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Organization of the
United Nations**



**International Treaty
on Plant Genetic Resources
for Food and Agriculture**

Item 9.2 of the Provisional Agenda

TENTH SESSION OF THE GOVERNING BODY

Rome, Italy, 20–24 November 2023

Checkpoint Report of the Co-Chairs of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System

Executive Summary

At its Ninth Session in 2022, the Governing Body emphasized that a fully functional, user-friendly and simple Multilateral System is central for the functioning and success of the International Treaty. Having taken stock of progress made so far to achieve the enhancement of the functioning of the Multilateral System,¹ the Governing Body noted the commitment of Contracting Parties to work together towards adopting a package of measures to enhance the functioning of the Multilateral System.

Through Resolution 3/2022, the Governing Body decided to re-establish the *Ad Hoc* Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) with a view to finalize the enhancement by the Eleventh Session of the Governing Body in 2025.²

The Governing Body appointed Mr. Sunil Archak and Mr. Michael Ryan as Co-Chairs, and requested the Co-Chairs to provide a checkpoint report to the Tenth Session of the Governing Body on progress and for any further guidance, regarding the continuation of the process.

The Co-Chairs' checkpoint report provides reflections by the Co-Chairs on progress made so far and outlines their intentions on how to guide the further process, considering the deliberations of the Working Group at its tenth meeting.

¹ In 2013, Contracting Parties decided to start a formal process to enhance the functioning of the Multilateral System and established the Working Group with the task to recommend measures to enhance the functioning of the Multilateral System. One of the reasons for the establishment of the Working Group was to speed-up the anticipated slow build-up of a sustainable and predictable stream of user-based income to the Benefit-sharing Fund. The Governing Body renewed the mandate of the Working Group twice, in 2015 and in 2017. The Working Group met ten times between 2014 and 2019. All documents and reports are available on the website of the International Treaty at www.fao.org/plant-treaty/meetings/en/. At the Eighth Session in 2019, the Governing Body encouraged informal consultations among Contracting Parties and among sectors and stakeholders. A summary and the full reports of these informal consultations was provided to the Ninth Session of the Governing Body ([IT/GB-9/22/09.2](http://www.fao.org/3/a/IT/GB-9/22/09.2), *Reports from Informal Consultations on the Enhancement of the Multilateral System*; [IT/GB-9/22/09.2/Inf.1](http://www.fao.org/3/a/IT/GB-9/22/09.2/Inf.1), *Informal Consultation Co-facilitated by India and Switzerland: Enhancing the Functioning of the Multilateral System – Co-facilitators' Report*; [IT/GB-9/22/09.2/Inf.2](http://www.fao.org/3/a/IT/GB-9/22/09.2/Inf.2), *Enhancing the Functioning of the Multilateral System – Reports from Two Virtual Informal Consultations Organized by the Government of Switzerland*). For a general overview of the process, see www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/.

² [Resolution 3/2022](http://www.fao.org/3/a/IT/GB-9/22/09.2/Res.3), para. 3.

Guidance Sought

The Governing Body is invited to consider the report provided by the Co-Chairs and to give any further guidance on the process to enhance the functioning of the Multilateral System, taking into account possible elements of a draft resolution contained in the *Annex* to this document.

I. Introduction

1. In response to the request by the Governing Body, at its Ninth Session in 2022, the Co-Chairs of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) provide this checkpoint report to the Tenth Session of the Governing Body.
2. In preparing this report, the Co-Chairs considered the discussions and outcomes of the tenth meeting of the Working Group and the feedback from a series of informal consultations and information-sharing sessions they undertook since the Ninth Session of the Governing Body. A summary of these efforts was provided in a document to the tenth meeting of the Working Group.³
3. From these initial informal interactions, as well as from the formal meeting of the Working Group, the Co-Chairs note a general willingness and strong commitment by all Regions and stakeholder groups to continue the negotiation process in a constructive manner. There is a genuine interest in developing an enhanced Multilateral System that is balanced yet simple, through an outcome-oriented, transparent, inclusive, and targeted process.
4. This checkpoint report comprises the Co-Chairs' overall impressions of the process so far, suggestions for a pathway forward, including a negotiating basis, and a concrete timeline for the next biennium, incorporating inputs and proposals by the Working Group on an earlier draft.⁴
5. The Co-Chairs also provide some suggestions of elements for a possible Resolution (*Annex*).

II. The Multilateral System, present and future

6. Through Resolution 3/2022, the Governing Body emphasized “that a fully functional, user-friendly and simple Multilateral System is central for the functioning and success of the International Treaty”.⁵ In doing so, it guides our work towards key features for the enhanced Multilateral System and it highlights the importance of the Multilateral System for other mechanisms and provisions of the System.
7. The Co-Chairs believe that the Multilateral System is a functioning access and benefit-sharing system. Nevertheless, the Multilateral System can be enhanced to make it work even better and to live up to our common expectations and aspirations that have not yet been met. It is the task and mandate of the Working Group to present a draft package of measures to the Eleventh Session of the Governing Body.
8. The Governing Body regularly receives updates and provides guidance on the Multilateral System. The Secretary provides a report on the operations of the Multilateral System at each of the Governing Body sessions. The reports also provide information on the stable positive trend in the numbers of SMTAs concluded since the Multilateral System became operational, with more than 6,6 million samples transferred.
9. The impressive figures on transfers of materials in the Multilateral System are a reflection of one of the major benefits of the Multilateral System, namely that all Contracting Parties enjoy facilitated access to the plant genetic resources for food and agriculture under the Multilateral System (Art. 13.1 of the International Treaty).
10. These benefits are not easy to quantify, similar to exchange of information, access to and transfer of technology, and capacity-building (Article 13.2a-c, International Treaty). Further work is under way to understand the significance of non-monetary benefit-sharing provided by the Multilateral System.
11. While the Multilateral System provides access to more than 1,1 million accessions, the effective availability of material is a major concern. By far, most of the accessions are made available by a limited number of national and international collections, with the CGIAR Research Centres having distributed around 80% of the PGRFA transferred. There are also important gaps in the list of crops contained in Annex I of the International Treaty. There is a need to expand the list to include crops that would help Contracting Parties achieve food security.

