



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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NOTIFICATION

Reports of Committees

Dear Madam/Sir,

I have the honour to draw attention to the reports of the meetings of the following Committees:

- *Ad Hoc Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System* (third meeting, 26-28 June 2012; fourth meeting, 6-7 November 2012)
- *Ad Hoc Advisory Committee on the Funding Strategy* (seventh meeting, 18 – 20 September 2012)
- *Ad Hoc Technical Advisory Committee on Sustainable Use of Plant Genetic Resources for Food and Agriculture* (first meeting, 8 – 9 November 2012)

In particular, I would like to draw attention to the subjects that the Committees examined in view of their consideration by the Governing Body at its forthcoming Fifth Session.

Attached to this communication you can find four cover notes summarizing the major outcomes of the meetings and the links to the online reports.

The Secretariat will issue a new notification with the reports of meeting of the *Compliance Committee* as well as of the resumed meetings of the *Ad Hoc Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System* and the *Ad Hoc Advisory Committee on the Funding Strategy*.

Please accept, Madam/Sir, the assurance of my highest consideration.

Shakeel Bhatti
Secretary of the Governing Body
International Treaty on Plant Genetic Resources
for Food and Agriculture

**THIRD MEETING OF THE AD HOC TECHNICAL ADVISORY COMMITTEE ON THE
STANDARD MATERIAL TRANSFER AGREEMENT AND THE MULTILATERAL
SYSTEM**

The Report can be downloaded in electronic format from the website of the International Treaty: <http://www.planttreaty.org/sites/default/files/ACSMTA3re.pdf>

The meeting was held from 26 to 28 June 2012 in New Delhi, India. The terms of reference are contained in the Appendix to Resolution 4/2011. The Committee advises the Secretary on implementation of questions raised by users of the SMTA and the Multilateral System, which the Secretary brings to their attention on the basis of questions addressed and forwarded to the Secretary by Contracting Parties, international centres having signed agreements with the Governing Body under Article 15 of the Treaty and other users of the SMTA.

The Committee:

- with regard to the inclusion of material into the Multilateral System, noted that, while not being mandatory under the Treaty, the notification of plant genetic resources for food and agriculture (PGRFA) that are in the Multilateral System, in writing, to the Secretariat is a useful practice that should be encouraged; the Committee also noted that some Contracting Parties chose to make information publicly available through other means, such as on-line databases, and welcomed the action of some Countries that had deposited PGRFA in international genebanks;
- it agreed on an opinion on non-food/non-feed uses of PGRFA;
- with regard to the transfer to farmers, for direct use for cultivation, of PGRFA under the Multilateral System, it reaffirmed the opinion previously given for CGIAR Centers and, in considering the applicability of that opinion with regard to other providers and recipients, agreed on a further opinion;
- with regard to the updating of the SMTA, requested a document containing options for the reflection of the updates, an analysis of such options, and, as one of the options, draft explanatory notes that could accompany the SMTA;
- as regards the creation of legal space for the operation of the Multilateral System in the context of access and benefit-sharing regimes, it expressed the view that nothing in the Nagoya Protocol would prevent Contracting Parties to the Treaty that will also be Parties to the Nagoya Protocol from implementing the Treaty and its Multilateral System; the Committee emphasized that practical and harmonious interfaces between general access and benefit-sharing requirements and the operation of the Treaty and its Multilateral System have to be created in positive and constructive ways, both nationally and internationally;
- in response to a set of questions received from users of the Multilateral System in the context of a project, it advised on: a) the operation of the monetary benefit-sharing obligation in not-for-profit projects under Article 13 of the Treaty; b) the relationship between the monetary benefit-sharing obligation and the geographical extent of the restrictions triggering such obligations; c) the calculation of benefit-sharing payments at the point of sale of the product on the open market; d) the monetary benefit-sharing obligation in relation to the sale of hybrids;
- as regards the transfer of PGRFA to affiliate companies and SMTA concluded on behalf of affiliate companies, it advised that transfers to other units of the same company or institution (the same legal person) need not be made under the SMTA, and that transfers to

commercial partners and affiliates that are different legal persons would have to be made with the SMTA, regardless of the territorial location of the partners and affiliates;

- in relation to the definition of genera and species of Annex I crops, it noted that a practical way to approach the issue of PGRFA in *Annex I* would be to adopt the crop-based approach, i.e. to consider whether the material is part of the gene pool of the crop listed in *Annex I*, regardless of taxonomical issues; the Committee also advised to consider the provisions of Article 11.2 of the Treaty as well as the definition of “Plant Genetic Resources for Food and Agriculture” in the Treaty, in the consideration of what falls under *Annex I*.

***FOURTH MEETING OF THE AD HOC TECHNICAL ADVISORY COMMITTEE ON
THE STANDARD MATERIAL TRANSFER AGREEMENT AND THE MULTILATERAL
SYSTEM***

The Report can be downloaded in electronic format from the website of the International Treaty: <http://www.planttreaty.org/sites/default/files/ACSMTA4Re.pdf>

The meeting was held from 6 to 7 November 2012 in Rome, Italy.

