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منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

Food  
and  
Agriculture  
Organization  
of  
the  
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Organisation  
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pour  
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et  
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Organización  
de las  
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Unidas  
para la  
Agricultura  
y la  
Alimentación

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## COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Fourth Inter-sessional Meeting of the Contact Group  
(Neuchâtel, Switzerland, 12-17 November 2000)

### REVISION OF THE INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES, IN HARMONY WITH THE CONVENTION ON BIOLOGICAL DIVERSITY

TEXTS ESTABLISHED BY THE CONTACT GROUP DURING ITS FOURTH  
INTER-SESSIONAL MEETING FOR: ARTICLE 12, COVERAGE OF THE  
MULTILATERAL SYSTEM; ARTICLE 13, FACILITATED ACCESS TO PLANT  
GENETIC RESOURCES FOR FOOD AND AGRICULTURE WITHIN THE  
MULTILATERAL SYSTEM; ARTICLE 14, BENEFIT-SHARING IN THE  
MULTILATERAL SYSTEM; ARTICLE 16, FINANCIAL RESOURCES; ARTICLE  
17, GOVERNING BODY; AND ANNEX V

The Fourth Inter-sessional Meeting of the Chairman's Contact Group addressed only one item: the continuation of the negotiations for the revision of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity. It established texts for Articles 12, 13, 14, 16 and 17, and Annex V. The present document makes available the following for the record:

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**TEXT FOR ARTICLE 12, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**Article 12 –Coverage of the Multilateral System<sup>a b</sup>**

12.1 In furtherance of the objectives of conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of benefits arising out of their use, as stated in Article 1, the multilateral system shall cover the plant genetic resources for food and agriculture listed in Annex I, established according to criteria of food security and interdependence.<sup>c</sup>

[12.2 The multilateral system shall also cover:

(a) material held in *ex situ* collections by International Agricultural Research Centres of the Consultative Group on International Agricultural Research<sup>d</sup> [international centres]<sup>e</sup> that accept the provisions of [Annex V to] this Undertaking;

[(b) material held in collections of other international institutions that accept the provisions of this Undertaking, and with the agreement of the Governing Body of this Undertaking.]<sup>f</sup>]

OR

[12.2 Parties agree that the germplasm collections held in *ex situ* collections by the CG International Centres and other international institutions shall be subject to the provisions of this International Undertaking and in accordance with the provisions of Annex V.]

[12.3 The Governing Body<sup>1</sup> shall keep Annex I under periodic review as well as Annexes II, III and IV on the conditions of access, benefit-sharing and financial resources respectively, taking into account the inter-relationship among those annexes.]

[12.4 Parties agree that any alteration to Annex I and Annex V of this Undertaking shall only be possible with the consensus of all Parties to this International Undertaking.]

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- a. The final decision on Article 12 will depend on its harmonization with Articles 13, 14, 16 and 17, which are pending completion
- b. *For further consideration:* the issues of the identification and of the end use of material in collections.
- c. Adopted *ad referendum*, and pending the adoption of Article 21, including the issue of the adoption of annexes by consensus.

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<sup>1</sup>

In the text, the term “Governing Body” has been used to designate the intergovernmental body that will implement the revised International Undertaking as a legally binding instrument, without prejudice to the actual status of the instrument. See Article 17.

- d. *For further consideration:* The CGIAR Centres shall respect the rights of countries that provide material or from which material is collected.
- e. *For further consideration:* Specific Conditions shall apply to international centres other than CGIAR Centres.
- f. *For further consideration.*

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**TEXT FOR ARTICLE 13, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**Article 13 – Facilitated access to plant genetic resources for food and agriculture within  
the Multilateral System<sup>2</sup>**

13.1 Parties agree that facilitated access to plant genetic resources for food and agriculture under the Multilateral System shall be in accordance with the provisions of this Undertaking.

13.2 Parties agree to provide such access to other Parties, in accordance with the conditions below:

- (a) Access shall be provided solely for the purpose of [conservation and/or] utilization in research, breeding and training for food and agriculture, provided that such purpose does not include chemical, pharmaceutical and/or other non-food/feed industrial uses. In the case of multiple-use crops (food and non-food), their importance for food security should be the determinant for their inclusion in the Multilateral System and availability for facilitated access.
- (b) Access shall be accorded expeditiously, without the need to track individual accessions and free of charge, or, when a fee is charged, it shall not exceed the minimal cost involved;
- (c) All available passport data and, subject to applicable law, any other associated available non-confidential descriptive information, shall be made available with the plant genetic resources for food and agriculture provided;
- (d) [Recipients shall not claim any intellectual property or other rights that limit the facilitated access to the plant genetic resources[, or their genetic parts or components], for food and agriculture[, in the form] received[from the Multilateral System]]/[No plant varietal or patent protection will be sought by recipient Parties on the plant genetic resources for food and agriculture received under this Multilateral System];
- (e) Access to plant genetic resources for food and agriculture under development, including material being developed by farmers, shall be at the discretion of its developer, during the period of its development;
- (f) [Access to plant genetic resources for food and agriculture protected by intellectual and other property rights shall be consistent with national law, and with relevant international law.]
- (g) Plant genetic resources for food and agriculture accessed under the Multilateral System and conserved shall continue to be available to the Multilateral System by the

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<sup>2</sup> Two countries registered that Article 13 was negotiated in good faith pending symmetrical advances in Articles 14 and 16.

recipients of those plant genetic resources for food and agriculture, under the terms of this Undertaking;

- (h) Without prejudice to the other provisions under this Article, Parties agree that access to plant genetic resources for food and agriculture found in *in situ* conditions will be provided according to national legislation or, in the absence of such legislation, in accordance with such standards as may be set by the Governing Body. [Pursuant to the above, access will be provided to plant genetic resources for food and agriculture in areas designated, or programmes established, for the purpose of this agreement by Governments for the *in situ* conservation of plant genetic resources for food and agriculture]

13.3 In emergency disaster situations, Parties agree to provide facilitated access to appropriate plant genetic resources for food and agriculture in the Multilateral System for the purpose of contributing to the re-establishment of agricultural systems, in cooperation with disaster relief co-ordinators.

13.4<sup>3</sup> [Parties agree to provide facilitated access to plant genetic resources for food and agriculture under the Multilateral System to International Agricultural Research Centres of the Consultative Group on International Agricultural Research that accept the provisions of Annex [\*\*\*] to this Undertaking. Such Centres shall be included in a list held by the Secretary of the Governing Body to be made available to Parties on request.]

13.5 [Parties agree that access to plant genetic resources for food and agriculture under the Multilateral System shall not be provided to other non-Parties unless they agree to be bound by the obligations and conditions set out in this International Undertaking. In addition, where access is granted, non-Parties shall be subject, *inter alia*, to a standardized MTA, agreed by the Parties.]

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<sup>3</sup> All issues relating to the CGIAR and other international organizations involved in plant genetic resources for food and agriculture will be discussed together.

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**TEXT FOR ARTICLE 14, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**Article 14 - Benefit-sharing in the Multilateral System**

14.1 The Parties recognize that facilitated access to plant genetic resources for food and agriculture within the Multilateral System constitutes itself a major benefit of the Multilateral System and agree that benefits accruing therefrom shall be shared fairly and equitably in accordance with the provisions of this Article.

14.2 The Parties agree that benefits arising from the use, including commercial, of plant genetic resources for food and agriculture under the Multilateral System shall be shared fairly and equitably through the following mechanisms: the exchange of information, access to and transfer of technology, capacity-building, and the sharing of the benefits arising from commercialization, taking into account the priority activity areas in the rolling GPA, under the guidance of the Governing Body:

(a) Exchange of information:

Parties agree to make available information which shall, *inter alia*, encompass catalogues and inventories, information on technologies, results of technical, scientific and socio-economic research, including characterization, evaluation and utilization, regarding those plant genetic resources for food and agriculture under the Multilateral System. Such information shall be made available, where non-confidential, subject to applicable law and in accordance with national capabilities. Such information shall be made available to all Parties to the International Undertaking through the information system of the Multilateral System.

(b) Access to and transfer of technology

(i) Parties undertake to provide and/or facilitate access to technologies for the conservation, characterization, evaluation and use of plant genetic resources for food and agriculture which are under the Multilateral System. Recognizing that some technologies can only be transferred through genetic material, Parties shall provide and/or facilitate access to such technologies and genetic material which is under the Multilateral System and to improved varieties and genetic material developed through the use of plant genetic resources for food and agriculture under the Multilateral System, in conformity with the provisions of Article 13. Access to these technologies, improved varieties and genetic material shall be provided and/or facilitated, while respecting applicable property rights and access laws, and in accordance with national capabilities.