³ [IT/OWG-EFMLS-10/23/3](#), Update by the Co-Chairs on Consultative Process.

⁴ [IT/OWG-EFMLS-10/23/Report](#); [IT/OWG-EFMLS-10/23/4](#), Co-Chairs' Proposal on Enhancing the Functioning of the Multilateral System.

⁵ [Resolution 3/2022](#), para. 1.

12. Data available suggests that most transfers of material have been done to public research institutions. In its last report to the Governing Body, the CGIAR Centers reported that only 12% of the samples were distributed to the commercial sector between 2019 to 2021.

13. Regarding monetary benefit-sharing, the Co-Chairs underscore the excellent work being carried out under the project cycles of the Benefit-sharing Fund of the International Treaty, which also benefits from payments made by users of the Multilateral System. Nevertheless, those payments are not in the amounts or at the level of sustainability than expected. The Benefit-sharing Fund: 2020-2021 Report indicated that by 2022, the user-based income accumulated since 2009 is 391,721 USD.

14. Users of the Multilateral System have indicated that improvements in the terms and conditions of the Standard Material Transfer Agreement (SMTA) will improve its use by both providers and recipients. There's a strong commitment of all types of users of the System to finalize the enhancement process. The main elements of the current Multilateral System have been in place since the early 2000s, so the enhancement process provides an opportunity to update the Multilateral System so that it can deal with both current challenges and the challenges of the future.

15. The Governing Body accordingly listed several shared aims of the process to enhance the functioning of the Multilateral System, in Resolution 3/2022:

- Increase the benefits that arise from the Multilateral System for all Contracting Parties and users, both monetary and non-monetary;
- Increase user-based income to the Benefit-sharing Fund in a sustainable and predictable long-term manner;
- Expand the crops and plant genetic diversity available through the Multilateral System;
- Improve the availability of plant genetic resources for food and agriculture in the Multilateral System;
- Make the Multilateral System more dynamic given that there are developments and emerging issues in science, innovation, plant breeding and global policy environment;
- Create legal certainty, administrative simplicity and transparency for everyone participating in the Multilateral System.

16. These shared aims should guide the Governing Body to improve the System beyond how currently operates.

III. Progress since the Ninth Session and prospects

A. Progress

17. The Co-Chairs recall that the Ninth Session of the Governing Body noted the commitment of Contracting Parties to working together towards adopting a package of measures to enhance the functioning of the Multilateral System, while acknowledging that a range of views exist among Contracting Parties on the matter.⁶

18. Following the request by the Governing Body, the Co-Chairs undertook a series of informal consultations and information-sharing sessions with regions and stakeholder groups during this year. These meetings aimed at creating space and facilitate interactions for building mutual understanding and trust, considering the crucial role of similar approaches in the earlier phase of the process.

19. In March 2023, the Co-chairs held online meetings with all Regions.

20. The meetings were informal, informational and preparatory, and all spokespersons of the Regions were invited to participate, together with other representatives of Contracting Parties and stakeholders of the respective Regions.

21. The meetings allowed participants to share their expectations in relation to next steps in the process and to informally discuss with the Co-Chairs and among themselves some of the key elements that will be considered going forward in the process. During these informal meetings, participants emphasized that the Governing Body identified key issues that should be accorded early attention, including digital sequence

⁶ [Resolution 3/2022](#), para. 2.

information/genetic sequence data (DSI/GSD) and payment rates, as well as consideration of how to address benefit-sharing. They also considered the shared aims identified in Resolution 3/2022 and the general objectives of the International Treaty to be important aspects for the process.

22. Following these informal online consultations with Regions, the Co-Chairs also held informal meetings with all stakeholder groups, in April 2023, with the same purpose and agenda.

23. Additionally, with the generous support of the Government of Switzerland, the Co-Chairs convened a physical informal meeting, facilitated by the Meridian Institute, from 30 May to 1 June 2023, in Prangins, Switzerland.

24. The purpose of the meeting was to provide a platform for participants to informally exchange views on developments since the Ninth Session of the Governing Body and on how to address issues of DSI/ GSD, payment rates and other relevant aspects of the enhancement. Participants also shared initial thoughts on possible approaches to an expansion of Annex I of the International Treaty, as part of the package of measures to enhance the functioning of the Multilateral Systems.

25. The agenda of the meeting included ample space for participants to informally interact on both procedural and substantive matters.

26. From 12 to 14 July 2023, preceded by a day of regional and interregional consultations, the Working Group held its tenth meeting at FAO headquarters in Rome, Italy.

27. The focus of the meeting was the proposal by the Co-Chairs on both substantive and procedural matters concerning the process. The Working Group welcomed the Co-Chairs' Proposal as a good and sound foundation for further work, especially on the three identified "hotspots": DSI/GSD, amendment to the coverage of the Multilateral System, and payment structure and rates.

28. The Co-Chairs considered the suggestions and observations made by the Working Group at its tenth meeting when preparing this checkpoint report.

29. Finally, as requested by the Governing Body, the Co-chairs updated the Bureau of the Tenth Session of progress made during the year and liaised with the Co-chairs of the Standing Committee on the Funding Strategy and Resource Mobilization, as well as with the Chair of the Compliance Committee.

