

March 2006



منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

Food  
and  
Agriculture  
Organization  
of  
the  
United  
Nations

Organisation  
des  
Nations  
Unies  
pour  
l'alimentation  
et  
l'agriculture

Organización  
de las  
Naciones  
Unidas  
para la  
Agricultura  
y la  
Alimentación

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### Item 5 of the Draft Provisional Agenda

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

### FIRST SESSION OF THE GOVERNING BODY

Madrid, Spain, 12-16 June 2006

## DRAFT RULES OF PROCEDURE OF THE GOVERNING BODY

1. The *Open-ended Working Group on the Rules of Procedure and Financial Rules of the Governing Body, Compliance, and the Funding Strategy*, which met from 14-17 December 2005 in Rome, Italy, reviewed and revised the draft Rules of Procedure of the Governing Body for the International Treaty on Plant Genetic Resources for Food and Agriculture and recommended that these be submitted for consideration to the Governing Body at its first session. They are contained in the present document.

2. However, the Open-ended Working Group also:

- requested the Interim Secretariat to review the draft Rules of Procedure in detail and prepare an annotated text, with the assistance of the Co-chairs of the relevant Sub-Working Group of the Open-ended Working Group. This is contained in the document, *Annotated Draft Rules of Procedure of the Governing Body*.<sup>1</sup>
- requested the FAO Legal Counsel to assess the consistency of these draft Rules of Procedure with FAO's Administrative Rules and Procedures and the provisions of the Treaty. His report is given in the document, *Consistency of the Draft Rules of Procedure of the Governing Body, the Draft Financial Rules of the Governing Body, the Draft Procedures and Mechanisms to Promote Compliance and Address Issues of Non-compliance and the Draft Funding Strategy, with FAO's Administrative Rules and Procedures and the Provisions of the Treaty*.<sup>2</sup>

3. The Governing Body is invited to finalize and adopt its Rules of Procedure, taking into account, as appropriate, the two documents mentioned in paragraph 2 above.

<sup>1</sup> Document IT/GB-1/06/3 Add. 1

<sup>2</sup> Document IT/GB-1/06/Inf. 10.



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

**DRAFT RULES OF PROCEDURE**

**Rule I  
Scope**

1.1 These rules of procedure shall apply to all sessions of the Governing Body and the activities of its Secretary. They shall also apply, *mutatis mutandis*, to subsidiary bodies of the Governing Body unless the Governing Body should decide otherwise, in accordance with Rule 9.2.

**Rule II  
Bureau**

2.1 The Governing Body shall elect a Chairperson and one Vice-Chairperson per FAO region other than the region of the Chairperson (hereinafter collectively referred to as “the Bureau”) and in addition a *Rapporteur* from among the representatives, alternates, experts and advisers (hereinafter referred to as “delegates”) of the Contracting Parties. In electing the Bureau, the Governing Body shall have due regard to the principle of equitable geographical representation and the principle of rotation. No member of the Bureau may be re-elected for a third consecutive term. [Notwithstanding Rule 2.3, if a Bureau member resigns from his or her position or finds him or herself unable to exercise his or her functions, the Contracting Party of that Bureau member shall designate another representative from the same delegation so that he or she may replace the said member during the remainder of the term.]

2.2 The terms of office of the Chairperson and Vice-Chairpersons shall commence with immediate effect upon the closure of the session at which they are elected. They shall serve as the Bureau of any Special Session held during their terms of office, and provide guidance to the Secretary with regard to the preparations for, and conduct of, sessions of the Governing Body.

2.3 The Chairperson shall preside at all sessions of the Governing Body and shall exercise such other functions as may be required to facilitate the work of the Governing Body. [The Chairperson, if temporarily absent from a session or any part thereof or temporarily unable to fulfill his or her intersessional duties, shall designate a Vice-Chairperson to act as Chairperson. If the Chairperson is permanently unable to fulfill his or her intersessional duties, the Bureau shall designate another member of the Bureau to act as Chairperson.] A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

**Rule III  
Secretary**

3.1 In accordance with Article 20.1 of the Treaty, the Director General of the FAO shall appoint, with the approval of the Governing Body, a Secretary of the Governing Body to perform the functions included in Articles 20.2 to 20.5 of the Treaty. The Secretary shall be assisted by such staff as may be required.

#### **Rule IV Sessions**

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

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

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

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

4.5 Each Contracting Party shall communicate to the Secretary of the Treaty the name of its representative on the Governing Body before the opening of each Session of the Governing Body. Where possible the names of other members of its delegation shall also be provided to the Secretary of the Treaty before the opening of each session of the Governing Body.

4.6 Meetings of the Governing Body shall be held in public unless the Governing Body decides otherwise.

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

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

5.1 The Secretary shall prepare the provisional agenda on the request of the Chairperson and under the guidance of the Bureau of the Governing Body.