(ii) Access to and transfer of technology to countries, especially to developing countries and countries with economies in transition, shall be carried out through a set of measures, such as the establishment and maintenance of, and participation in, crop-

based thematic groups on utilization of plant genetic resources for food and agriculture, all types of partnership in R & D and in commercial joint ventures on the material received, human resource development, and effective access to research facilities.

- (iii) Access to and transfer of technology as referred to in (i) and (ii) above, including that protected by intellectual property rights, to developing country Parties,<sup>4</sup> in particular least developed countries, shall be provided and/or facilitated under fair and most favourable terms, in particular in the case of technologies for use in conservation as well as technologies for the benefit of farmers in developing countries,<sup>4</sup> especially in least developed countries, including on concessional and preferential terms where mutually agreed, *inter alia*, through partnerships in research and development under the Multilateral System. Such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights.

(c) Capacity-building

Taking into account the needs of developing countries and countries with economies in transition, as expressed through the priority they accord to building capacity in plant genetic resources for food and agriculture in their plans and programmes, when in place, in respect of those plant genetic resources for food and agriculture covered by the Multilateral System, Parties agree to give priority to (i) establishing and/or strengthening programmes for scientific and technical education and training in conservation and sustainable use of plant genetic resources for food and agriculture, (ii) developing and strengthening facilities for conservation and sustainable use of plant genetic resources for food and agriculture, in particular in developing countries and countries with economies in transition, and (iii) carrying out scientific research preferably, and where possible, in developing countries and countries with economies in transition, in cooperation with institutions of such countries, and developing capacity for such research in fields where they are needed.

(d) Sharing of [monetary] benefits on commercialisation

- (i) Each Party to this Undertaking undertakes to pay, in accordance to the agreed Funding Strategy to be established under Article 16, an annual contribution representing ... percent of the value of the crops produced in its territory through the use of plant genetic resources for food and agriculture listed in Article 12 to this Undertaking where such crops are produced from or through plant genetic materials or related processes in respect of which IPR protection has been sought under its national legislation. For this purpose, the value of the crops shall be calculated on the basis of the hectareage of the crops harvested multiplied by the average national yield per hectare for those crops and the average ex-farm price for the current year.
- (ii) Developed countries, party to this Undertaking, undertake to make annual contributions to the Agreed Funding Strategy established under Article 16 in the proportions of their national contributions according to the United Nations Scale of Assessment.]
- (iii) Parties agree, under the Multilateral System, to take measures in order to achieve commercial benefit-sharing, through the involvement of the private and public sectors

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<sup>4</sup> One country requested the inclusion of “and countries with economies in transition”.

in activities identified under Article 14 of the International Undertaking, through partnerships and collaborations, including with the private sector in developing countries and countries with economies in transition, in research and technology development;

- (iv)<sup>5 6</sup> Whenever the use of plant genetic resources for food and agriculture accessed under the Multilateral System results in a product that is a plant genetic resource covered by any form of intellectual property right that restricts utilization of the product for research and plant breeding, the rights-holder shall pay an equitable royalty in line with commercial practice on the commercial exploitation of that product into the mechanism referred to in Article 17.2, as a contribution to the implementation of agreed plans and programmes as established under this Undertaking.

Whenever the use of plant genetic resources for food and agriculture accessed under the Multilateral System results in a product that is a plant genetic resource covered by any form of intellectual property right that does not restrict utilization of that product for research and plant breeding, Parties shall take measures, as appropriate, to encourage the rights-holder to pay into the above mechanism a royalty on the commercial exploitation of that product, taking into account the need to exempt farmers in developing countries,<sup>7</sup> especially in least developed countries, from this provision.

The Governing Body shall review the provisions of Article 14.2d(iv) within a period of five years of the entry into force of the International Undertaking, with a view to optimizing benefits accruing from these provisions, and shall in particular assess the possibility of establishing a mandatory scheme in regard to the above paragraph. Following this review, any proposed amendment shall be addressed in accordance with Article 20.

*To be inserted in 17.2*

(\*\*) Identify[, by consensus,] forms of intellectual property right that restrict utilization for research and plant breeding, for the purposes of Article 14.2d(iv).

14.3 [The Parties agree that benefits arising from the use of plant genetic resources for food and agriculture under the Multilateral System should flow [, *inter alia*,] primarily, directly and indirectly, to farmers in all countries, especially in developing countries and countries with economies in transition, who conserve and sustainably utilize plant genetic resources for food and agriculture. [...]]

14.4 The Governing Body will, at its first meeting, consider relevant policy and criteria for specific assistance under the agreed funding strategy established under Article 16 for the conservation of plant genetic resources for food and agriculture in developing countries and countries with economies in transition whose contribution to the diversity of plant genetic

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<sup>5</sup> Four countries stated that they do not agree to the text of Article 14.2d(iv).

<sup>6</sup> If an agreement is reached in relation to Articles 14.2(b)(iii) and 14.2(d)(iv), Article 14.2(d)(i) and (ii) will be deleted.

<sup>7</sup> Two countries requested the inclusion of “and countries with economies in transition”.



resources for food and agriculture in the Multilateral System is significant and/or which have special needs.

14.5 Parties recognize that the ability to fully implement the GPA, in particular of developing countries and countries with economies in transition, will depend largely upon the effective implementation of this Article and of the funding strategy as provided in Article 16.

(\*\*)<sup>8</sup> Parties agree that the Governing Body shall consider modalities of a strategy of voluntary benefit-sharing contributions whereby Food Processing Industries that benefit from plant genetic resources for food and agriculture shall contribute to the Multilateral System.

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<sup>8</sup>

The principle was adopted; the position of the sub-article is still to be decided.

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**TEXT FOR ARTICLE 16, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**Article 16 – Financial Resources**

16.1 The Parties undertake, through the Governing Body, to develop, keep under review [and implement] a funding strategy for the implementation of the International Undertaking in accordance with the provisions of this Article.

16.2 The objectives of the funding strategy shall be to enhance the availability, transparency, efficiency and effectiveness of the provision of financial resources to implement activities under the International Undertaking.

16.3 In order to mobilize funding for priority activities, plans and programmes, in particular in developing countries and countries with economies in transition, and taking the Global Plan of Action into account, the Governing Body shall periodically establish a target for such funding.

16.4 Pursuant to this funding strategy:

- (a) Parties shall take the necessary and appropriate measures within the Governing Bodies of relevant international mechanisms, funds and bodies to ensure due priority and attention to the effective allocation of predictable and agreed resources for the implementation of plans and programmes under the International Undertaking.
- (b) The extent to which developing country Parties and countries with economies in transition will effectively implement their commitments under this International Undertaking will depend on the effective allocation, particularly by the developed country Parties, of the resources referred to in this Article. Developing country Parties and Parties with economies in transition will accord due priority in their own plans and programmes, to building capacity in plant genetic resources for food and agriculture.
- (c) Each Party agrees to undertake, and provide financial resources for, national activities for the conservation and sustainable use of plant genetic resources for food and agriculture in accordance with its national capabilities and financial resources.<sup>9</sup>
- (d) The developed country Parties also provide, and developing country Parties and Parties which are countries with economies in transition avail themselves of, financial resources for the implementation of this International Undertaking through bilateral and regional and multilateral channels. Such channels shall include the mechanism referred to in Article 17.2.

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<sup>9</sup> One country reserved the right to consult its capital.

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- (e) [Parties undertake to provide the financial benefits arising from Article 14.2(d)] / [Parties agree that the equitable royalties accruing from the sharing of benefits arising from commercialization according to Article 14.2 d (iv) shall be incorporated into the funding strategy];
- (f) Voluntary contributions may also be provided by Parties, the private sector, non-governmental organizations and other sources. Parties agree that the Governing Body shall consider modalities of a strategy to promote such contributions;
- 16.5 Parties agree that priority will be given to the implementation of agreed plans and programmes in support of farmers in developing countries, especially in least developed countries, and in countries with economies in transition, embodying lifestyles relevant for the conservation and sustainable utilization of plant genetic resources for food and agriculture;<sup>10</sup>

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<sup>10</sup> For four countries, the issue of priority category will be determined by the outcome of the negotiations of Article 4.

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**TEXT FOR ARTICLE 17, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**PART VII - INSTITUTIONAL PROVISIONS**

**Article 17 – Governing Body**<sup>11</sup>

[17.1 A Governing Body of the Undertaking is hereby established [within the framework of the Food and Agriculture Organization of the United Nations].