B. Prospects

30. From these informal and formal interactions, the Co-Chairs note a strong willingness and commitment by all Regions and stakeholder groups to engage constructively and to work towards a successful outcome of the process by the Eleventh Session of the Governing Body.

31. While acknowledging the presence of some major challenges, the Co-Chairs believe that there is a narrow but feasible pathway that will, however, require continued support and commitment throughout the next biennium. The preliminary timeline below outlines the significant work that will be required by the Working Group and Secretariat.

32. On DSI/GSD, while there are divergent views on the need for and possible content of a definition, broad comfort is emerging with payments having a component that could be attributable to monetary benefits from the use of DSI/GSD.

33. On a possible expansion of Annex I, there is broad in-principle support, especially if coupled with safeguards as contained in the earlier draft expansion text developed by the Working Group or other measures to give Contracting Parties a certain level of flexibility when implementing the amendment.

34. On payment structure, the Co-Chairs believe that agreement is within reach, but expectations about rates and possible income are still divergent. There is strong support for developing the subscription option for the enhanced Multilateral System. The single access option also has a role but there are still challenges particularly with regard to DSI/GSD that will require further work.

35. Building on the strong commitment to the process, the Governing Body may want to refine the mandate of the Working Group, considering the negotiating basis and preliminary structure of the process outlined by the Co-Chairs in the following section.

IV. Our Proposal

A. Substance

The “June 2019 draft package”

36. The Co-Chairs’ suggestion, as advised by the Ninth Session of the Governing Body⁷ and agreed by the tenth meeting of the Working Group,⁸ is to take the “June 2019 draft package” as the starting point, complemented by additional ideas, recent developments and new approaches arising from the work of the Working Group. The Co-Chairs intend to present a full draft package of measures for consideration by the Working Group at its twelfth meeting, as also suggested by the Working Group.⁹

37. The ninth meeting of the Working Group, in June 2019, was a moment of significant progress in the earlier phase of the enhancement process. What came out of that meeting was perhaps the most advanced draft outcome package of measures the Working Group was able to achieve at that time.

38. The resulting “June 2019 draft package”¹⁰ signified a moment of genuine commitment, compromise and trust.

39. It covered all three elements referred to in Resolution 3/2022: a draft revised SMTA, an approach to the possible expansion of Annex I, and suggested implementation measures in a resolution of the Governing Body.

40. The draft Resolution in the “June 2019 draft package” contained elements related to:

- adopting the revised SMTA (in particular a start date for use of the revised SMTA and payment options);
- adopting the Treaty amendment text (in particular agreeing arrangements for management of the Treaty once in force and establishing a mechanism for Contracting Parties to declare certain exclusions in relation to material they will provide through the MLS);
- entry into force of the package and transitional arrangements);

41. The draft Resolution of the June 2019 draft package also included elements dealing with what it called “PGRFA information” but none of them were agreed at the time.

42. A number of the elements and implementation measures contained in the draft Resolution¹¹ were important to facilitating agreement by the Working Group on many parts of the SMTA and on the draft amendment text regarding Annex I of the International Treaty, for example:

- Measures on the practicalities regarding the use of the revised SMTA, including the time as of when the subscription option would be available, to which PGRFA it would relate and how the payments would be calculated during the first phase;
- Elements detailing the provisional implementation and subsequent review of the enhanced Multilateral System, with transitional measures concerning the allocation of funds and details on the consequences should the expected number of ratifications for the entry into force of the amended Annex I not be reached;
- Exemption of certain users from benefit-sharing payments;
- Further details on the safeguards in the draft amendment text regarding Annex I.

⁷ [Resolution 3/2022](#), para. 4: “Decides that the process should build upon previous progress and achievements both in terms of structure and content and integrate new ideas, if relevant, and address, in a balanced manner, all three blocks of the package of measures developed previously (revised SMTA; expansion of Annex I; implementation measures through a Resolution of the Governing Body).”

⁸ [IT/OWG-EFMLS-10/23/Report](#), para. 12.

⁹ [IT/OWG-EFMLS-10/23/Report](#), para. 15.

¹⁰ [IT/OWG-EFMLS-9/19/Interim Report](#).

¹¹ [IT/OWG-EFMLS-9/19/Interim Report](#), page 19.

43. A lot of progress had been made by the Working Group in the context of revising the SMTA and the “June 2019 draft package” contains a very advanced draft revised SMTA¹² with only few – though some of them crucial – issues remaining. This work was based on earlier efforts of the Working Group, considering the submissions received from Contracting Parties and stakeholders, advice by the Standing Group of Legal Experts (SGLE) and by several Friends of the Co-chairs groups (FOCCs), as well as taking into account the discussions during a series of informal consultations.¹³

44. The Co-Chairs believe that the most significant elements of the draft revised SMTA include the following:

- Provision for a subscription option as the primary means to enhance the predictability and sustainability of user-based payments to the Benefit-sharing Fund in a long-term manner;
- Provisions to make the SMTA more attractive to users, especially those who are expected to make benefit-sharing payments, such as the withdrawal clauses and the minimum incorporation threshold clauses;
- Enhanced enforceability and dispute settlement provisions, as well as provisions on damages;
- Improved reporting, monitoring and transparency clauses.

45. Finally, the “June 2019 draft package” also comprises an advanced draft of an amendment of Annex I of the International Treaty,¹⁴ including the following elements:

- Expansion of Annex I to cover all PGRFA under the management and control of Contracting Parties and in the public domain that are found in ex situ conditions;
- With a safeguard clause, allowing Contracting Parties to exclude a limited number of species under narrow conditions.

