



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**

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

**Executive Summary**

This document contains a note prepared by the Co-Chairs, with support of the Secretariat, to provide an overview of the current possible package of measures and a summary of developments since the Seventh Session of the Governing Body. Moreover, building on inputs received through informal consultations, the Co-chairs offer a number of suggestions to the Working Group on each of the elements of the package of measures, in order to further facilitate discussions at its eighth meeting.

## 1. Introduction

1. This note has been prepared by the Co-Chairs, taking into account informal expert and stakeholder consultations, with support of the Secretariat, to set the scene and provide the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) with suggestions on how to move forward to finalize the enhancement process.
2. The Governing Body, through Resolution 2/2017, extended the mandate of the Working Group, which is to develop a range of measures that will (1) increase user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner; and (2) enhance the functioning of the Multilateral System by additional measures.
3. The Governing Body requested the Working Group, *inter alia*, to:
  - Revise the Standard Material Transfer Agreement;
  - Elaborate criteria and options for possible adaptation of the coverage of the Multilateral System;
  - Develop a proposal for a Growth Plan to attain the enhanced Multilateral System;
  - Make recommendations to the Governing Body on any other issues related to the process.
4. When undertaking these tasks, the Working Group is requested to take into account the draft Growth Plan (Annex 1 to Resolution 2/2017), the Co-chairs' Summary arising from the Seventh Session of the Governing Body (Annex 2 to Resolution 2/2017) and the Co-chairs' proposed consolidated text for the revised Standard Material Transfer Agreement (Annex 2 to Resolution 2/2017).
5. *Underlying philosophy and goal:* The Co-Chairs are of the view that a concrete and positive outcome is possible by the Eighth Session of the Governing Body. For this vision to materialize, there is a need for the Working Group to work efficiently and for every Member to be ready to engage constructively and to aim for compromises. We are also convinced that maximum transparency of the process and the full involvement of Treaty Contracting Parties must be ensured.
6. *Steps undertaken since the beginning of the biennium:* In the months following the Seventh Session of the Governing Body, informal consultations were held, in order to provide advice to the Co-chairs on how to structure the work of the Working Group during the biennium and to allow key negotiators and directly interested stakeholders to openly exchange, in an informal setting, their ideas on how best to advance the process. We would like to thank all participants in these meetings for their constructive and open discussions. Additionally, with a view to update Contracting Parties about the developments in this process and to give them the possibility to express their expectations and ideas on the way forward, we organized a briefing of permanent representatives to FAO in July 2018.
7. It is our objective to keep Contracting Parties regularly updated and engaged as we move ahead with the enhancement process. There will be the possibility to reflect on the importance of keeping all Contracting Parties informed, through periodic briefings and other measures, under Agenda Item 8 of this meeting. Similarly, we would like to thank the stakeholder groups that have been actively contributing to this process. We are committed to continuing our efforts to facilitate regular exchanges with all stakeholder groups.

## 2. General review of efforts and progress made by the Working Group so far

8. During the informal meetings referred to above and the briefing of Permanent Representatives in July 2018, the Co-Chairs have exchanged views on progress made so far in the process of enhancing the functioning of the Multilateral System. We are working towards a package of measures to enhance benefit-sharing and access in the Multilateral System. Access has worked relatively well in the Multilateral System so far. More emphasis towards ensuring

monetary benefit-sharing is now required. Such emphasis should not be to the detriment of the delivery of other benefit-sharing mechanisms, which are central to the Multilateral System (information sharing, technology transfer and capacity building). There is consensus on the importance of non-monetary benefit-sharing and there may be some trust-building measures on non-monetary benefit-sharing in the final package of measures to enhance the MLS.

9. The Working Group has made considerable progress in the development of the package of measures to enhance the Multilateral System. In our view, the package currently has three pillars:

- (1) a revised SMTA, with special emphasis on the Subscription System;
- (2) the amendment of Annex I of the International Treaty to expand the coverage of the Multilateral System; and
- (3) a growth plan that would describe a launch mechanism of the revised SMTA and its linkages with the amendment of Annex I, and that will also contain a number of trust-building and additional measures for the implementation of the enhanced Multilateral System.