17.2 The functions of the Governing Body shall be to promote the full implementation of the objectives of the Undertaking and, in particular, to:

- (a) review the state of plant genetic resources for food and agriculture and implications for world food security;
- (b) periodically review and, as necessary, update the rolling Global Plan of Action provided for in Article 8;
- (c) provide policy direction for, and monitor, the implementation of the Undertaking and, in particular, for the operation of the Multilateral System of Access and Benefit-sharing;
- (d) adopt the plans and programmes for the implementation of the Undertaking;
- (e) adopt and periodically review the funding strategy for the implementation of the Undertaking and adopt the budget of the Undertaking;
- (f) establish such subsidiary bodies as may be necessary for the proper implementation of its functions;
- (g) establish rules and procedures for the resolution of disputes in accordance with Article 19;]
- (h) Establish, as needed, an appropriate mechanism, such as a Trust Account, for receiving and utilizing financial resources that will accrue to it for purposes of implementing the International Undertaking;
- (i) establish cooperation with other relevant international organizations on matters covered by this Undertaking, including their participation in the funding strategy;

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<sup>11</sup> These provisions are based on those of revised text of the International Plant Protection Convention as adopted by the FAO Conference in November 1997.

- (j) adopt amendments to the Undertaking, in accordance with the provisions of Article 20;
- (k) periodically review and as necessary amend the annexes to this Undertaking, in accordance with the provisions of Article 21;
- (l) adopt such recommendations for the implementation of the Undertaking as necessary; and
- (m) perform such other functions as may be necessary to the fulfilment of the objectives of this Undertaking.

17.3 The Governing Body shall be composed of all Parties to this Undertaking.

17.4 Each Party may be represented at sessions of the Governing Body by a single delegate who may be accompanied by an alternate, and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Governing Body but may not vote, except in the case of an alternate who is duly authorized to substitute for the delegate.

17.5 The Parties shall make every effort to reach agreement on all matters by consensus. If all efforts to reach consensus have been exhausted and no agreement is reached, the decision shall, as a last resort, be taken by a two-thirds majority of the Parties present and voting.

17.6 For the purpose of this Article, "Parties present and voting" shall mean Parties present and casting an affirmative or negative vote.

17.7 A Member Organization of FAO that is a Party and the member states of that Member Organization that are Parties shall exercise their membership rights and fulfil their membership obligations in accordance, *mutatis mutandis*, with the Constitution and General Rules of FAO.

17.8 The Governing Body may adopt and amend, as required, its own Rules of Procedure, which shall not be inconsistent with this Undertaking [or with the Constitution of FAO].

17.9 The Governing Body shall hold regular sessions at least once every two years.

17.10 Special sessions of the Governing Body shall be convened at the request in writing of at least one-third of the Parties to this Undertaking.

17.11 The Governing Body shall elect its Chairperson and Vice-Chairpersons (collectively referred to as "the Bureau"), each of whom shall serve for a term of two years.]

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**TEXTS FOR ANNEX V, ESTABLISHED BY THE CONTACT GROUP  
DURING ITS FOURTH INTER-SESSIONAL MEETING**

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**[ANNEX V**

**CONDITIONS FOR PARTICIPATION OF INTERNATIONAL INSTITUTIONS IN  
THE MULTILATERAL SYSTEM AND PLACING OF INTERNATIONAL *EX SITU*  
COLLECTIONS IN THE MULTILATERAL SYSTEM**

*(Institutions that formally agree to be bound by this Annex agree thereby also to accept and abide by the policy direction of the Governing Body of the Undertaking with respect to matters relating to their ex situ collections, conditions of access to material under the multilateral system and the equitable sharing of benefits resulting from the use of such material.)*

International Institutions holding international collections of germplasm that accept the provisions of this Annex agree as follows:

**Article 1 – Application of this Annex**

This Annex shall be open to acceptance by any centre holding international collections of germplasm (hereinafter referred to as the “Institution”).

**Article 2 – Basic Undertaking**

- a) Institutions accepting this Annex agree thereby to participate in the multilateral system established under the International Undertaking in accordance with the provisions of this Annex.
- b) The Institution hereby places its *ex situ* collection of plant genetic resources for food and agriculture in the multilateral system, in accordance with the terms and conditions set forth in this Annex.
- c) Lists of the germplasm contained in the collection shall be provided to FAO by the Institution and periodically updated in print or machine-readable form, together with such other information on the germplasm as may be required.

**Article 3 – Status of Germplasm in the Collection**

- a) The Institution shall hold the germplasm in the collection in trust for the benefit of the international community, in particular the developing countries in accordance with the International Undertaking and the terms and conditions set out in this Annex.
- b) The Institution shall not claim legal ownership over the germplasm, nor shall it seek any intellectual property rights over that germplasm or related information.

**Article 4 – Premises**

- a) The premises in which the germplasm is conserved shall remain in the charge of the Institution.
- b) FAO shall have a right of access to the premises at any time and the right to inspect all activities performed therein directly related to the conservation and exchange of the germplasm.

#### **Article 5 – Management and Administration**

- a) The Institution undertakes to manage and administer that part of the germplasm that is held for the purposes of long-term conservation in accordance with internationally accepted standards, including, with respect to the storage, exchange and distribution of seeds, international Genebank Standards, and ensuring that all the germplasm is duplicated in order to ensure its safety.
- b) FAO may recommend action, if it considers such action to be desirable, in order to ensure the proper conservation of that part of the germplasm that is held for long-term conservation purposes.
- c) If the orderly maintenance of the germplasm collection of the Institution is impeded or threatened by whatever event, including *force majeure*, FAO shall assist in the evacuation and/or transfer of the collections, to the extent possible. The cost of such an operation will be covered by the Institution concerned.

#### **Article 6 – Policies**

The Institution recognizes the intergovernmental authority of the Governing Body of the International Undertaking in setting policies for the multilateral system.

#### **Article 7 – Staff**

- (a) Staff responsible to manage and administer the germplasm shall be employed and remunerated by the Institution.
- (b) As and when deemed appropriate, FAO shall furnish technical backstopping on request by the Institution, either directly or through an implementing mechanism.

#### **Article 8 – Finances**

Except as otherwise provided for in the International Undertaking, the Institution shall remain entirely responsible for financing the maintenance of the germplasm.

#### **Article 9 – Availability of Germplasm and Related Information**

The Institution undertakes to make samples of the germplasm and related information available directly to users or through FAO, for the purpose of scientific research, plant breeding or genetic resource conservation, in accordance with Article 12 of the International Undertaking and the conditions of access set out in Annex II to the International Undertaking, and in accordance with the conditions set out in the International Undertaking relating to the equitable sharing of benefits arising from the use of such material.

#### **Article 10 – Transfer of Germplasm and Related Information**

Where samples of the germplasm and/or related information are transferred to any other person or institution, the Institution shall ensure that such other person or institution, and any further

entity receiving samples of the germplasm from such person or institution, are bound by the conditions set out in Article 3 (b) and, in the case of samples duplicated for safety purposes, to the provisions of Article 5 (a).

This provision shall not apply to the repatriation of germplasm to the country that provided such germplasm. ]

OR

[ANNEX V  
CONDITIONS FOR INTERNATIONAL INSTITUTIONS HOLDING *EX SITU*  
COLLECTIONS

International Institutions holding collections of germplasm shall conduct all the related activities, aimed at the objectives of conservation and sustainable use of PGRFA and the fair and equitable sharing of the benefits resulting from their use, and shall give access to such material, under this International Undertaking and in particular within the frame of the following provisions:

**Article 1 – Application of this Annex**

This annex shall include all the international institutions holding *ex situ* collections of PGRFA.

**Article 2 – Basic Undertaking**

- a) Access to material of such collections, referred to the list defined in Annex 1, will be subject to the same provisions defined for the Multilateral System established under this International Undertaking
- b) Access to material other than that referred to the annex 1, will be subject to a standardised material transfer agreement, which in addition to the conditions established for the Multilateral system, will include all those conditions agreed with the country that provided the respective material or where the collection was made, in particular the prohibition to give access to a third party, who will have to make the desired requirement the institution directly.
- c) When access to germplasm and/or related information is granted, the Institution shall inform of such accession to the country that provided such germplasm or where the collection was made .

**Article 3 – Status of Germplasm in the Collection**

- a) The Institution shall hold the germplasm in the collection in trust, in compliance with the rights of the countries that provided the material or where collection was made, for the benefit of



the international community, in particular the developing countries in accordance with the International Undertaking and the terms and conditions set out in this Annex.

b) Germplasm collections will be put in trust of the international centres by mean of standardised agreement, with the country provider or where the material has been collected, which will be renewable periodically. The standardised agreement will set forth the in trust conditions, including the fair and equitable sharing of benefits resulting from the use of the such material, the prohibition of claiming ownership or any legal protection, including Intellectual property rights, on the material received, their parts or their genetic components, or the related information.