46. The Co-Chairs consider these texts to be a useful basis to develop a draft package of measures for the consideration of the Working Group at its twelfth meeting. This will allow the Working Group to build upon previous progress and achievements both in terms of structure and content and integrate new ideas, where relevant.

47. The Co-Chairs intend to keep the structure of the “June 2019 draft package” and use the text that had been agreed *ad referendum* by June 2019 as a basis in preparing their proposal, with the understanding that nothing is agreed until everything is agreed.

Three “hotspots” requiring particular consideration

48. Based on the informal interactions earlier this year, the Co-Chairs identified three key areas for further work, or “hotspots”: digital sequence information/genetic sequence data (DSI/GSD), amendment of the coverage of the Multilateral System (amendment of Annex I), and payment structure and rates.

❖ Digital sequence information/genetic sequence data (DSI/GSD)

49. In the earlier phase of the enhancement process, the Working Group discussed possible ways of addressing DSI/GSD in the package of measures, considering both terminology and substance, and focusing on monetary benefit-sharing from the use of DSI/GSD. Concrete text proposals and the related discussions were summarized by the previous Co-Chairs in several documents prepared for the Working Group.¹⁵

50. For example, the Working Group discussed where to address DSI/GSD in the revised SMTA and in the Resolution adopting the package of measures, including concrete text proposals.

¹² [IT/OWG-EFMLS-9/19/Interim Report](#), page 25-41.

¹³ [IT/GB-9/22/9.2/Inf.3](#), *Overview of Resources Available Under the Process to Enhance the Functioning of the Multilateral System*.

¹⁴ [IT/OWG-EFMLS-9/19/Interim Report](#), page 42.

¹⁵ [IT/OWG-EFMLS-6/17/Inf.8](#), *Consideration of Issues Regarding Genetic Information Associated with Material Accessed from the Multilateral System: Note by the Co-Chairs*; [IT/OWG-EFMLS-8/18/4](#), *Enhancing the Functioning of the Multilateral System: Note by the Co-Chairs* (paras. 30-36); [IT/OWG-EFMLS-9/19/4](#), *Enhancing the Functioning of the Multilateral System: Note by the Co-Chairs* (paras. 39-51); [IT/OWG-EFMLS-9/19/C-C Non-Paper](#), *Enhancing the Functioning of the Multilateral System: Non-Paper by the Co-Chairs* (Section IV on PGRFA information).

51. The Working Group also discussed that the subscription option may provide a promising possibility to reflect DSI/GSD sufficiently, whereas the single access option would require a different approach.
52. In the “June 2019 draft package”, the revised SMTA only includes bracketed text relating to DSI/GSD, primarily in the benefit-sharing provisions of the subscription option and the related definitions. The draft Resolution contains a whole section on DSI/GSD, but it was not agreed or extensively discussed by the Working Group.
53. This hotspot will require further work. During the informal consultations, the Co-Chairs noticed a high level of engagement and strong willingness to find new solutions for this element, especially considering the recent developments in other relevant fora.
54. A major development since 2019 is the outcome of the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP-15).¹⁶ The progress at that meeting could provide further impetus to find a solution that addresses the specific circumstances under and issues within the mandate of the International Treaty.
55. At CBD COP-15,¹⁷ countries agreed that benefits from the use of DSI/GSD on genetic resources should be shared fairly and equitably. This stated principle was not agreed before and is certainly to be taken into account in the negotiations under the International Treaty.
56. Moreover, CBD COP-15 also agreed that a solution should be mutually supportive of and adaptable to other instruments and fora while recognizing that other fora may develop specialized approaches.
57. Although the Convention on Biological Diversity (CBD) could not finalize a comprehensive solution dealing with all aspects of DSI/GSD, it agreed to develop a solution for the sharing of benefits arising from the use of DSI/GSD on genetic resources based on a list of concrete principles.¹⁸
58. It decided “to establish, as part of the Kunming-Montreal Global Biodiversity Framework, a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a global fund.”¹⁹
59. So far, the CBD did not reach any final agreement on a possible legal definition of DSI/GSD and decided to continue to use DSI as a placeholder term for its further discussions.
60. At its tenth meeting, the Working Group discussed that the subscription option may already provide for a solution to monetary benefit-sharing from the use of DSI/GSD, but that DSI/GSD in relation to a single access option, if agreed, will require further work. A range of views were expressed regarding the need for a definition of DSI/GSD.
61. The Working Group also noted the importance of capacity-building for accessing and using DSI/GSD.²⁰
62. The informal meetings provided valuable input that the Co-Chairs will consider when developing their draft package of measures. Clarification is needed particularly as to where DSI/GSD will be addressed in the package of measures, whether a principle of monetary benefit-sharing from the use of DSI/GSD is agreeable, and what level of detail is required to address DSI/GSD in the revised SMTA, including the possible need for a definition.
63. Finally, the Co-Chairs suggest interacting with public databases to explore possible linkages from the Multilateral System. This could also include a small study that the Co-Chairs could commission.

❖ *Amendment of Annex I*

64. At its tenth meeting, the Working Group expressed broad support, in principle, for the expansion of Annex I, while underscoring the interlinkage of all measures within the package, in particular with the aim of increasing user-based income to the Benefit-sharing Fund in a sustainable and predictable long-term manner. It emphasized its continued support and strong willingness to design the possible mechanisms for a wide

¹⁶ www.cbd.int/meetings/COP-15.

¹⁷ [Decision 15/9](#). *Digital sequence information on genetic resources*.

¹⁸ [Decision 15/9](#). *Digital sequence information on genetic resources*, para. 9.

¹⁹ [Decision 15/9](#). *Digital sequence information on genetic resources*, para. 16.