The Committee:

- suggested that the Secretariat provide an update on the development of and progress with the implementation of technology support to the Multilateral System to the Governing Body at its next Session;
- requested the Secretariat to continue monitoring and participating in the relevant processes related to the Nagoya Protocol and the Convention on Biological Diversity;
- restated that the scope of the Treaty is all PGRFA, and that the Governing Body, therefore, has the mandate and authority to decide and carry out work on all matters within this scope, including any further work on access and benefit-sharing for PGRFA;
- requested the Secretariat to follow the process of development of implementation guidelines to the *Principles on the Management of Intellectual Assets of the Consultative Group on International Agricultural Research*;
- as regards the updating of the SMTA and the options for reflecting clarifications to the SMTA, agreed to suspend the discussion so that members could consult within their regional groups prior to resuming the discussions and make proposals for addressing the clarifications to the SMTA;¹
- with regard to possible model provisions that may be inserted in national access and benefit-sharing legislation to create space for the operation of the Multilateral System, it proposed a text for consideration and further recommendation to interested Contracting Parties by the Governing Body;
- with regard to the issue of fees for germplasm distribution, it examined whether the “minimal cost involved” as referred to in Article 12.3(b) of the Treaty may be considered as including the transaction costs of germplasm distribution and the cost of producing and conserving germplasm, and concluded that the factors involved in calculating fees should be limited as far as possible, thus to cover only mailing or shipping costs and not germplasm producing and conservation costs; the Committee further recommended that the issue of unreasonable requests in terms of scope or quantity of germplasm could be considered by the Governing Body at its next Session.

¹ The meeting will resume on 12 April to examine the issue further.

**SEVENTH MEETING OF THE AD HOC ADVISORY COMMITTEE ON THE
FUNDING STRATEGY**

The Report can be downloaded in electronic format from the website of the International Treaty: <http://www.planttreaty.org/sites/default/files/acfs7re.pdf>

The meeting was held from 18 to 20 September 2012 in Geneva, Switzerland. The terms of reference are contained in part IV of Resolution 3/2011. It advises the Governing Body on resource mobilization efforts, on the operation of the Benefit-sharing Fund, and on the monitoring of the implementation of the overall Funding Strategy.

The Committee:

- noted that Contracting Parties were not meeting the targets which they had set for themselves in the Strategic Plan for the implementation of the Benefit-sharing Fund and advised the Governing Body to begin, at its next Session, an exploration of all possible measures, including innovative approaches, that could address the shortfall accumulated in the Benefit-sharing Fund;
- noted the successful mobilization of resources through cultivation events under the Strategic Plan and requested the Secretary to further carry out the cultivation activities of the Strategic Plan;
- reviewed several innovative approaches and requested further proposals to be submitted by other Contracting Parties and stakeholders in writing for inclusion into a compilation of possible innovative approaches prepared by the Committee; the agenda item was left open by the Co-chairs for continuation at a resumed meeting;²
- stressed the importance of preparing and publishing a terminal report providing a synthetic account of the main results and success stories of the first project portfolio;³
- reviewed the *Report on lessons learnt during the execution of the first and second rounds of the project cycle* and provide its advice in the review of Operational Procedures and in the design and structure of the third Call for Proposals;
- advised the Governing Body to finalize the review of the *Operational Procedures* on the basis of the draft provided in *Appendix 3* of the Report;
- submitted to the Bureau the Draft Policy to manage conflict of interest and standards of conduct: Benefit-sharing Fund, in *Appendix 4*, and recommended it become used as soon as possible;
- advised on the structure, contents and process to prepare the draft mid-term programmatic approach for the Benefit-sharing Fund, to be submitted to the Governing Body, for approval;
- endorsed the standard stages for the establishment of long-term partnerships listed in paragraph 24 of document IT/ACFS-7/12/7 and requested the Secretary to develop a draft standard procedure and cooperation framework for submission to the Bureau for its review;
- requested the Secretariat to prepare a draft Call for Proposals.

² The Secretariat will inform of the outcomes of the resumed meeting and will circulate the report. There are yet no official dates for such resumed meeting.

³ The Report can be found online at: <http://www.planttreaty.org/content/report-first-round-project-cycle-benefit-sharing-fund>

**FIRST MEETING OF THE AD HOC TECHNICAL ADVISORY COMMITTEE ON
SUSTAINABLE USE OF PLANT GENETIC RESOURCES FOR FOOD AND
AGRICULTURE**

The Report can be downloaded in electronic format from the website of the International Treaty: <http://www.planttreaty.org/sites/default/files/ACSU1Re.pdf>

The meeting was held from 8 to 9 November 2012 in Rome, Italy. The terms of reference are contained in annex to Resolution 7/2011, among them, they include the following tasks:

- identification of needs and opportunities to facilitate the sustainable use of PGRFA;
- development of a toolbox on sustainable use of PGRFA in order to assist Contracting Parties in the implementation of Article 6 of the Treaty;
- elaboration of a draft work programme on sustainable use of PGRFA, based on elements generated by stakeholder consultations;
- cooperation with the CBD, the Commission on Genetic Resources for Food and Agriculture, the Global Crop Diversity Trust, the International Agricultural Research Centres of the Consultative Group on International Agricultural Research, and other international processes and institutions in the field of sustainable use of PGRFA.

The Committee:

- agreed on the format for an online questionnaire to gather information to devise and elaborate elements of a Programme of Work on Sustainable Use of PGRFA (PoW) that has been launched on 19 December 2012 and will close on 31 March 2013;
- agreed on a provisional draft of the vision, mission and goals of the PoW with the implementing the sustainable use of PGRFA as per Article 6 of the Treaty;
- supported the development of a Toolbox on Sustainable Use of PGRFA as a one-stop shop from which institutions and individuals can draw selectively from a common and comprehensive set of instruments to tailor solutions to specific needs;
- reviewed the submissions received by the Secretariat on views, experiences and best practices on the implementation of Farmers' Rights and asked the Secretariat to communicate the extension of the deadline.