#### **Article 4 – Premises**

a) The scientific and technical premises in which the germplasm is conserved shall remain in the charge of the Institution.

b) The secretariat of the multilateral system shall have a right of access to the premises at any time and the right to inspect all activities performed therein directly related to the conservation and exchange of the germplasm.

#### **Article 5 – Management and Administration**

a) The Institution undertakes to manage and administer that part of the germplasm that is held for the purposes of long-term conservation in accordance with internationally accepted standards, including, with respect to the storage, exchange and distribution of seeds, international Genebank Standards, and ensuring that all the germplasm is duplicated in order to ensure its safety.

b) The Secretariat of the system may recommend action, if it considers such action to be desirable, in order to ensure the proper conservation of that part of the germplasm that is held for long-term conservation purposes.

c) If the orderly maintenance of the germplasm collection of the Institution is impeded or threatened by whatever event, including *force majeure*, the secretariat of the multilateral system, with the approval of the Governing Body and in consultation with the host Country, shall assist in the evacuation and/or transfer of the collections, to the extent possible. The cost of such an operation will be covered by the Institution concerned.

#### **Article 6 – Policies**

The Institution recognizes the intergovernmental authority of the Governing Body of the International Undertaking in setting policies for the multilateral system

#### **Article 7 – Staff**

(a) Staff responsible to manage and administer the germplasm shall be employed and remunerated by the Institution.

(b) As and when deemed appropriate, the secretariat of the multilateral system shall furnish technical backstopping on request by the Institution, either directly or through an implementing mechanism.

### **Article 8 – Finances**

Except as otherwise provided for in the International Undertaking, the Institution shall remain entirely responsible for financing the maintenance of the germplasm.

### **Article 9 – Availability of Germplasm and Related Information**

(a) The Institution undertakes to make samples of the germplasm and related information available directly to users, for the purpose of scientific research, plant breeding or genetic resource conservation, in accordance with Article 12 of the International Undertaking and the conditions of access set out in Annex II to the International Undertaking, and in accordance with the conditions set out in the International Undertaking relating to the equitable sharing of benefits arising from the use of such material.

(b) This provision shall not apply to the repatriation of germplasm to the country that provided such germplasm.]

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**APPENDIX A**

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**THE NEUCHÂTEL DECLARATION**

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We, the members of the Contact Group of the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations representing all regions of the world, have met in Neuchâtel from 12 to 17 November 2000, at the generous invitation of the Government of the Swiss Confederation, and with the funding support from the Government of Japan.

During our meeting we have had in-depth discussions and comprehensive negotiations on key articles of the International Undertaking on Plant Genetic Resources for Food and Agriculture which we are seeking to revise in harmony with the Convention on Biological Diversity.

A revision of the International Undertaking will be a cornerstone for international cooperation on food security and the conservation and sustainable use of plant genetic resources for food and agriculture. Our deliberations have benefited from a presentation by the International Plant Genetic Resources Institute of the Consultative Group on International Agricultural Research that we hope will play a major role in the Multilateral System.

We have made significant progress on the critical issue of the financial resources in the Multilateral System. We welcomed the advice given by Intergovernmental Organizations such as the WTO and WIPO. It is our common understanding that some issues regarding the benefit-sharing arising from commercialization need further clarification. We, the members of the Contact Group, commit ourselves to achieving a fair and equitable as well as a workable system of benefit-sharing.

We remain committed to bringing the negotiations to a successful completion as soon as possible.

We wish to express our gratitude to the People and Government of Switzerland for their support and generous hospitality. We appreciated the excellent facilities, the opportunity to enjoy local products and the beautiful surroundings that have contributed substantially to the success of the meeting.

Neuchâtel, Switzerland

17 November 2000

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**APPENDIX B – ANNEXE B – ANEXO B –**

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**LIST OF DELEGATES AND OBSERVERS  
LISTE DES DELEGUES ET OBSERVATEURS  
LISTA DE LOS DELEGADOS Y OBSERVADORES**

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	:	
	:	
Chair	:	Fernando GERBASI
Président	:	(Venezuela)
Presidente	:	
	:	
	:	
Vice-Chairs	:	Abebe DEMISSIE
Vice-présidents	:	(Ethiopia) (Acting Vice-Chair)
Vicepresidentes	:	
	:	Gert KLEIJER
	:	(Switzerland)
	:	Eng Siang LIM
	:	(Malaysia)
	:	Ms Kristiane HERRMANN
	:	(Australia)
	:	Mohammad TAEB
	:	(Islamic Republic of Iran)
	:	Brad FRALEIGH
	:	(Canada)

**ANGOLA**

Mme Elizabeth M. MATOS  
Président  
Comité national des ressources  
phytogénétiques  
Ministère de l'agriculture et  
du développement rural  
C.N.I.C.  
Av. Revolução de Outubro  
C.P. 10825 (BG)  
Luanda  
Angola  
Tél: 244 2 321688/244 2 325673  
E-mail: [fitogen@ebonet.net](mailto:fitogen@ebonet.net)

**ARGENTINA – ARGENTINE**

Sra María Esther BONDANZA  
Embajadora  
Directora General de Asuntos Ambientales  
Ministerio de Relaciones Exteriores,  
Comercio Internacional y Culto  
Esmeralda 1212, piso 14  
1061 Buenos Aires  
Argentina  
Tel: 54 11 4819 7414  
Fax: 54 11 4819 7413  
e-mail: [met@mrecic.gov.ar](mailto:met@mrecic.gov.ar)

Arturo MARTINEZ  
Asesor  
Dirección General de Asuntos Ambientales  
Ministerio de Relaciones Exteriores,  
Comercio Internacional y Culto  
Esmeralda 1212, piso 14  
1061 Buenos Aires  
Argentina  
Tel: 54 11 4819 7414  
Fax: 54 11 4819 7413  
E-mail: [amartinez@overnet.com.ar](mailto:amartinez@overnet.com.ar)

**AUSTRALIA – AUSTRALIE**

Ms Kristiane E. HERRMANN  
Ministry of Agriculture, Fisheries and Forestry  
Box 858 6PO  
Canberra GPO ACT 2601  
Australia  
Tel: 61 2 62724670  
Fax: 61 2 62725926  
E-mail: [kristiane.herrmann@affa.gov.au](mailto:kristiane.herrmann@affa.gov.au)

Peter NEVILLE  
Deputy Director General  
Queensland Department of Primary Industries  
Australia  
Tel: 61 7 3224 2268  
Fax: 61 7 3224 2804  
E-mail: [nevillepp@dpi.qld.gov.au](mailto:nevillepp@dpi.qld.gov.au)

Kerry KUTCH  
Counsellor Development Cooperation  
Australian Mission to UN  
Geneva  
Switzerland  
Tel: 41 22 7999108

Ms Dara WILLIAMS  
Second Secretary  
Australian Mission to WTO  
Geneva  
Switzerland  
Tel: 41 22 79999199

**BENIN**

Chabi Gouro YALLOU  
Directeur du Centre de recherches agricoles  
(CRAN-INA)  
Ministère du développement rural/INRAB  
BP 884 Cotonou  
Bénin  
Tél: 229 300264  
Fax: 229 303770  
E-mail: [azur2@nakayo.leland.bj](mailto:azur2@nakayo.leland.bj)  
[inrab4@bow.intnet.bj](mailto:inrab4@bow.intnet.bj)

**BRAZIL – BRESIL – BRASIL**

Júlio Cesar GOMES DOS SANTOS  
Ambassador  
Permanent Representative of Brazil to FAO  
Permanent Representation of the Federative  
Republic of Brazil to FAO  
Via di Santa Maria dell'Anima 32  
00186 Rome  
Italy  
Tel: 39 06 68307576  
Fax: 39 06 68398802

Ms. Mitzi GURGEL VALENTE DA COSTA  
Counsellor  
Alternate Permanent Representative of Brazil  
to FAO  
Permanent Representation of the Federative  
Republic of Brazil to FAO  
Via di S. Maria dell'Anima 32  
00186 Rome  
Italy  
Tel: 39 06 68307576  
Fax: 39 06 6867858

Alfonso Celso CANDEIRA VALOIS  
Agronomist  
EMBRAPA  
Ministry of Agriculture and Food Supply  
SAIN, Parque Estação Biológica  
P.O. Box 040315  
70.770-900 Brasilia DF  
Brazil  
Tel: 55 61 272 4622  
Fax: 55 61 347 1041  
E-mail: [valois@sede.embrapa.br](mailto:valois@sede.embrapa.br)