²⁰ [IT/OWG-EFMLS-10/23/Report](#), para. 9.

expansion, possibly to the full scope of the International Treaty, while ensuring flexibility in the implementation of any expansion.²¹

65. This follows the positive interactions and informal consultations the Co-Chairs had with Regions and stakeholder groups earlier in the year, as well as the exchange of ideas at the informal meeting in Prangins, Switzerland. These meetings had shown that consensus is within reach on expanding Annex I.

66. The draft text for an expansion of Annex I comprised in the “June 2019 draft package” will be a good starting point for further discussion, along with potential alternatives, as also considered by the Working Group at its tenth meeting.²²

67. From the informal conversations, the Co-Chairs gather that a decision to expand the coverage of the Multilateral System should probably be made only once. It might be politically difficult to phase the addition of crops to the coverage of the Multilateral System in the future, as it would entail several commensurate ratification rounds, as well as raise several practical questions.

68. One alternative to the safeguards included in the “June 2019 draft package” could be, for instance, to amend the International Treaty to include, in-principle, all PGRFA in the Multilateral System. The practical implementation could then be carried out by giving the Governing Body flexibility to agree on priority crops to be progressively included in a list. Contracting Parties could also, alternatively, have flexibility to gradually implement the expansion at national level. The nationally determined contributions under the United Nations Framework Convention on Climate Change could provide some inspiration and we could look further into such approach.²³

69. This could also be accompanied by language in a draft resolution setting a common goal or vision by the Governing Body to have, for example within a specific timeline to be agreed, a Multilateral System containing well curated, fully characterized and described genetic resources of as broad a list of food and forage crops as possible.

70. Certain priorities could be set for Contracting Parties as they gradually implement the full expansion at national level, seeking to reach the goal established by the Governing Body.

71. Needs and interests of stakeholders, including users of MLS, will also inform a priority setting process. These priorities could include criteria such as interdependence (crops with the highest level of interdependence of countries in the world) or use (crops with the highest degree of use for nutrition or climate resilient production). A study commissioned by the Secretariat in the last biennium with metrics for around 350 crops and forages could provide useful metrics and guidance in this context.²⁴

72. Further ideas were discussed by the Working Group at its tenth meeting and will also be considered by the Co-Chairs when developing their draft package of measures.

❖ *Payment structure and rates*

73. The shared aims of the process, as mentioned in Resolution 3/2022, include to “increase the benefits that arise from the Multilateral System for all Contracting Parties and users, both monetary and non-monetary” and to “increase user-based income to the Benefit-sharing Fund in a sustainable and predictable long-term manner”.²⁵

74. In the earlier phase of the process, significant progress was made to improve the payment structure of the SMTA, informed by a bulk of studies and background papers, input from two Friends of the Co-Chairs groups, and submissions by Regions, Contracting Parties, and stakeholders. This information continues to be available to the Working Group.²⁶

²¹ [IT/OWG-EFMLS-10/23/Report](#), para. 22.

²² [IT/OWG-EFMLS-10/23/Report](#), para. 22.

²³ unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs.

²⁴ [IT/GB-9/22/16.2/Inf.1](#), *The Plants That Feed the World: baseline data and metrics to inform strategies for the conservation and use of plant genetic resources for food and agriculture*. The final version of the study will be published later this year.

²⁵ [Resolution 3/2022](#), para. 2.

²⁶ A dedicated webpage is available at www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/enhancement-process/en/. A summary of available sources was presented to the Ninth Session of the Governing Body in the document [IT/GB-9/22/09.2/Inf.3](#), Overview of Resources Available under the Process to Enhance the Functioning of the Multilateral System.

75. The overall approach in the earlier phase of the process was to develop a monetary benefit-sharing structure in the revised SMTA that would foresee mandatory payments only, while defining exemptions. Also, the idea was to establish a system that would support participation of the broadest range of users possible. Finally, there was agreement to make the subscription option particularly attractive to users.

76. The subscription option in the “June 2019 draft package” (called “Subscription System”) is well developed, including:

- A separate section with terms and conditions for the subscription option in Annex 3 of the revised SMTA;
- Provision of a public register with the names of Subscribers;
- Provisions specifying the relationship between subscriptions and (previously) concluded SMTAs;
- Transparency and reporting provisions;
- A draft structure for monetary payments and exemptions.

77. The main challenging issue is the payment rates. The Working Group considered several concrete proposals for rates without coming to any final agreement. The previous Co-Chairs had proposed the following rates: (1) Subscription System 0.015%, (2) single access 0.2% minus 30% for the revised Article 6.8 payments, (3) 2.0% minus 30% for the revised Article 6.7 payments. The Working Group discussed that the rate of the subscription option should be in the range of 0.01% and 0.1%. These and other proposals for rates were briefly summarized in an information document prepared for the Ninth Session of the Governing Body.²⁷

78. The previous Co-Chairs commissioned a study on sales and profitability within the seed sector, for the Working Group to have data and information available as an evidence base for discussing monetary benefit-sharing and payment rates. This information may still be of relevance and remains available to the Working Group.²⁸

79. At its tenth meeting, the Working Group strongly supported the subscription option, while emphasizing that exemptions and thresholds will be critical to its attractiveness and effectiveness.

80. Regarding the single access option, a range of views were expressed. For the single access option, if it will remain in the revised SMTA, the “June 2019 draft package” contains an advance draft.

81. Further work will now be required to finalize the monetary benefit-sharing provisions, including on payment basis, exemptions and rates. The “June 2019 draft package” will provide a good basis to conclude this work. Agreement is also needed on whether or not to include a single access option and how to balance between the two options, with the aim in mind to increase user-based payments to the Benefit-sharing Fund. The definition of payment rates is challenging and closely linked to advancing the two previous hotspots and understanding their impact on access options.