10. Our informal discussions so far confirm that Contracting Parties and stakeholders believe that these 3 pillars are valid and that we need to concentrate on finalizing them. With this general understanding we have structured the agenda following the terms of reference established by the Governing Body for the Working Group, and propose to focus on making progress in a number of concrete areas at this meeting, as explained in the following sections.

11. There are still many areas to resolve in preparing the package of measures but we believe that we can find compromises and solutions as we move forward. An area which is still very challenging and where the expectations are still far apart is the level of income that will accrue to the Benefit-sharing Fund as a result of the enhancement process. This is an area where we need to liaise closely during the biennium with the *Ad Hoc* Committee on the Funding Strategy and Resource Mobilization, as requested by the Governing Body. We will ask the Co-Chair of the Committee to brief us on the progress made in their work during our meeting.

### **3. Purpose of this note**

12. Building on these efforts and on the input we received from the informal consultations mentioned above, the Co-chairs decided to provide the options and suggestions described in this document to the eighth meeting of the Working Group.

13. The point of departure is the package of measures as reported by the Working Group to the Seventh Session of the Governing Body.

14. We take into account the Co-chairs' summary arising from the Seventh Session of the Governing Body and our proposed consolidated text for the SMTA, in addition to the valuable outcomes of the informal consultations held during the first few months of this biennium.

15. The suggestions and options we present in this document as Co-chairs are ours alone and without prejudice to any Working Group Members' positions on the issues discussed.

16. It is our hope that they will help us make progress in our discussions at our eighth meeting.

### **4. Revision of the Standard Material Transfer Agreement of the Multilateral System of Access and Benefit-sharing**

17. Resolution 2/2017 provides the Terms of Reference for the Working Group during this biennium. There are several inputs arising from the previous biennium that the Working Group can take into account to make progress in its work on the revised SMTA. These include:

- The *draft revised Standard Material Agreement: proposal by the Working Group* (IT/OWG-EFMLS-8/18/3) provided in Annex 2 of the Report of the Ad-Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System, and which would form the basis for further negotiations as specified in paragraph 4.b of Resolution 2/2017.
- The Co-Chairs summary arising from GB-7 (Annex 2, Resolution 2/2017) that focuses on the discussions held on the revised SMTA and that identifies 5 blocks of issues that require further work: mechanisms for access to PGRFA from the Multilateral System, withdrawal and termination, formulation of benefit-sharing in particular within the Subscription System, enforceability and digital sequence information in relation to the SMTA. The Co-Chairs summary is provided in document IT/OWG-EFMLS-8/18/Inf.4.
- The Co-Chairs proposed consolidated text for the revised SMTA that is also contained in Annex 2 of Resolution 2/2017 and which provides a useful source of information for further discussions on the revised SMTA. Throughout this document we have referred to this document as the *Co-Chairs SMTA version* which is provided in document IT/OWG-EFMLS-8/18/Inf.3.
- Previous information and submissions on the revised SMTA made by Contracting Parties and stakeholder Groups during the biennium 2016/2017, including the Declaration of Commitment by seed companies.

18. We would like to clarify, at the outset, that WG-6 revised SMTA is the version from which we start our work. The articles referred to in the subsection below, Subscription System, are those contained in document IT/OWG-EFMLS-8/18/3.

19. With regard to the SMTA, we want to come out of this meeting with a text as clean as possible on the terms and conditions for the Subscription System (Annex 3 of the revised SMTA). We also hope that we will, during this meeting, arrive at a better understanding on how to move forward on the issue of “Digital Sequence Information” (DSI) in relation to the SMTA.

### *The Subscription System*

20. We will attempt to clean up *Annex 3*, paragraph by paragraph.

21. Art.1: There are a number of brackets. Most refer to technicalities that we have been discussing informally and that we believe can be resolved. Our proposal would be, as a starting point, to take wording from the text of the Co-Chairs SMTA version and leave only sub-article 1.4 in brackets for the time being.