**BURKINA FASO**

Didier BALMA  
Directeur de la Recherche scientifique du  
Burkina Faso  
Ministère des enseignements secondaire,  
supérieur et de la recherche scientifique  
01 BP.476 Ouagadougou 01  
Burkina Faso  
Tél: 226 308269  
Fax: 226 315003  
E-mail: [dbal@fasonet.bf](mailto:dbal@fasonet.bf)

**CANADA**

John DUECK  
Agriculture and Agri-food Canada  
930 Ave. Carling  
Ottawa, Ontario  
Canada K1A 0C5  
Tel: 1 613 759 7851  
Fax: 1 613 759 7771  
e-mail: [duecki@em.agr.ca](mailto:duecki@em.agr.ca)

Brad FRALEIGH  
Special Advisor, Biodiversity and Genetic  
Resources  
Research Planning and Coordination  
Agriculture and Agri-Food Canada  
Rm. 773, Sir John Carling Building  
930 Carling Avenue  
Ottawa, Ontario, Canada K1A 0C5  
Tel: 1 613 759 7847  
Fax: 1 613 759 7769  
E-mail: [fraleighb@em.agr.ca](mailto:fraleighb@em.agr.ca)

Thomas FETZ  
Department of Foreign Affairs and  
International Trade  
125 Sussex Drive  
Ottawa, Ontario  
Canada K1A 0G2  
Tel: 1 613 995 1108  
Fax: 1 613 992 6483  
E-mail: [thomas.fetz@dfait-maeci.gc.ca](mailto:thomas.fetz@dfait-maeci.gc.ca)

Ton ZUIJDWIJK  
Department of Foreign Affairs and  
International Trade  
125 Sussex Drive  
Ottawa, Ontario  
Canada K1A 0G2  
Tel: 1 613 992 7785  
E-mail: [ton.zuijdwijk@dfait-maeci.gc.ca](mailto:ton.zuijdwijk@dfait-maeci.gc.ca)

**CHINA – CHINE –**

SHUMIN WANG  
Deputy Director  
Ministry of Agriculture  
30 Bai Shi Qiao Road  
Beijing  
P.R. China  
Tel: 86 10 62186628/62186658  
Fax: 86 10 62186629  
E-mail: [smwang@ihw.com.cn](mailto:smwang@ihw.com.cn)

**COLOMBIA – COLOMBIE**

Sra María Hersilia BONILLA CORTES  
 Coordinadora de Recursos Genéticos  
 Ministerio de Agricultura  
 Av. Jiménez, 7 – 65  
 Bogotá  
 Colombia  
 Tel: 57 1 243 7919  
 E-mail: [cortes\\_bonilla@hotmail.com](mailto:cortes_bonilla@hotmail.com)  
[producti@colomsat.net.co](mailto:producti@colomsat.net.co)

Ricardo TORRES CARRASCO  
 General Director Advisor  
 COLCIENCIAS  
 KRA 20, No. 86A09 (302)  
 Bogotá  
 Colombia  
 Tel: 57 1 6331676/5200109  
 Fax: 57 1 6331676  
 E-mail: [rtorres@cable.net.co](mailto:rtorres@cable.net.co)  
[rtorres@yahoo.com](mailto:rtorres@yahoo.com)

Mario Lobo ARIAS  
 Coordinador  
 Sistema de Bancos de Germoplasma  
 CORPOICA  
 Apartado Aéreo 470  
 Rionegro, Antioquia  
 Colombia  
 Tel: 574 5371133  
 Fax: 574 5370146  
 E-mail: [pnrgv@epm.net.co](mailto:pnrgv@epm.net.co)

**CUBA**

Sra María Elena RODRIGUEZ FUENTES  
 Presidenta  
 Comisión Nacional de Recursos Genéticos  
 para la Agricultura y la Alimentación  
 Ministerio de Ciencia, Tecnología  
 y Medio Ambiente (CITMA)  
 Calle 20, esq. 18A  
 Playa C. Habana  
 Cuba  
 Tel: 53 7 578054/230245  
 Fax: 53 7 249460  
 E-mail: [pzn@ceniai.inf.cu](mailto:pzn@ceniai.inf.cu)  
[acyt@ceniai.inf.cu](mailto:acyt@ceniai.inf.cu)

**ETHIOPIA – ETHIOPIE – ETIOPIA**

Abebe DEMISSIE  
 General Manager  
 Institute of Biodiversity Conservation and  
 Research  
 P.O. Box 30726  
 Addis Ababa  
 Ethiopia  
 Tel: 251 1 615607  
 Fax: 251 1 613722  
 E-mail: [biod-et@telecom.net.et](mailto:biod-et@telecom.net.et)

**EUROPEAN COMMUNITY**  
**- MEMBER ORGANIZATION**  
**COMMUNAUTE EUROPEENNE**  
**- ORGANISATION MEMBRE**  
**COMUNIDAD EUROPEA**  
**- ORGANIZACION MIEMBRO**

Dieter OBST  
 Deputy Head of Unit  
 European Commission  
 Directorate General for Health and Consumer  
 Protection  
 Rue de la Loi, 200  
 1049 Brussels  
 Belgium  
 Tel: 32 2 2952432  
 Fax: 32 2 2969399  
 E-mail: [dieter.obst@cec.eu.int](mailto:dieter.obst@cec.eu.int)

Robert KAMPF  
 Premier Secrétaire  
 Commission européenne  
 Délégation Genève  
 37-39, rue de Vermont  
 1211 Genève 20  
 Suisse  
 Tél: 41 22 918 2218  
 Fax: 41 22 734 2236  
 E-mail: [roger.kampf@delche.cec.eu.int](mailto:roger.kampf@delche.cec.eu.int)

François HEAD  
 Directorate General for Agriculture  
 Council of the European Union  
 Rue de la Loi, 175  
 1048 Brussels  
 Belgium  
 Tel: 32 2 2855295  
 Fax: 32 2 2859425  
 E-mail: [francois.head@consilium.eu.int](mailto:francois.head@consilium.eu.int)

**FRANCE – FRANCIA**

Paul LUU  
Chef du bureau Afrique-Méditerranée  
et organisations internationales  
Responsable du réseau *Rés'Expert*  
Ministère de l'agriculture et de la pêche  
Service des relations internationales (DPEI)  
3, rue Barbet de Jouy  
75349 Paris 07 SP  
Tél: 33 1 4955 4866  
Fax: 33 1 4955 5942  
E-mail: [paul.luu@agriculture.gouv.fr](mailto:paul.luu@agriculture.gouv.fr)

Mme Andrée SONTOT  
Chargée de mission  
Bureau des ressources génétiques  
16 rue Claude Bernard  
75231 - Paris Cedex 05  
France  
Tél: 33 1 4408 7270  
Fax: 33 1 4408 7263  
E-mail: [andree.sontot@inapg.inra.fr](mailto:andree.sontot@inapg.inra.fr)

Jean KOEHLIN  
Directeur  
Bureau des ressources génétiques interministériel  
16 rue Claude Bernard  
75231 Paris Cedex 05  
France  
Tél: 33 1 44087261  
Fax: 33 1 44087263  
E-mail: [koechlin@inapg.inra.fr](mailto:koechlin@inapg.inra.fr)

Mme Martine MITTEAU  
Chargée de mission  
Bureau des ressources génétiques  
16 rue Claude Bernard  
75231 Paris Cedex 05  
France  
Tél: 33 1 4408 7269  
Fax: 33 1 4408 7263  
E-mail: [martine.mitteau@inapg.inra.fr](mailto:martine.mitteau@inapg.inra.fr)

Per WRAMNER  
Director-General  
Ministry of Agriculture, Food and Fisheries  
SE-103 33 Stockholm, Sweden  
Tel: 46 8 4052110  
Fax: 46 8 206496  
E-mail: [per.wramner@agriculture.ministry.se](mailto:per.wramner@agriculture.ministry.se)

Ms Eva BERNDTSSON  
Legal Advisor  
Ministry of Agriculture, Food and Fisheries  
SE 103 33 Stockholm, Sweden  
Tel: 46 8 4051107 (direct)  
Fax: 46 8 206496  
E-mail: [eva.berndtsson@agriculture.ministry.se](mailto:eva.berndtsson@agriculture.ministry.se)

Johan BODEGARD  
Head of Section  
Swedish Environmental Protection Agency  
Ministry of Environment  
SE-106 48 Stockholm, Sweden  
Tel: 46 8 698 1413  
Fax: 46 8 698 1042  
E-mail: [johan.bodegard@environ.se](mailto:johan.bodegard@environ.se)

