



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

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

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

Rome, Italy, 10–12 October 2018

OTHER RESOURCES AVAILABLE TO THE WORKING GROUP

Note by the Secretary

This document provides, for ease of reference of the Working Group, a list of previously published documents, reports and tools that the Working Group had before it during the last two biennia and that might still be of relevance for its discussions at this meeting. The list includes a brief description of referenced materials and hyperlinks, in order to facilitate easy access to the different documents, reports and tools, which are all available on the website of the Treaty. This document was prepared for the information of the Working Group and does not constitute nor imply any assessment of qualification by the Secretariat of the particular relevance or importance of the referenced material.

List of previously published documents, reports and tools

Information documents:

- **Report of the Standing Group of Legal Experts: outcomes of the First Meeting (IT/OWG-EFMLS-6/17/Inf.3):**

At its first meeting in November 2016, the Standing Group of Legal Experts gave six legal opinions (Opinions 1 to 6), on questions such as the legal possibility of deleting Article 6.8 of the SMTA; the capacity of the Governing Body to establish different payment rates for different categories of products; the legal possibility of adopting an SMTA with a Subscription System as the only access and benefit-sharing modality; the legal possibility of establishing an advance benefit-sharing payment; the register and confidentiality; and the restoration of germplasm.

Available at: <http://www.fao.org/3/a-br408e.pdf>

- **Report of the Standing Group of Legal Experts: outcomes of the Second Meeting (IT/OWG-EFMLS-6/17/Inf.3 Add.1):**

At its second meeting in February 2017, the Standing Group of Legal Experts gave five legal opinions (Opinions 7 to 11), on questions such as modalities and consequences of amending Annex I of the International Treaty to include “all PGRFA”; a general assessment of the enforceability of the SMTA; possible terminology for the “withdrawal” clause; and the possible involvement of the Third Party Beneficiary in amending the SMTA.

Available at: <http://www.fao.org/3/a-br429e.pdf>

- **Second Report from the Friends of the Co-Chairs Group on Access Mechanisms and Payment Rates (IT/OWG-EFMLS-6/17/Inf.4):**

At its second meeting in November 2016, the FOCC on Access Mechanisms and Payment Rates concentrated on non-refundable upfront advance payments; possible payment structures for the Subscription System and the Launch Mechanism.

Available at: <http://www.fao.org/3/a-br412e.pdf>

- **Report from the Friends of the Co-Chairs Group on Scope of the Multilateral System (IT/OWG-EFMLS-6/17/Inf.5):**

This document contains the report of the FOCC on Scope of the Multilateral System, evaluating amongst others the advantages and disadvantages of expanding the coverage of the Multilateral System to “all PGRFA” or to only some additional PGRFA. The FOCC also looked at advantages and disadvantages of not changing the coverage of the Multilateral System at all. Additionally, the FOCC evaluated the impacts on both access and benefit-sharing for the various groups of users of the Multilateral System, and the extent to which the implementation of the Multilateral System with an expanded coverage will be enforceable and effective, taking into account the objectives of the Treaty.

Available at: <http://www.fao.org/3/a-br411e.pdf>

- **Second Report from the Friends of the Co-Chairs Group on a Termination Clause (IT/OWG-EFMLS-6/17/Inf.6):**

This document provides the outcomes of the work of the FOCC on a Termination Clause to develop draft texts of termination/withdrawal clauses to be included in a revised SMTA, with the understanding that the SMTA could still contain a single-access option, as well as a short note explaining the main aspects of those clauses.

Available at: <http://www.fao.org/3/a-br409e.pdf>

- **Report from the Friends of the Co-Chairs Group on User and Crop Categories (IT/OWG-EFMLS-5/16/Inf.4):**

In this document, the FOCC on User and Crop Categories reported on their discussions about the possibility of establishing different rates for different crops and of establishing different sets of obligations for different categories of users, for example based on turn-over, or on formal status and role (i.e. profit vs. non-profit organizations). The FOCC also examined the possibility of exempting small scale farmers in developing countries from the use of the SMTA.