22. Art 2: Our understanding is that we have reached compromise to delete the bracketed text.

23. Art 3: We had good informal discussions in Addis Ababa about this article. Based on the discussions, we recognize that resolving sub-articles 3.1 and 3.2 is the most challenging part of this provision. Sub-articles 3.1 and 3.2 are connected to the definitions of “Sales” and “Product”, so we need to tackle them together. In this case, we need a bit more work beyond what is contained in the Co-Chairs SMTA version. Our understanding is that we will still need to clarify who shall pay (Recipient, affiliates – are we clear about who they are? –, licensees, sub-licensees, seed multipliers etc.), and for what (direct sales, license fees, sub-license fees, technology fees, fees for traits of interest etc.). Based on the discussions held during the informal meeting that took place in Addis Ababa, we believe that it is possible to start building consensus on both issues. Building on the revised SMTA proposed by the Working Group (IT/OWG-EFMLS-8/18/3) and taking into account the advice of the SGLE (IT/OWG-EFMLS-8/18/Inf.5), as well as the Co-chairs revised SMTA (IT/OWG-EFMLS-8/18/Inf.3), we propose the following text elements as draft options for compromise to resolve this set of sub-articles (Articles 3.1 and 3.2) and definitions of the revised SMTA (in Article 2 of the SMTA):

3.1 *The **Subscriber** shall make annual payments based on the **Sales of Products** and on the sales of any other products that are **Plant Genetic Resources for Food and Agriculture**.*

3.2 *The following rates of payment shall apply to **Sales**:*

*[xx]% when the **Products** or products are available without restriction, and*

*[yy]% when the **Products** or products are not available without restriction.*

*“**Sales**” means the gross income, including but not limited to any income from the sale of seeds and plant materials and income in the form of license fees, received by the **Recipient** and its respective affiliates from the **commercialization** of any **Products** under [Articles 6.7/6/8], or by a **Subscriber** and its respective affiliates from selling or licensing any **Product** or products that are **Plant Genetic Resources for Food and Agriculture** under [Article 6.11].*

*“**Product**” means **Plant Genetic Resources for Food and Agriculture** that incorporate the **Material** or incorporate, or are based on, any of its **genetic parts or components** that are ready for **commercialization**, excluding commodities and other products used for food, feed and processing.*

*“**Genetic parts and components**” means the elements of which **Plant Genetic Resources for Food and Agriculture** are composed or the genetic information/traits that they contain.*

*“**To commercialize**” means to sell a **Product** or **Products** for monetary consideration or to license an intellectual property right in a **Product** or **Products** for monetary consideration, and “**commercialization**” has a corresponding meaning. **Commercialization** shall not include any form of transfer of **Plant Genetic Resources for Food and Agriculture under Development**.*

24. Art. 3.3: This sub-article deals with exemptions from the payment of the Subscription. Here, we see two options: (1) decide that there will be no exemptions and delete the text; (2) for reasons of cost efficiency, payments by any subscriber that should have to pay less than a fixed amount over a certain year (for example less than USD 500) should preferably be waived. Noting that there is no major disagreement on this issue, our proposal is to keep the paragraph bracketed for the time being and resolve it later once we have more clarity on other areas of the SMTA.

25. Art. 3.5: three issues are intertwined here: reporting, confidentiality and auditing. We will take these one by one:

- On reporting, we believe that an elegant solution can be found in the Co-Chairs SMTA version to resolve the set of brackets that relate to reporting, basically by keeping the list of information that needs to be submitted to a minimum:

*3.5 **The Subscriber** shall submit to the **Governing Body** of the **Treaty**, through its Secretary, within sixty (60) days after closure of accounts each year an audited statement of account, including in particular the following:*

- Information on the **Sales** of the products for which payment was made;*
- Information that allows for the identification of the applicable payment rate or rates.*

*Such information shall be treated as confidential business information, and shall be made available to the third party beneficiary, in the context of dispute settlement, as provided for in Article 8 of **this Agreement**.*

- On confidentiality: we understand there is no major disagreement on the need to guarantee it. Our proposal is to lift the brackets and have this text included:

*Such information shall be treated as confidential business information, and shall be made available to the third party beneficiary, in the context of dispute settlement, as provided for in Article 8 of **this Agreement**.*

- On audit, the Co-Chairs understand there may be some differences of opinion among Contracting Parties. We would like to hear from members on this issue at the meeting.
26. Article 4: The title is bracketed, we propose to clean up the sub-articles and then come back to the title afterwards.
27. 4.2: The Co-Chairs summary refers to our discussions at GB-7. Based on the summary, we propose to include 10 years in 4.2 with no brackets.
28. 4.3: Then we need to discuss what happens after withdrawal. Here we need to be fair and practical. We had two possible formulations in the draft SMTA from the Working Group and a simplified text in the Co-Chairs proposal in 4.2. We propose to take the version from the Co-Chairs as a starting point and delete the text from 4.3 until the end, noting that a separate article on termination by the Governing Body could be included in the main body of the SMTA (as for example in Article 10 of the Co-chairs proposal)?