Ms Agneta BORJESSON  
Senior Administrative Officer  
Swedish Board of Agriculture  
SE-55182 Jönköping  
Sweden  
Tel: 46 36 155164  
Fax: 46 36 710517  
E-mail: [agneta.borjesson@sjv.se](mailto:agneta.borjesson@sjv.se)

Lars ESPEBY  
Senior Administrative Officer  
Ministry of Agriculture, Food and Fisheries  
SE-10333 Stockholm  
Sweden  
Tel: 46 8 405 3559  
Fax: 46 8 206496  
E-mail: [lars.espeby@agriculture.ministry.se](mailto:lars.espeby@agriculture.ministry.se)

Lennart PETTERSSON  
Senior Administrative Officer  
Ministry of Agriculture, Food and Fisheries  
SE-10333 Stockholm  
Sweden  
Tel: 46 8 405 1268  
Fax: 46 8 206 496  
E-mail: [lennart.pettersson@agriculture.ministry.se](mailto:lennart.pettersson@agriculture.ministry.se)



**GERMANY – ALLEMAGNE – ALEMANIA**

Wilbert HIMMIGHOFEN  
 Head of Division  
 Federal Ministry for Food, Agriculture  
 and Forestry  
 Rochusstr. 1  
 D-53123 Bonn  
 Germany  
 Tel: 49 228 5293550  
 Fax: 49 228 5293425  
 E-mail: [wilbert.himmighofen@bml.bund.de](mailto:wilbert.himmighofen@bml.bund.de)

**INDIA – INDE**

R.C.A. JAIN  
 Additional Secretary  
 Ministry of Agriculture  
 Department of Agriculture and Cooperation  
 Dr. Rajendra Prasad Rd.  
 New Delhi – 110001  
 India  
 Tel: 91 11 3381363/3384555  
 Fax: 91 11 338 363/3384555  
 E-mail: [rcajain@krishi.delhi.nic.in](mailto:rcajain@krishi.delhi.nic.in)

R.P. KATIYAR  
 Assistant Director-General (Seeds)  
 Ministry of Agriculture  
 Indian Council of Agricultural Research  
 Krishi Bhawan, New Delhi – 110001  
 India  
 Tel: 91 11 3384414/338891 ext. 550  
 Fax: 91 11 3382543  
 Telex: 031 62249-ICAR IN  
 E-mail: [rp-katiyar@yahoo.com](mailto:rp-katiyar@yahoo.com)

**IRAN, ISLAMIC REPUBLIC OF –  
 IRAN, REPUBLIQUE ISLAMIQUE D' –  
 IRAN, REPUBBLICA ISLAMICA DEL**

Mohammad TAEB  
 Deputy for Agricultural Research, Education and  
 Extension Organization (AREEO)  
 Ministry of Agriculture  
 Tabnak Ave.  
 Teheran  
 Islamic Republic of Iran  
 Tel: 98 21 2400857  
 Fax: 98 21 2400568  
 E-mail: [taeb@areeo.or.ir](mailto:taeb@areeo.or.ir)

Peiman SEADAT  
 Expert on Biodiversity-related Conventions  
 Department for International Economic Affairs  
 and Specialized Agencies  
 Ministry of Foreign Affairs  
 Teheran  
 Islamic Republic of Iran  
 Tel: 98 21 3900191  
 Fax: 98 21 6704176  
 E-mail: [peiman36@hotmail.com](mailto:peiman36@hotmail.com)

Javad MOZAFARI HASHJIN  
 Head, National Plant Gene-Bank of  
 Iran (NPGBI)  
 Seed and Plant Improvement Institute (SPII)  
 Mahdasht Ave., Karaj, 31585  
 Islamic Republic of Iran  
 Tel: 98 261 271260/270041  
 Fax: 98 261 279405  
 E-mail: [genebank@abnet.com](mailto:genebank@abnet.com)

**JAPAN – JAPON**

Kazumasa SHIOYA  
 Deputy Director  
 International Cooperation and Planning Division  
 Ministry of Agriculture, Forestry and Fisheries  
 1-2-1- Kasumigaseki  
 Chidoya-ku, Tokyo  
 Japan  
 Tel: 81 3 3501 7402  
 Fax: 81 3 3502 8083  
 E-mail: [kazumasa\\_shioya@nm.maff.go.jp](mailto:kazumasa_shioya@nm.maff.go.jp)

Masao OKAWA  
 Deputy Director  
 Liaison and Coordination Division  
 Ministry of Agriculture, Forestry and Fisheries  
 Research Council Secretariat (MAFF)  
 1-2-1 Kasumigaseki, Chiyoda-Ku  
 100-8950 Tokyo  
 Japan  
 Tel: 81 3 35013780  
 Fax: 81 3 5511 8622  
 E-mail: [okawasan@s.affrc.go.jp](mailto:okawasan@s.affrc.go.jp)

Kazuo TANAKA  
Senior Assistant for Trade and Development  
Issues  
Developing Economies Division  
Economic Affairs Bureau  
Ministry of Foreign Affairs  
2-2-1 Kasumigaseki  
Chiyoda-ku, Tokyo  
Japan  
Tel: 81 3 3581 5794  
Fax: 81 3 3592 0504  
E-mail: [kazuo.tanaka@mofa.go.jp](mailto:kazuo.tanaka@mofa.go.jp)

Masa IWANAGA  
Director  
Biological Resources Division  
Japan International Research Centre for  
Agricultural Sciences (JIRCAS)  
Ministry of Agriculture, Forestry and Fisheries  
Ohwashi 1-2, Tsukuba  
Japan  
Tel: 81 298 386305  
Fax: 81 298 38 6650  
E-mail: [miwanaga@jircas.affrc.go.jp](mailto:miwanaga@jircas.affrc.go.jp)

**KOREA REPUBLIC OF –  
COREE, REPUBLIQUE DE –  
COREA, REPUBLICA DE**

Joo-Pil YANG  
Deputy Director  
Agricultural Production Division  
Korean Ministry of Agriculture and Forestry  
1 Joongang-dong, Kwacheon City  
Kyunggi-Do, Korea 427-719  
Tel: 82 2 503 7281  
Fax: 82 2 507 3963  
E-mail: [jpyang@maf.go.kr](mailto:jpyang@maf.go.kr)

Dong-Jin LEE  
Rural Development Administration  
Korean Ministry of Agriculture and Forestry  
249 Seodun-dong  
Suwon, Korea  
Tel: 82 31 299 2795  
Fax: 82 31 294 6029  
E-mail: [dongjilee@rda.go.kr](mailto:dongjilee@rda.go.kr)

**LIBYA – LIBYE – LIBIA –**

**MALAYSIA – MALAISIE – MALASIA**

Eng Siang LIM  
Principal Assistant Secretary  
Ministry of Agriculture  
First Floor, Block B  
Jalan Sultan Salahuddin  
50624 Kuala Lumpur  
Malaysia  
Tel: 603 2954271  
Fax: 603 2917991  
E-mail: [si13@smtp.moa.my](mailto:si13@smtp.moa.my)

**MALTA – MALTE**

**MEXICO – MEXIQUE**

Eduardo Benítez PAULIN  
Director, Servicio Nacional de Inspección  
y Certificación de Semillas (SNICS)  
Secretaría Agricultura, Ganadería y  
Desarrollo Rural (SAGAR)  
Lope de Vega 125, piso 2  
Col. Chapultepec – Morales  
México 11570 DF  
Tel: 52 52039427  
Fax: 52 52506483  
E-mail: [eduardo.benitez@sagar.gob.mx](mailto:eduardo.benitez@sagar.gob.mx)

**MOROCCO – MAROC – MARRUECOS**

Hamdoune MELLAS  
Chef du Département de Génétique appliquée  
Ministère de l'Agriculture, du développement  
rural et des eaux et des forêts  
Institut national de la recherche agronomique  
B.P. 415 - Bd Annasr  
Rabat  
Maroc  
Tél: 212 3770 7295  
Fax: 212 3777 0049  
E-mail: [mellas@awamia.inra.org.ma](mailto:mellas@awamia.inra.org.ma)

**NETHERLANDS – PAYS-BAS – PAISES BAJOS**

Peter Alexander VERMEIJ  
Deputy Director LASER  
Ministry of Agriculture, Nature Management and  
Fisheries  
Bezuidenhoutseweg 73  
P.O. Box 20401  
The Hague  
The Netherlands  
Tel: 31 70 3785563  
Fax: 31 70 3786139  
E-mail: [p.a.vermeij@laser.agro.nl](mailto:p.a.vermeij@laser.agro.nl)

