementation and operation of the revised Standard Material Transfer Agreement as contained in Annex 1 to this Resolution, in particular the new Subscription System, with a view to provide a comprehensive report on progress to the Governing Body at each subsequent Session;
7. *Invites* Recipients under the revised Standard Material Transfer Agreement as contained in Annex 1 to this Resolution, especially commercial users, to opt for the Subscription System;
8. *Emphasizes* the importance of the Multilateral System to enable access to PGRFA to a wide range of users, in particular family farmers, indigenous peoples, small plant breeding companies and public institutions, and in doing so, *agrees* to exempt from the requirements of benefit-sharing in the revised SMTA users that have less than [XX] seed sales a year.
9. *Requests* the Committee of the Funding Strategy to prepare possible criteria for allocation of funds by the Benefit-sharing Fund, that could take into account, *inter alia*, payments made by entities in a given country; whether a country has ratified the amended Annex 1 or whether the country is actively sharing the material through the Multilateral System;

*Potential elements for the Amendment of Annex 1*

10. *Decides* to amend Annex I of the International Treaty as contained in Annex 2 to this Resolution, in accordance with Articles 23 and 24 of the International Treaty;
11. *Encourages* all Contracting Parties to consider ratifying, accepting or approving the amendment contained in Annex 2 as soon as possible to allow for its timely entry into force;
12. *Decides* that when ratifying, accepting or approving the amendment of Annex I of the International Treaty, Contracting Parties may, exceptionally, list a limited number of species native from their territories, in respect of which they reserve the right not to provide facilitated access under Article 12

of the International Treaty; *requests* the Secretary to make such lists publicly available; *invites* Contracting Parties who availed themselves of the right stipulated in this paragraph to consider deleting plant genetic resources for food and agriculture from their list whenever possible and communicate the deletions to the Secretary; *emphasizes* that each such list does not have any implications for the rights and obligations of any other Contracting Party under the International Treaty;

13. *Requests* the Secretary to promote the ratification, acceptance or approval of the amendment of Annex I including through communication efforts and the provision of background information to Contracting Parties and others, to support or facilitate timely ratification, acceptance or approval by as many countries as possible;

14. *Invites* the Director General of FAO to inform the FAO Conference about the amendment of Annex I and to promote its ratification, acceptance or approval by Member Countries;

15. *Decides* that the Governing Body shall act as the Governing Body for the Amendment, comprising of the Contracting Parties that have ratified, accepted or approved the Amendment.

16. *Decides* that after the entry into force of this Amendment, any ratification, acceptance or approval of or accession to the International Treaty shall include this Amendment;

17. *Decides* that any Contracting Party may, at any time before this Amendment enters into force for it, declare that it will provisionally apply the Amendment, pending such entry into force;

***Potential elements related to PGRFA information, including “Digital Sequence Information”.***

18. *Reaffirms* that 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 exchange of information, access to and transfer of technology, capacity-building, and the sharing of the benefits arising from commercialization;

19. *Agrees* that mandatory payments under the Subscription System, provided for under the revised SMTA contained in Annex 1, also reflects the value of access to and use of information associated with plant genetic resources for food and agriculture covered by the Multilateral System;

20. *Encourages* users who access plant genetic resources for food and agriculture under the alternative access and payment mechanism provided in the revised SMTA contained in Annex 1, to make voluntary contributions to the Benefit-sharing Fund that reflect the value of access to and use of information associated with those plant genetic resources for food and agriculture they access from the Multilateral System;

21. *Urges* Contracting Parties, and *invites* natural and legal persons, who hold information associated with plant genetic resources for food and agriculture to ensure that such information is freely available, for example by including it in the Global Information System;

22. *Invites* developed country Contracting Parties to provide necessary resources and support to developing country Contracting Parties and Contracting Parties with economies in transition to build capacities in the access to and use of information associated with plant genetic resources for food and agriculture;

***Potential elements for the implementation and review of the enhanced Multilateral System***

23. *Decides* to assess progress, at its [XX] Session in [20XX], regarding the number of ratifications, acceptances or approvals of the Amendment and in the income generated to the Benefit-sharing Fund through the revised Standard Material Transfer Agreement, in order to decide how best to proceed with the enhancement of the Multilateral System;

24. *Requests* the Secretary to submit a progress report on the number of ratifications and on income generated to the Benefit-sharing Fund through the revised Standard Material Transfer Agreement as contained in Annex 1 at each Session of the Governing Body;
25. *Decides* to reconvene the *Ad Hoc* Technical Advisory Committee on the Multilateral System and the Standard Material Transfer Agreement during the biennium 2020/2021 to provide advice on the implementation of the enhanced Multilateral System.

***Potential elements for the Preambular text***

**THE GOVERNING BODY,**

*Recalling* Resolution 2/2006, by which it adopted the Standard Material Transfer Agreement;

*Recalling* Resolution 2/2013, by which it established the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing (the “Working Group”), with the task of developing measures aimed at:

- (a) Increasing user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner, and
- (b) Enhancing the functioning of the Multilateral System by additional measures;

*Recalling* Resolutions 1/2015 and 2/2017, by which it extended the mandate of the Working Group for the 2016-2017 and 2018-2019 biennia.

*Having considered* the report of the Working Group on the results from its work, and particularly the results of the ninth meeting that included the draft revised Standard Material Transfer Agreement, proposed by the Working Group and a draft text for amending Annex I of the International Treaty;

*Thanking* the Working Group for its productive work and constructive spirit;

*Further thanking* the Co-chairs for their commitment and able guidance, which facilitated the successful conclusion of the tasks it requested from the Working Group;

*Welcoming* the important contributions from a variety of experts through the three informal consultations and the Standing Group of Legal Experts, and *thanking* the facilitator of the Standing Group of Legal Experts for his dedication and generosity;

*Recalling* that the objectives of the International Treaty 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;

*Noting* that the Standard Material Transfer Agreement should be in conformity with the International Treaty, be effective, and should ensure the efficient and transparent implementation of the Multilateral System;