*4.2 [...] After withdrawal, Articles 6.11 and 6.12 and other provisions of **this Agreement**, including Annex 2 and the provisions of any other Standard Material Transfer Agreement signed by the **Subscriber**, shall continue to apply. The withdrawal shall take effect for all purposes upon the first day of the following calendar year.*

*4.3 With respect to **Plant Genetic Resources for Food and Agriculture under Development**, notwithstanding Article 4.2, only Articles 6.3, 6.4, 6.5, and 6.13 of **this Agreement** shall continue to apply after [2–5] years from the date of withdrawal from the **Subscription System**.*

29. Once we have finalized Annex 3, we would like to discuss the interface of the Subscription System with the rest of the SMTA. What is in the Working Group version is explained. Based on the discussions held during the informal meeting in Addis Ababa, we would like to explore the possibility of having two SMTAs, one for subscribers and one for non-subscribers.

#### ***Digital Sequence Information in relation to the SMTA***

30. Several regions attach great importance to potential issues regarding genetic information associated with the material accessed from the Multilateral System, to which the Working Group decided to refer, for the time being, as “digital sequence information.”
31. At its previous meetings, the Working Group considered digital sequence information in a general manner, based on a specific request by the Governing Body at its Sixth Session. It also received updates on relevant processes in other international fora, in particular the Convention on Biological Diversity and the FAO Commission on Genetic Resources for Food and Agriculture. From our informal consultations so far, it seems clear to us that the Working Group would like to receive regular updates on developments in this area from other forums and intersessional processes. We have made provision for such an update in the course of the eighth meeting,
32. In their summary arising from the Seventh Session of the Governing Body, the Co-chairs note that there was no consensus at the Seventh Session of the Governing Body on if and how to reflect issues related to digital sequence information in the text of the revised SMTA. However, based on the discussions in the contact group, the Co-chairs developed their proposal on how to provide for the issue of digital sequence information in the revised SMTA, in as simple but effective a way as possible.
33. Accordingly, the text of the Co-Chairs’ SMTA version made provision for the concept of digital sequence information through a new definition of “genetic parts and components” in the SMTA and a revised definition of “Products” (see Article 2 – Definitions). The term “Product” or

“product” is used in Article 3.1 of Annex 3 in the context of monetary benefit-sharing under the Subscription System and in Article 6 of the SMTA.

34. From our informal consultations so far, our understanding is that even without the new definition, we take that consensus is emerging on possible solutions. There is indeed consensus that the Subscription System, if adopted, could offer a solution. As envisaged, the subscriber, under a subscription system, would be granted access to plant genetic resources for food and agriculture in the Multilateral System and pays a benefit-sharing fee on all their products. As a result, it would no longer be relevant how such products were developed and if digital sequence information was used. In contrast, doubts seem to persist in relation to access outside the Subscription System. This refers to Articles 6.7 and 6.8 of the current SMTA, and the question under discussion is whether they should be maintained or not. We note that our proposal of a new definition could be a viable starting point for further discussion.

35. We also note from the informal consultations that the principle aim of a multilateral solution seems not to be to restrict access to digital sequence information, but to establish conditions of access and benefit-sharing that are fair and equitable, while ensuring legal certainty for users.