82. The discussion on payment structure and rates will also benefit from information on progress in the work of the Standing Committee on the Funding Strategy and Resource Mobilization regarding a funding target for the Benefit-sharing Fund. The Co-Chairs will continue to liaise with the Co-Chairs of the Funding Committee for this purpose.

Other elements

83. The Co-Chairs believe that the process should first focus on these “hotspots”, which are the key outstanding issues.

84. Subsequently, the more detailed issues could be addressed in a second phase, especially the other remaining provisions of the revised SMTA.

85. On the review of these provisions, the Working Group, at its tenth meeting, agreed to start its work from the revised SMTA contained in the “June 2019 draft package”.

²⁷ [IT/GB-9/22/9.2/Inf.2](#), page 11.

²⁸ [Analysis on sales and profitability within the seed sector: Independent Report by IHS Markit \(Philipps McDougall\) for the Co-Chairs of the Working Group; IT/OWG-EFMLS-9/19/Inf.5, Report on sales within the seed sector.](#)

86. Other possible issues for consideration in the enhancement process, suggested by some spokespersons of the Working Group, are the access of material from the Multilateral System for direct use, particularly by small-scale farmers; the effective availability of material that is part of the Multilateral System (an issue also included in the “shared aims” of Resolution 3/2022); and facilitated access for countries who are (not yet) Contracting Parties.

Conclusions

87. It will be important to build on the achievements and success of the first phase of the enhancement process, as was also requested by the Governing Body.

88. The Co-Chairs will therefore use the “June 2019 draft package” as a basis for developing the draft negotiating text to be presented to the Working Group’s twelfth meeting. This will include a draft revised SMTA, a draft text for an amendment of Annex I of the International Treaty, and a draft resolution with implementing measures.

89. Particular attention will be given to the three “hotspots” (DSI/GSD, amendment of Annex I, and payment structure and rates), which the Co-Chairs will address in the negotiating text considering developments since 2019 and taking into account inputs received from the Working Group and through informal meetings, as briefly explained in this section.

90. The Co-Chairs received positive feedback from the Working Group on these plans for developing the content of the negotiating text, so they are confident that all Regions and stakeholder groups will engage constructively in contributing to the finalization of the draft by the Co-Chairs and subsequently, in working on the basis of the text.

B. Steps and Process to the Eleventh Session of the Governing Body

91. Sustained efforts will be required to bring the process to a successful conclusion at the Eleventh Session of the Governing Body. Active and inclusive participation by all Regions and stakeholder groups needs to be ensured and sufficient financial resources be allocated, for example to allow for adequate representation, interpretation/translation, regional consultations throughout the biennium, informal meetings of the Working Group, input from experts, and support from informal small groups, as needed.

92. From the interactions since the Ninth Session of the Governing Body, the Co-Chairs strongly believe that a draft package of measures could be presented to the Eleventh Session for adoption, should all Regions and stakeholder groups fully commit to the process and constructively engage in the negotiations, and should adequate financial resources be provided.

93. In order to achieve this, the Co-Chairs have the following proposed plans for the process up to the Eleventh Session of the Governing Body, which consider the many best practices from the earlier phase of the process, the inputs received at the informal meetings earlier this year, and the feedback from the Working Group at its tenth meeting.

94. The Co-Chairs suggest up to four formal meetings of the Working Group could be held in the next biennium. Throughout the biennium, regional consultations should be facilitated. This was particularly emphasized by the Working Group at its tenth meeting.²⁹

95. In addition, the Co-Chairs should have the possibility to call for at least one informal meeting of the Working Group, should they deem it to be beneficial for making progress.

96. The Co-Chairs should additionally have the possibility to receive advice on certain issues by individual experts, as provided for in Resolution 3/2022, or expert groups. This could also include input through studies or research papers.

97. Informal meetings of the Working Group, the establishment of expert/small groups, and inputs through studies were all important elements in the earlier phase of the process. If needed, a small group of legal experts could support the Working Group by preparing draft text proposals for consideration by the Working Group, especially with regard to the revised SMTA. Word-by-word negotiations of each provision

²⁹ [IT/OWG-EFMLS-10/23/Report](#), para. 17.

of the revised SMTA at the plenary meetings of the Working Group proved to consume significant amount of time and may not be the most efficient way to proceed.

98. The Working Group, at its tenth meeting, agreed that informal interactions would be a useful element that could complement the formal process.³⁰ Also, the Working Group considered the convening of Friends of the Co-Chairs groups, informal meetings or expert groups as a tool that would be used on a needs basis as the negotiation process advances, with clearly articulated terms of reference agreed by the Working Group, as appropriate.³¹

99. Given the importance of involving decision-makers, the Co-Chairs had proposed the possibility of organizing a high-level segment on the margins of the Eleventh Session of the Governing Body. The Working Group discussed that the convening of such a meeting would need to take into account different factors and would need to be coordinated with the host country and the Bureau.³²

C. Other relevant processes

100. Since the Ninth Session of the Governing Body, a number of developments have taken place that are of direct relevance to the process to enhance the functioning of the Multilateral System.

Intersessional processes of the Governing Body

101. Through Resolution 3/2022, the Governing Body decided that the enhancement process should build upon current progress and achievements of other Treaty intersessional groups and underscored the necessity to liaise closely with the Standing Committee on the Funding Strategy and Resource Mobilization (Funding Committee) including with regard to non-monetary benefit-sharing and the Benefit-sharing Fund, and with the Compliance Committee with regard to Contracting Parties making available material contained in the Multilateral System.