5.2 Any Contracting Party may request the Secretary to include specific items in the Provisional Agenda before it is dispatched.

5.3 The Provisional Agenda shall be circulated by the Secretary at least eight weeks in advance of the Session to all Contracting Parties and observers invited to attend the Session.

5.4 Any Contracting Party may, after the despatch of the Provisional Agenda, propose the inclusion of specific items on the Agenda with respect to matters of an urgent or unforeseen nature, if possible not later than two weeks prior to the Session. These items should be placed on a supplementary list, which, if time permits before the opening of the Session, shall be despatched by the Secretary to all Contracting Parties, failing which the supplementary list shall be communicated to the Chairperson for submission to the Governing Body. Any Contracting Party may propose to include, before the adoption of the Agenda, any other item that it considers to be of relevance.

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

5.6 Documents to be submitted to the Governing Body at any Session shall be furnished by the Secretary to the Contracting Parties at the time the Agenda is despatched or as soon as possible thereafter, but always at least six weeks prior to the beginning of the session.

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

## **Rule VI** **Decision-making [and voting procedures]**

### Option 1

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

6.1bis Without prejudice to Article 19.2 of the Treaty, decisions on matters of substance shall be taken by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall only be taken as a last resort by a two-thirds majority of the Contracting Parties present and voting on the matters dealt in Articles 12.3h, 15.1b(i), 15.5, 18.4f, 19.3a, 19.3b, 19.3f, 19.3g, 19.3j, 19.3l, 19.3m, 19.10, 19.11 and 20.1.

6.1ter If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the Secretary's legal counsel, shall rule on the question. [If the ruling is that the issue is procedural, then any Contracting Party is entitled to oppose the ruling. Upon the voicing of the concern, the issue shall be deemed substantive and thereafter treated as such.] [An appeal against this ruling shall be put to the vote immediately and the Chairperson's ruling shall stand unless overruled by a two-thirds majority of the Parties present and voting.]]

### Option 2

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

### Option 3

[6.1 Decisions of the Governing Body shall be taken on all matters by consensus[, with the exception of procedural matters, on which decisions may, when all efforts to reach consensus have been exhausted and no agreement has been reached, as the last resort be taken by a two-thirds majority of the Contracting Parties present and voting. If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the Secretary's legal counsel, shall rule on the question].]

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

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

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

## **Rule VII Observers**

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

7.2 Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body.

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

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

7.5 International institutions that have signed agreements with the Governing Body under Article 15 of the Treaty shall be invited to attend all Sessions of the Governing Body as observers. Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body on matters of direct concern to the international institutions they represent.

7.6 Before the beginning of a session of the Governing Body the Secretary will circulate a list of observers who have requested approval to be represented at the session.

## **Rule VIII Records and Reports**

8.1 At each Session, the Governing Body shall approve a report embodying its decisions, views, recommendations and conclusions. Such other records, for its own use, as the Governing Body may on occasion decide, shall also be maintained.

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

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

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

### **Rule IX Subsidiary Bodies**

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

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

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

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

### **Rule X Expenses**

10.1 Expenses incurred by representatives of Contracting Parties and by their alternates and their advisers, when attending Sessions of the Governing Body or subsidiary bodies, as well as the expenses incurred by observers at Sessions, shall be borne by their respective governments or organizations. [Nevertheless, the expenses of Contracting Parties who are developing countries, especially least developed countries, and countries with economies in transition, and their advisers, alternates and observers, invited to attend sessions of the Governing Body and its subsidiary bodies, shall be met by the core administrative budget of the Treaty.]

[10.1bis Should experts be invited by the Secretary to attend Sessions of the Governing Body and its subsidiary bodies in their individual capacity, their expenses, unless otherwise determined by the Governing Body, shall be borne by the budget of the Treaty or by extra-budgetary funds.]

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

### **Rule XI Languages**

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

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

### **Rule XII Amendment of the Rules**

12.1 Amendment of or additions to these Rules may be adopted by consensus. Consideration of proposals of amendments of these rules shall be subject to Rule 5 and documents on the proposals shall be circulated in accordance with Rule 5.7 [, as far as possible,] and in no case less than [24 hours] prior to their consideration by the Governing Body.

[12.1bis Amendments of the rules may only be proposed by one quarter of Contracting Parties acting together.]

**Rule XIII**  
**Application of the General Rules of FAO**

13.1 The provisions of the General Rules of the FAO shall apply *mutatis mutandis* to all matters not specifically dealt with under the present rules, provided that this does not conflict with the provisions of the Treaty.

**Rule XIV**  
**Over-riding Authority of the Treaty**

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

**Rule XV**  
**Entry into Force**

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