36. Based on the inputs received at the informal meetings, we therefore suggest that the Working Group discusses the following points for inclusion, when relevant, in the report of the eighth meeting of the Working Group:

- 1) The Working Group is the only intersessional body with the responsibility to revise the SMTA and submit it for consideration of the Governing Body. Our goal is to update the SMTA so that it takes into account the technological and other developments in the field of PGRFA and stays relevant in the mid-to-long term. Our goal is to finalize the revised SMTA for final consideration of the Governing Body, at its Eighth Session. In undertaking such task, the Working Group needs to be informed of developments in other fora but does not depend on decisions made from such fora.
- 2) The Working Group should focus on finding simple and pragmatic solutions to deal with the question of how benefit-sharing arising from the use of digital sequence information related to PGRFA in the Multilateral System could be captured in a fair and equitable manner, without regulating access to such information;
- 3) The Subscription System *de facto* captures benefit-sharing arising from the use of digital sequence information by subscribers;
- 4) There is so far no solution for digital sequence information outside of the Subscription System. The Working Group will consider, (1) using the Co-chairs’ summary and proposed SMTA contained in Annex 2 to Resolution 2/2017 as a possible starting point for discussing the development of a simple and pragmatic solution, or (2) developing the single access mechanism as if it was a short-term subscription system;
- 5) At its Eighth Session, the Governing Body will consider the potential implications of the use of “digital sequence information” on genetic resources for the objectives of the International Treaty, and will consider it for inclusion in the MYPoW at that meeting (Resolution 13/2017). The third objective of the International Treaty is the fair and equitable sharing of the benefits arising out of the use of PGRFA, which is a focus of this Working Group. In this context, the Working Group may wish to recommend to the Governing Body to, (1) adopt at the Session the revised SMTA that by its design will enable benefit-sharing arising from the use of digital sequence information related to PGRFA accessed from the Multilateral System, and (2) decide to develop a number of trust-building measures related to digital sequence information that would be outside of the revised SMTA but that would be supportive of the enhanced Multilateral System. This could be done taking into account other relevant ongoing processes;
- 6) Throughout this biennium, the Working Group will be updated on any developments arising from relevant processes under the Convention on Biological Diversity and its

Nagoya Protocol, the FAO Commission on Genetic Resources, the WHO's PIP framework and the Global Information System of the International Treaty.

## 5. Elaboration of criteria and options for possible adaptation of the coverage of the Multilateral System

37. The Co-chairs note that there seems to be no fundamental opposition to an adaptation of the coverage of the Multilateral System by any of the members of the Working Group. In fact, the Working Group noted that the wider the coverage of the Multilateral System, the greater the potential for the Treaty to contribute to meet the Sustainable Development Goals and other commitments related to food security, sustainable agriculture and biodiversity.<sup>1</sup>

38. Therefore, the Co-chairs see consensus, in principle, not only on the possibility to expand the coverage, but also on the potential advantages associated with such expansion.

39. However, the Co-chairs also note the interlinkages between any expansion of the coverage of the Multilateral System and effective benefit-sharing arrangements and *vice versa*, which the Working Group reported to the Governing Body.<sup>2</sup>

40. Since its establishment, the Working Group has considered the various elements as part of a package of measures that needs to be agreed to as a whole. The Governing Body recognized this approach in Resolution 2/2017 by recognizing that “nothing is agreed until everything is agreed.” From our informal consultations we take note that a certain level of comfort with a sustainable amount of benefit-sharing income seems to be a precondition to an adaptation of the coverage for some regions.

41. On the scope of a possible expansion, we would also like to recall that the Friends of the Co-chairs on the Scope of the Multilateral System evaluated the advantages and disadvantages of expanding the coverage of the Multilateral System to all plant genetic resources for food and agriculture on the one hand, and by identifying specific crops or crop groups to be included in the Multilateral System, on the other hand, and reported accordingly to the sixth meeting of the Working Group.<sup>3</sup>

42. In its report to the Seventh Session of the Governing Body, the Working Group stressed the need to identify the most effective, clear, simple and rapid modality to give effect to a possible expansion.<sup>4</sup>

43. Through Resolution 2/2017, the Governing Body requested the Working Group to elaborate criteria and options for possible adaptation of the coverage of the Multilateral System, taking into account, *inter alia*, proposals presented at the Seventh Session of the Governing Body.