Rob VAN RAALTE  
Senior Policy Advisor  
Department of International Affairs  
Ministry of Agriculture, Nature Management  
and Fisheries  
P.O. Box 20401  
The Hague  
The Netherlands  
Tel: 31 70 3784471  
Fax: 31 70 3786105  
E-mail: [r.a.van.raalte@iz.agro.nl](mailto:r.a.van.raalte@iz.agro.nl)

Marcel VERNOOIJ  
Coordinator, Sustainable Development  
Ministry of Agriculture, Nature Management  
and Fisheries  
Bezuidenhoutseweg 73  
P.O. Box 20401  
2500 EK  
The Hague  
The Netherlands  
Tel: 31 70 3784934  
Fax: 31 70 3786105  
E-mail: [m.l.vernooij@iz.agro.nl](mailto:m.l.vernooij@iz.agro.nl)

**NEW ZEALAND –  
NOUVELLE-ZELANDE –  
NUEVA ZELANDIA**

Peter KETTLE  
Director, Biosecurity and Science Policy  
Ministry of Agriculture and Forestry  
P.O. Box 2526  
Wellington  
New Zealand  
Tel: 64 4 4744150  
Fax: 64 4 4730118  
E-mail: [kettlep@maf.govt.nz](mailto:kettlep@maf.govt.nz)

**NORWAY – NORVEGE – NORUEGA**

Ms Grethe Helene EVJEN  
Adviser  
Ministry of Agriculture  
P.O.Box 8007 Dep.  
N-0030 Oslo  
Norway  
Tel: 47 22 24 93 11  
Fax: 47 22 24 95 59  
E-mail: [grethe-helene.evjen@ld.dep.no](mailto:grethe-helene.evjen@ld.dep.no)

Jan Petter BORRING  
Adviser  
Ministry of the Environment  
Department for International Cooperation,  
Climate and Polar Affairs  
P.O. Box 8013 Dep.  
N-0030 Oslo  
Norway  
Tel: 47 22 245963  
Fax: 47 22 242755  
E-mail: [jpb@md.dep.no](mailto:jpb@md.dep.no)

Mrs Lise Lykke STEFFENSEN  
Head of Section  
Ministry of Food, Agriculture and Fisheries  
Holbergsgade 2  
1057 Copenhagen  
Denmark  
Tel: 45 3392 2090  
Fax: 45 3312 4686  
E-mail: [lls@fvm.dk](mailto:lls@fvm.dk)

**PHILIPPINES – FILIPINAS****POLAND – POLOGNE – POLONIA**

Ms Zofia BULINSKA-RADOMSKA  
Ministry of Agriculture  
Plant Breeding and Acclimatization Institute  
05-870 Blonie  
Poland  
Tel: 48 22 7253611 ext. 200  
Fax: 48 22 7254714  
E-mail: [z.bulinska@ihar.edu.pl](mailto:z.bulinska@ihar.edu.pl)

**ROMANIA – ROUMANIE – RUMANIA**

Ioan PAVEL  
Conseiller  
Représentant permanent adjoint de  
Roumanie auprès de la FAO  
Via Nicolò Tartaglia 36  
00197 Rome  
Italie  
Tél: 39 06 808 4529  
Fax: 39 06 808 4995  
E-mail: [amdiroma@libero.it](mailto:amdiroma@libero.it)

**SAMOA**

Kirifi POUONO  
Principal Research Officer  
Ministry of Agriculture, Forest, Fisheries  
and Meteorology  
P.O. Box 1587  
Apia  
Western Samoa  
Tel: 685 23416  
Fax: 685 23426  
E-mail: [kpouono@lesamoa.net](mailto:kpouono@lesamoa.net)

**SENEGAL**

Paul Thérance SENGHOR  
Responsable de l'Unité de recherche commune  
en culture *in vitro* (URCI)  
Ministère de l'agriculture  
Institut sénégalais de recherche  
agricole (ISRA)  
ISRA/DG  
BP 3120 Dakar  
Sénégal  
Tél: 221 8493333  
Fax: 221 8321675/8322427  
E-mail: [ptsenghor@isra.sn](mailto:ptsenghor@isra.sn)

**SOUTH AFRICA –  
AFRIQUE DU SUD –  
SUDAFRICA**

Shadrack Ralekeno MOEPHULI  
Director  
Genetic Resources  
Ministry of Agriculture and Land Affairs  
Department of Agriculture  
Private Bag X138  
Pretoria, 0001  
South Africa  
Tel: 27 12 319 6506  
Fax: 27 12 329 6329  
E-mail: [dgr@nda.agric.za](mailto:dgr@nda.agric.za)

**SWITZERLAND – SUISSE – SUIZA**

Hans Jörg LEHMANN  
Chef de l'Etat-major Ecologie  
Office fédéral de l'agriculture  
Mattenhofstrasse 5  
CH-3003 Berne  
Suisse  
Tél: 41 31 322 2628  
Fax: 41 31 322 2634  
E-mail: [hans-joerg@lehmann.blw.admin.ch](mailto:hans-joerg@lehmann.blw.admin.ch)

Gert KLEIJER  
Station fédérale de recherches agronomiques  
de Changins (RAC), C.P. 254  
1260 Nyon 1  
Suisse  
Tél: 41 22 363 4722  
Fax: 41 22 361 5469  
E-mail: [geert.kleijer@rac.admin.ch](mailto:geert.kleijer@rac.admin.ch)

Anton KOHLER  
Chef du Secrétariat suisse de la FAO  
Office fédéral de l'agriculture  
Mattenhofstrasse 5  
CH-3003 Berne  
Suisse  
Tél: 41 31 3222562  
Fax: 41 31 3222634  
E-mail: [anton.kohler@blw.admin.ch](mailto:anton.kohler@blw.admin.ch)

Martin GIRSBERGER  
Co-chef, Service juridique brevets et design  
Institut fédéral de la propriété intellectuelle  
Einsteinstrasse 2  
CH-3003 Berne  
Suisse  
Tél: 41 31 3244863  
Fax: 41 31 3500566  
E-mail: [martin.girsberger@ipi.ch](mailto:martin.girsberger@ipi.ch)

Mme Christine GRIEDER  
Agence suisse pour la coopération internationale  
Ministère des affaires étrangères  
Freiburgstrasse 130  
CH-3003 Berne  
Suisse  
Tél: 41 31 322 3489  
Fax: 41 31 324 8947  
E-mail: [christine.grieder@deza.admin.ch](mailto:christine.grieder@deza.admin.ch)

**TANZANIA, UNITED REPUBLIC OF –  
TANZANIE, REPUBLIQUE-UNIE DE –  
TANZANIA, REPUBLICA UNIDA DE**

Wilson Y.F. MARANDU  
Agr. Director General  
Tropical Pesticides Research Institute  
P.O. Box 3024  
Arusha  
Tanzania  
Tel: 255 27 250 8042  
Fax: 255 27 250 8242  
E-mail: [tpri@habari.co.tz](mailto:tpri@habari.co.tz)

**UNITED KINGDOM – ROYAUME-UNI –  
REINO UNIDO**

Martin SMITH  
National Coordinator for Plant Genetic  
Resources  
Ministry of Agriculture, Fisheries and Food  
1A Page Street  
London SW1P 4PQ  
United Kingdom  
Tel: 44 207 904 6906  
Fax: 44 207 904 6912  
E-mail: [m.smith@csg.maff.gsi.gov.uk](mailto:m.smith@csg.maff.gsi.gov.uk)

Ms Linda BROWN  
Senior Programme Officer  
Department for International Development  
94 Victoria Street  
London SW1V 5JL  
United Kingdom  
Tel: 44 207 917 0110  
Fax: 44 207 917 0679  
E-mail: [l-brown@dfid.gov.uk](mailto:l-brown@dfid.gov.uk)

Ms Jane BULMER  
Legal, International and EC (Environment)  
Department of the Environment, Transport and  
the Regions  
Eland House, Room 9/H9  
Bressenden Place  
London, SW1E 5DU  
United Kingdom  
Tel: 44 207 944 4815  
Fax: 44 207 944 4804  
E-mail: [jane\\_bulmer@detr.gsi.gov.uk](mailto:jane_bulmer@detr.gsi.gov.uk)

Ms Kerry TEN KATE  
Convention and Policy Section  
Royal Botanic Gardens  
Kew, Richmond  
Surrey TW9 3AE  
United Kingdom  
Tel: 44 208 3325741  
Fax: 44 208 3325757  
E-mail: [k.tenkate@rbgkew.org.uk](mailto:k.tenkate@rbgkew.org.uk)