102. In May 2023, the Funding Committee approved the list of projects to be funded by BSF-5 in May 2023, and in doing so, it expressed its appreciation for the transparency and efficiency of the process undertaken to identify the project proposals to be funded. The Committee also started the discussion of a methodology for measuring non-monetary benefit-sharing. In September 2023, the Committee revised its Operational Plan with a view to prioritize three areas related to the enhancement process during the next biennium: the Benefit-sharing Fund target; non-monetary benefit-sharing; and provision of policy and criteria as called for in Article 13.4 of the Treaty.

103. The Compliance Committee, in its meeting in February 2023, finalized its report to the Tenth Session of the Governing Body. On the Multilateral System, the Committee noted that 70 percent of reporting Contracting Parties have made available PGRFA material in the Multilateral System and communicated it through notifications to the Secretary, or through the Global Information System. Thirty percent of reporting Contracting Parties, however, have not notified any material available in the Multilateral System and the Committee identified this as one area where additional support and capacity building is needed. The respective national reports enumerate the main reasons, which are of a legal, policy, technical or financial nature. Some Contracting Parties also indicate that implementation of the International Treaty started relatively recently. Further legal, administrative and technical support and guidance is requested by many Contracting Parties to make progress towards the notification of all PGRFA available in the Multilateral System.³³

104. The Co-Chairs believe that the finalization the enhancement process by GB-11 needs to build upon current progress and achievements of other Treaty intersessional groups and that the guidance provided by GB-10 to relevant intersessional bodies should consider areas of work that would contribute to a successful finalization of the enhancement process. The Co-Chairs are committed to continue liaising regularly with the Co-Chairs of these inter-sessional bodies throughout next biennium.

³⁰ [IT/OWG-EFMLS-10/23/Report](#), para. 8.

³¹ [IT/OWG-EFMLS-10/23/Report](#), para. 16.

³² [IT/OWG-EFMLS-10/23/Report](#), para. 18.

³³ [IT/GB-10/23/14](#), Report of the Compliance Committee, pages 21 and 39.

Other UN relevant processes

Convention on Biological Diversity

105. In particular, CBD COP-15 adopted the “Kunming-Montreal Global Biodiversity Framework” (GBF) and a corresponding monitoring framework, as mentioned above.

106. CBD COP-15 adopted a decision related to policy development for digital sequence information on genetic resources.³⁴ In this decision, CBD COP-15 recognized “that digital sequence information on genetic resources is under consideration in other United Nations bodies and instruments” and “that any solution for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources should be mutually supportive of and adaptable to other instruments and fora while recognizing that other fora may develop specialized approaches”. The term Digital Sequence Information has not been defined within the GBF or in any CBD COP-15 decisions.

107. In this regard, CBD COP-15 agreed to develop a solution for the sharing of benefits that should:

- Be effective, efficient, feasible, and practical;
- Generate more benefits than costs;
- Provide certainty and legal clarity for providers and users;
- Not hinder research and innovation, and be consistent with open access to data;
- Not be incompatible with international legal obligations;
- Be mutually supportive of other access and benefit-sharing instruments; and
- Take into account the rights of indigenous peoples and local communities.

108. CBD COP-15 also decided to establish, as part of the GBF, a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a multilateral fund for the equitable sharing of benefits between providers and users of digital sequence information, to be finalized at COP-16, in Türkiye, in 2024.

109. Finally, CBD COP-15 decided to establish an ad hoc open-ended working group on benefit-sharing from the use of digital sequence information on genetic resources to undertake further development of the multilateral mechanism.

UNCLOS/BBNJ

110. Under the United Nations Convention on the Law of the Sea, a new “Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction” was adopted.³⁵

111. The Agreement includes section II on marine genetic resources, including the fair and equitable sharing of benefits.

112. Several provisions in the Agreement relate to “digital sequence information on marine genetic resources of areas beyond national jurisdiction.” The term Digital Sequence Information has not been defined within the Agreement.

World Health Organization

113. Finally, negotiations are ongoing at the World Health Organization (WHO) on a convention, agreement, or other international instrument on pandemic prevention, preparedness and response.

114. The “Bureau’s text of the WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response” (WHO CA+) contains provisions on access and benefit-

³⁴ [Decision 15/9](#), *Digital sequence information on genetic resources*.

³⁵ [A/CONF.232/2023/4*](#), Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

sharing and several references to “digital sequence information” and “genetic sequence data”. The draft instrument also comprises a definition of “genomic sequences”.³⁶

Relevance for the MLS enhancement

115. The developments in these other fora may be of relevance to the process to enhance the functioning of the Multilateral System, both with regard to the outcomes and considering the work during the upcoming months.

116. Each body will continue to work within their respective scope and mandate, but the Co-Chairs emphasize that from user and provider perspectives, seeking to ensure a coherent framework will be an important element to provide for legal certainty.

117. The Co-Chairs therefore highlight the importance of consulting and communicating both at international and national levels.

118. The Working Group, at its tenth meeting, discussed developments in other relevant fora. “It emphasized the need for continued strong collaboration between the Secretariats of the International Treaty and the CBD, as well as the importance of coordination within Contracting Parties. In particular, these interactions should aim to ensure that the special nature of plant genetic resources for food and agriculture are considered in CBD processes and any specific solutions the International Treaty provides are taken into account, with a view to increase global food security and sustainable agriculture.”³⁷

D. Preliminary timeline

119. Based on the considerations in this checkpoint report, the Co-Chairs developed the following preliminary timeline, incorporating inputs and feedback received from the Working Group at its tenth meeting:

TIMELINE	SUGGESTED MILESTONES AND DELIVERABLES	<i>RELEVANT INTERNATIONAL MEETINGS</i>
2024 – first semester	<ul style="list-style-type: none"> ▪ 11th Working Group meeting: March 2024: <ul style="list-style-type: none"> ○ Deliverables: Options paper on 3 hotspots by Co-Chairs + June 2019 draft package of measures for extensive comments by Working Group 	<i>CBD DSI Working Group - 2: 20-23 May 2024 (Kunming, China)</i>
2024 – second semester	<ul style="list-style-type: none"> ▪ 12th Working Group meeting: Early September 2024 <ul style="list-style-type: none"> ○ Consideration of first draft package of measures prepared by the Co-Chairs ○ Agree on draft package of measures proposed by the Working Group 	<i>CBD COP 16: 21 October – 1 November 2024,</i>
2025 – first semester	<ul style="list-style-type: none"> ▪ 13th Working Group meeting: back-to-back with CGRFA-20 if availability in HQ is confirmed: <ul style="list-style-type: none"> ○ Consider input resulting from regional/interregional consultations ○ Take up elements of the package ▪ Informal meeting of the Working Group: May 2025 ▪ Regional/interregional virtual consultations and exchanges: June 2025 	<i>CGRFA-20: 17-21 Feb 2025, Rome, Italy</i>

³⁶ [A/INB/5/6](#), Bureau’s text of the WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response (WHO CA+).

³⁷ [IT/OWG-EFMLS-10/23/Report](#), para. 26.

2025 – second semester	<ul style="list-style-type: none"> ▪ 14th Working Group meeting: mid-July 2025 – Location: could be GB-11 host country <ul style="list-style-type: none"> ○ Deliverable: report to GB with MLS enhancement package ▪ Regional / national consultations: August – October 2025 <p>GB-11 + High Level Segment (24 – 29 November 2025)</p>	<i>FAO Conference: July 2025, Rome, Italy</i>
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120. As it has been customary throughout the enhancement process, the Co-Chairs will continue using different tools such as the holding informal meetings, Friends of the Co-Chairs, commissioning of analysis, and inviting Parties and stakeholder groups for written inputs and submissions.

121. In refining the timetable, the Co-Chairs will work with the Secretariat to consider the schedule of other intersessional bodies in planning meetings, including with a view of holding meetings back-to-back.

V. Recommendations to the Governing Body

122. Building on the updates and information provided above, the Co-Chairs present the following recommendations to the Tenth Session of the Governing Body, for its consideration.

123. The work that is before the Working Group is substantial and will require sustained support from Regions, Contracting Parties and stakeholder groups, particularly given the expectation to present a full draft package of measures to the Eleventh Session of the Governing Body.

124. Given the amount of work, the process to enhance the functioning of the Multilateral System will need to receive priority in the programme of work and budget 2024-2025.

125. A successful outcome by the Eleventh Session of the Governing Body is only possible if the Working Group can have a minimum number of meetings, as explained above, and if these formal meetings will be coupled with informal meetings, regional consultations and expert advice. Sufficient financial resources need to be allocated to cover the costs.

126. The Co-Chairs also recommend encouraging Regions and stakeholder groups to ensure that participants in the process, especially spokespersons in the Working Group, receive the necessary support and have the necessary knowledge, skills and experience to represent them.

127. The mandate of the Working Group in Resolution 3/2022 provides a solid basis for the enhancement process. The Governing Body may want to consider refining a few elements:

- Regarding the negotiating text, endorse the use of the “June 2019 draft package” as the starting point;
- Identify the three “hotspots” requiring early attention: DSI/GSD, expansion of Annex I, and payment structure and rates;
- Invite all Contracting Parties and Regions to ensure their commitment to the process;
- Regarding financial resources, consider making adequate budgetary provisions;
- Give the Co-Chairs the possibility to establish expert groups and other informal groups to develop input for the process, as needed;
- Welcome the preliminary timeline developed by the Co-Chairs;
- Emphasize that the finalization of the enhancement process needs contributions from relevant intersessional bodies during the biennium.

128. The Co-Chairs provide some elements for a possible resolution, as contained in the *Annex* to this document.

Elements for a Resolution on enhancing the functioning of the Multilateral System

THE GOVERNING BODY,

Recalling Resolution 3/2022, by which it decided to re-establish the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing (Working Group), to finalize the enhancement of the functioning of the Multilateral System by the Eleventh Session of the Governing Body;

Having considered the checkpoint report by Co-Chairs, and **thanking** the Co-Chairs for their efforts to facilitate interactions and informal consultations, to build trust and mutual understanding;

Thanking the Government of Switzerland for the financial support provided to hold a physical informal meeting in Prangins, Switzerland, which was a further trust-building measure and produced input for the meeting of the Working Group;

Thanking the Governments of the Netherlands, Norway and Switzerland for providing the financial resources to allow the Working Group to hold its tenth meeting in all languages;

1. **Endorses** the suggestion of the Working Group to use the “June 2019 draft package” as a starting point for its further work;
2. **Requests** the Co-Chairs to give early attention to the three identified “hotspots”: digital sequence information/genetic sequence data, expansion of Annex I, and payment structure and rates;
3. **Invites** the Co-Chairs to continue to organize informal meetings in the next biennium and to establish small ad hoc Friends of the Co-Chairs groups, where needed;
4. **Invites** the Co-Chairs to seek written inputs or reports from all relevant stakeholders;
5. **Invites** Contracting Parties and Regions to fully commit to continuing the negotiations on the package of measures to enhance the functioning of the Multilateral System and to ensure that participants in the process, especially spokespersons in the Working Group, receive the necessary support and have the necessary knowledge, skills and experience to represent them;
6. **Welcomes** the preliminary timeline developed by the Co-Chairs in their checkpoint report contained in the document IT/GB-10/23/9.2;
7. **Urges** Contracting Parties to provide support and financial resources, as necessary, for the Working Group to be able to fulfil its mandate effectively and on schedule.