44. Based on the proposals presented at the Seventh Session of the Governing Body and on the outcomes of the informal consultations, the Co-Chairs tried to map the different types of proposals or options that could be further explored by the Working Group, as follows:

### A. An “all PGRFA amendment”:

45. At its Seventh Session, the Governing Body discussed a proposal for an amendment of the International Treaty that had been submitted by the government of Switzerland. The proposal

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<sup>1</sup> IT/GB-7/17/7, *Report of the Open-ended Working Group to Enhance the Functioning of the Multilateral System*, para. 7.

<sup>2</sup> IT/GB-7/17/7, *Report of the Open-ended Working Group to Enhance the Functioning of the Multilateral System*, para. 7.

<sup>3</sup> IT/OWG-EFMLS-6/17/Inf. 5, *Report of the Friends of the Co-Chairs on the Scope of the Multilateral System*.

<sup>4</sup> IT/GB-7/17/7, *Report of the Open-ended Working Group to Enhance the Functioning of the Multilateral System*, para. 8.

suggested the following new paragraph to be added in Annex I, below the current list of crops contained in *Annex I*:

*“In addition to the Food Crops and Forages listed above, and in furtherance of the objectives and scope of the International Treaty, the Multilateral System shall cover all other plant genetic resources for food and agriculture in accordance with Article 3 of the International Treaty.”*

**B. An “all PGRFA amendment” with additional conditions or specifications:**

46. During the discussions at the Seventh Session of the Governing Body, the Africa Region proposed to add to the proposal by Switzerland the following sentence that would establish benefit-sharing conditions on an expansion of the coverage:

*“..., when Contracting Parties have taken measures to ensure that annual user-based payments to the Benefit Sharing Fund equal 0.3% of total global seed sales in the previous year, and such income has accrued to the Benefit Sharing Fund for three years.”*

47. From our informal consultations, another approach emerged that would comprise an amendment to “all PGRFA” with additional specifications: The suggestion for this proposal would be to amend *Annex I* of the International Treaty to cover “all PGRFA” and at the same time give the capacity to the Governing Body to guide a stepwise implementation of the expansion, including a first priority list of additional PGRFA and coupled with benefit-sharing conditions.

48. We think that this new suggestion could be implemented by adding a sentence to the proposal by Switzerland setting forth the specific capacity of the Governing Body, in line with Article 19 of the International Treaty. This could be coupled with a decision by the Governing Body to adopt procedures for a gradual implementation, including (1) the priority list of additional PGRFA, (2) establishing conditions on monetary benefit-sharing to be fulfilled for a gradual expansion, especially a target on monetary benefit-sharing to be met and the number of subscribers to be reached, and (3) the requirement for the revised SMTA to enter into force at the same time as the (full) expansion. The Working Group could also explore the feasibility of including these conditions directly in the amended Annex I. As a possible starting point for discussing this approach, we suggest the following illustrative language to be inserted after the text of the proposal by Switzerland:

*... in accordance with procedures for a gradual implementation to be considered and approved by the Governing Body. Such procedures shall include conditions to be met on the effective sharing of benefits arising from commercialization of plant genetic resources for food and agriculture, as provided in Article 13 of this Agreement.*

**C. An amendment to give the Governing Body the capacity to add further PGRFA:**

49. In the document, IT/GB-7/17/31, *Co-chairs’ proposal from the outcomes of the meetings of the Working Group*, the Co-chairs presented a draft text for a possible amendment to Annex I of the International Treaty. They suggested including the following paragraph in Annex I, after the list of plant genetic resources for food and agriculture:

*Any Contracting Party may propose additional plant genetic resources for food and agriculture to be covered by the Multilateral System. Any proposed additional plant genetic resource for food and agriculture shall be communicated to Contracting Parties by the Secretary at least six months before the session at which it is proposed for adoption. The Governing Body may adopt any additional plant genetic resource for food and agriculture by consensus of the Contracting Parties present at the session of the Governing Body, taking into account criteria of food security and interdependence. The expanded coverage of the Multilateral System shall enter into force on the ninetieth day after adoption by the Governing Body. After entry into force, any reference in the Treaty to its*

*Annex I shall be understood as including any plant genetic resource for food and agriculture adopted by the Governing Body in accordance with this provision.*

**D. A partial expansion of Annex I:**

50. An amendment of Annex I could include additional PGRFA to the current list contained in Annex I, such that any further future expansion could also be done step-wise, through a series of amendments of Annex I, each adding new PGRFA to the list contained in Annex I, that would each need to be ratified at national level. The Co-chairs note from the informal consultations that there does not seem to be any support for a step-wise expansion through a series of amendments of Annex I.