Available at: <http://www.fao.org/3/a-bp084e.pdf>

- **Report from the Friends of the Co-Chairs Group on Access Mechanisms and Payment Rates (IT/OWG-EFMLS-5/16/Inf.5):**

In their first report to the Working Group, the FOCC on Access Mechanisms and Payment Rates provided information on options to incorporate multiple access mechanisms (single access vs. subscription system; mandatory or voluntary payments) in the revised SMTA, by developing criteria for evaluating the different options for enhancing the Multilateral System and making an assessment of the different options against these criteria. The FOCC also provided information on options to introduce a differentiated system of payment rates in the revised SMTA.

Available at: <http://www.fao.org/3/a-bp082e.pdf>

- **Report from the Friends of the Co-Chairs Group on a Termination Clause (IT/OWG-EFMLS-5/16/Inf.6):**

This document provided the interim report of the FOCC on a Termination Clause, reporting on their work to develop a text proposal that would form the basis for discussions by the Working Group to enable the inclusion of a termination clause in the revised SMTA.

Available at: <http://www.fao.org/3/a-bp083e.pdf>

Working documents:

- **Implementing Procedures for the Subscription System (IT/OWG-EFMLS-6/17/4):**

This document briefly explores the main elements of possible implementing procedures for a Subscription System, such as the register and confidentiality, the administration of payments and the transfer of material. It draws on the advice of the Standing Group of Legal Experts, as well as on the recommendations from the Friends of the Co-chairs on Access Mechanisms and Payment Rates.

Available at: <http://www.fao.org/3/a-br435e.pdf>

- **Synoptic Study 1: Estimating Income to be expected from possible changes in the provisions governing the functioning of the Multilateral System (IT/OWG-EFMLS-2/14/3)**

This study provided an economic analysis, to evaluate the potential of possible revisions to SMTA Articles 6.7 and 6.11 to ensure sustainable and predictable income to the Benefit-sharing Fund.

Available at: <http://www.fao.org/3/a-be635e.pdf>

- **Synoptic Study 2: Estimating income to be expected from possible changes in the provisions governing the functioning of the Multilateral System**

This document analyses some of the legal questions arising from certain measures to enhance the functioning of the Multilateral System, including revisiting Articles 6.7/6.8 and 6.11 of the SMTA, upfront payments on access to the Multilateral System and a possible expansion of the coverage of the Multilateral System.

Available at: <http://www.fao.org/3/a-be638e.pdf>

- **Synoptic Study 3: An analysis on how to enhance mechanisms for capacity-building, technology-transfer and information-exchange (IT/OWG-EFMLS-2/14/5)**

This study analyses non-monetary benefit-sharing under the International Treaty and provides an update on progress made on the development of mechanisms for non-monetary benefit-sharing. The study also suggests possible measures to enhance mechanisms for information exchange, technology transfer and capacity building.

Available at: <http://www.fao.org/3/a-be636e.pdf>

- **Synoptic Study 4: Estimating income to be expected from possible changes in the provisions governing the functioning of the Multilateral System (IT/OWG-EFMLS-2/14/6)**

This study analyses different factors that influence the willingness of stakeholder groups to contribute to the successful operation of the Multilateral System, based on interviews and questionnaires.

Available at: <http://www.fao.org/3/a-be637e.pdf>

Other material:

- **Computer tool for the calculation of rates:**

This computer tool was developed as a supporting resource for the discussions of the Working Group at its fourth meeting, allowing the calculation of rates under different scenarios. Explanations and further background information were provided in the document, [IT/OWG-EFMLS-4/15/4](#), Commentary on Structural Elements for the Development of a Subscription Model/System (e.g. in *chapter 3: A hypothetical calculation of rates*, paras. 25-28).

Available at: <http://www.fao.org/plant-treaty/areas-of-work/the-multilateral-system/the-smta/en/>

- **Seed Companies' Declaration of Commitment:**

Before the seventh meeting of the Working Group, the Co-chairs received a declaration of commitment signed by 23 seed companies (expanded to 41 before the Seventh Session of the Governing Body), based in Asia, Europe and North America, expressing their intention to become subscribers under the enhanced Multilateral System, provided that certain business critical conditions are met.

Available at: http://www.fao.org/fileadmin/user_upload/faoweb/plant-treaty/EFMLS/BS773e.pdf