51. During this eighth meeting, the Co-Chairs would like to further explore these options, narrow down the number of options and gather recommendations from the Working Group to further develop remaining options, in order to prepare for the ninth meeting.

52. In preparing for the ninth meeting, we are of the opinion that it will be important to explore the following supportive measures regarding the possible adaptation of the coverage of the Multilateral System:

- To explore ways of ensuring that the proposed modalities for expansion would enable a “fast track” adoption and implementation in as many national jurisdictions as possible. The Working Group may want to request the Co-Chairs, with support from the Secretariat and legal experts, to prepare information about these possibilities for its ninth meeting.
- The Resolution adopting the possible amendment could include a decision to encourage the provisional application of the expanded coverage by Contracting Parties wishing to do so voluntarily, in order to show their commitment to the enhanced Multilateral System.
- Explanatory notes will be prepared by the Co-chairs with support from the Secretariat. Such notes could be used for the preparation by regions and Contracting Parties for the Eighth Session of the Governing Body. Such notes could clarify the consequences of the Governing Body decision adopting the amendment, the consequences of the amendment to those Contracting Parties that would ratify it and the practical implications for the operations of the Multilateral System at national level (which PGRFA would be covered, to which PGRFA would facilitated access be provided, etc.). It could consider the work that was done by the Ad Hoc Technical Advisory Committee on the SMTA and the Multilateral System. We understand that such explanatory notes could be a useful tool to Contracting Parties that may need them.

**6. Development of a proposal for a Growth Plan to attain the enhanced Multilateral System**

53. The idea of a Growth Plan was first explored by the Friends of the Co-chairs on Access Mechanisms and Payment Rates, which called it a “Launch Mechanism”, and subsequently further developed by the Co-chairs, considering feedback received from the Working Group at its seventh meeting and based on informal discussions with Contracting Party representatives and stakeholders.

54. The Working Group was tasked by the Seventh Session of the Governing Body to develop a proposal for a Growth Plan to attain the enhanced Multilateral System, taking into account the proposal developed by the Co-chairs and contained in Annex 1 to Resolution 2/2017. Our understanding from our informal consultations is that many believe that the text in Annex 1 of Resolution 2/2017 should be simplified.

55. The Co-chairs suggest that a Growth Plan in one form or another might be helpful to address the following (partly overlapping) issues:

- (1) The question of timing of the entry into force of the measures to enhance the Multilateral System;
- (2) The interlinkages between any expansion of the coverage of the Multilateral System and effective benefit-sharing arrangements and *vice versa*;
- (3) The need to agree on trust building measures on the enhanced Multilateral System among Contracting Parties and between Contracting Parties and users of the Multilateral System, especially the private sector.

56. Accordingly, we suggest that the Working Group

- (1) Identify those elements of the current draft Growth Plan (Annex 1 to Resolution 2/2017) that could be useful in addressing the above issues;
- (2) If needed, develop additional elements on the basis of the identified issues to be addressed, and;
- (3) Make suggestions to the Co-Chairs so that they revise the Growth Plan and present it to the Working Group at its next Session.

## **7. Preparations for the ninth meeting of the Working Group**

57. Under agenda item 8, the Working Group will discuss preparations for the ninth meeting of the Working Group. We envisage that the ninth meeting of the Working Group will be 5 days long. We would like to structure the discussion to cover the following areas:

- Informal consultations to prepare the revision of the SMTA, the proposal to expand the coverage of the Multilateral System and the Growth Plan;
- Awareness raising and regular updates to all Contracting Parties so that they are informed and committed to the enhancement process;
- Preparation of submissions and in-built reviews of the Multilateral System to inform the work of the Working Group at its next meeting;
- Support from the Standing Group of Legal Experts (SGLE) to provide suggestions on areas such as sales definition and enforceability of the revised SMTA;
- Support forming small ad hoc friends of the Co-chairs groups, to provide advice to the Co-chairs on specific issues, where needed.