Eliseu BETTENCOURT  
Curator  
Ministry of Agriculture, Rural Development  
and Fisheries  
Genebank-Genetics  
Estação Agronómica Nacional  
2784-505 Oeiras  
Portugal  
Tel: 351 21 440 3688  
Fax: 351 21 440 6011  
E-mail: [e.bettencourt@meganet.pt](mailto:e.bettencourt@meganet.pt)

Ms. Sónia DIAS  
Ministry of Agriculture, Rural Development  
and Fisheries  
Genebank-Genetics  
Estação Agronómica Nacional  
2784-505 Oeiras  
Portugal  
Tel: 351 21 440 3568  
Fax: 351 21 440 6011  
E-mail: [soridi@net.sapo.pt](mailto:soridi@net.sapo.pt)

**UNITED STATES OF AMERICA –  
ETATS-UNIS D'AMERIQUE –  
ESTADOS UNIDOS DE AMERICA**

Ms Barbara TOBIAS  
Director, Office of Ecology and Terrestrial  
Conservation  
Bureau of Oceans, Environment and Science  
U.S. Department of State  
22<sup>nd</sup> and C Streets, NW  
Washington, DC 20520  
USA  
Tel: 1 202 647 4268  
Fax 1 202 736 7351  
E-mail: [tobiasbj@state.gov](mailto:tobiasbj@state.gov)

Keith LOKEN  
Attorney-Adviser  
U.S. Department of State  
Washington DC 20520  
USA  
Tel: 1 202 6471698  
Fax: 1 202 7367115  
Email: [lokenkn@ms.state.gov](mailto:lokenkn@ms.state.gov)

Robert BERTRAM  
Coordinator for Multilateral Research  
Office of Agriculture and Food Security  
U.S. Agency for International Development  
1300 Pennsylvania Ave., NW  
Washington DC 20523-2110  
USA  
Tel: 1 202 7125064  
Fax: 1 202 2163010  
E-mail: [rbertram@usaid.gov](mailto:rbertram@usaid.gov)

Peter BRETTFING  
National Program Leader  
US Department of Agriculture  
National Program Staff  
Mailstop 5139  
5601 Sunnyside Ave.  
Beltsville  
MD 20705  
USA  
Tel: 1 301 504 5541  
Fax: 1 301 504 6191  
E-Mail: [pkb@ars.usda.gov](mailto:pkb@ars.usda.gov)

Ms Lucy TAMLYN  
Alternate Representative  
of the United States to FAO  
United States Mission to the UN Agencies for  
Food and Agriculture  
Via Sardegna 49  
00187 Rome  
Italy  
Tel: 39 06 808 4995  
Fax: 39 06 4788 7048

David NICHOLSON  
Intellectual Property Attaché  
United States Mission to WTO  
1-3 Ave. de la Paix  
1202 Geneva  
Switzerland  
Tel: 41 22 749 5281  
Fax: 41 22 749 5308

**URUGUAY**

Gustavo Eduardo BLANCO DEMARCO  
Presidente  
Comité Nacional sobre Recursos Fitogenéticos  
Ministerio de Ganadería, Agricultura y Pesca  
Cno. Bertolotti SIN y R-8 Km.28.8  
Casilla de Correos 7731  
Pando - Canelones  
Uruguay  
Tel: 598 2 288 7099/7113  
Fax: 598 2 288 7077/7199  
E-mail: [inasepre@adinet.com.uy](mailto:inasepre@adinet.com.uy)

**VENEZUELA**

Fernando GERBASI  
Embajador de Venezuela  
Representante Permanente de la República  
Bolivariana de Venezuela ante la FAO  
Embajada de la República Bolivariana de  
Venezuela  
Via Nicolò Tartaglia 11  
00197 Roma  
Italia  
Tel: 39 06 8079797  
Fax: 39 06 8079781  
E-mail: [gerbasi@fernando.com](mailto:gerbasi@fernando.com)

Sra Margaret GUTIERREZ MULAS  
Investigador III  
Instituto Nacional de Investigaciones Agrícolas  
Ministerio de Ciencia y Tecnología  
Edf. 08 del CENIAP  
Area Universitaria  
Via El Limón  
Maracay  
Venezuela  
Tel: 58 43 455470  
Fax: 58 43 471066  
E-mail: [margaretg@cantv.net](mailto:margaretg@cantv.net)

**ZAMBIA – ZAMBIE**

Godfrey P. MWILA  
Principal Agricultural Research Officer  
Gene Bank  
Mt. Makulu Research Station  
Ministry of Agriculture, Food and Fisheries  
P/B 7 Chilanga  
Zambia  
Tel: 260 278256/278380  
Fax: 260 278130  
E-mail: [genetics@zamnet.zm](mailto:genetics@zamnet.zm)

**ZIMBABWE**

Shadrack S. MLAMBO  
Deputy Director  
Crops Research and Services Division  
Department of Research and Special Services  
Ministry of Lands, Agriculture and Rural  
Resettlement  
P.O. Box CY 594, Causeway  
Harare  
Zimbabwe  
Tel: 263 4 704531/700723  
Fax: 263 4 728317  
E-mail: [plantpro@internet.co.zw](mailto:plantpro@internet.co.zw)

**OBSERVERS FROM INTERGOVERNMENTAL ORGANIZATIONS  
OBSERVATEURS DES ORGANISATIONS INTERGOUVERNEMENTALES  
OBSERVADORES DE LAS ORGANIZACIONES INTERGUBERNAMENTALES**

**WORLD INTELLECTUAL PROPERTY  
ORGANIZATION  
ORGANISATION MONDIALE DE LA PROPRIETE  
INTELLECTUELLE  
ORGANIZACION MUNDIAL DE LA PROPIEDAD  
INTELLECTUAL**

Shakeel BHATTI  
Program Officer  
Global Intellectual Property Issues Division  
WIPO/OMPI  
34, Chemin des Colombettes  
1211 Geneva 20  
Switzerland  
Tel: 41 22 338 9846  
Fax: 41 22 338 8120

**INTERNATIONAL UNION FOR THE PROTECTION  
OF NEW VARIETIES OF PLANTS –  
UNION INTERNATIONALE POUR LA  
PROTECTION DES OBTENTIONS VEGETALES –  
UNION INTERNACIONAL PARA LA  
PROTECCION DE OBTENCIONES VEGETALES**

Barry GREENGRASS  
Consultant  
UPOV  
34, chemin des Colombettes  
CH-1211 Geneva 20  
Switzerland  
Tel: 41 22 338 9155  
Fax: 41 22 733 0336  
E-mail: [upovmail@wipo.int](mailto:upovmail@wipo.int)

**WORLD TRADE ORGANIZATION  
ORGANISATION MONDIALE DU COMMERCE  
ORGANIZACION MUNDIAL DEL COMERCIO**

Ms Thu-Lang TRAN-WASESCHA  
Counsellor, Intellectual Property Division  
World Trade Organization  
Centre William Rappard  
Geneva  
Switzerland  
Tel: 41 22 739 5705  
Fax: 41 79 218 7174



**OBSERVERS FROM INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS AND INTERNATIONAL AGRICULTURAL RESEARCH CENTRES**

**OBSERVATEURS DES ORGANISATIONS NON GOUVERNEMENTALES ET DES CENTRES INTERNATIONAUX DE RECHERCHE AGRONOMIQUE**

**OBSERVADORES DE ORGANIZACIONES NO GUBERNAMENTALES INTERNACIONALES Y DE LOS CENTROS INTERNACIONALES DE INVESTIGACION AGRICOLA**

**INTERNATIONAL ASSOCIATION OF PLANT BREEDERS (ASSINSEL)**

**ASSOCIATION INTERNATIONALE DES SELECTEURS (ASSINSEL)**

Patrick HEFFER  
Assistant to the Secretary General  
FIS/ASSINSEL  
Chemin du Reposoir 7  
1260 Nyon  
Switzerland  
Tel: 41 22 365 44 20  
Fax: 41 22 365 44 21  
E-mail: [assinsel@worldseed.org](mailto:assinsel@worldseed.org)

Ms. Radha RANGANATHAN  
Scientific Assistant  
KWS SAAT AG  
Grimsehlstrasse 31  
37555 Einbeck  
Germany  
Tel: 49 5561 311665  
Fax: 49 5561 311510  
E-mail: [r.ranganathan@kws.de](mailto:r.ranganathan@kws.de)

**RURAL ADVANCEMENT FOUNDATION INTERNATIONAL (RAFI)**

Ms. Silvia RIBEIRO  
Researcher  
110 Osborne St., Suite 202  
Winnipeg MB R3L 1Y5  
Canada  
Tel: 1 204 453 5259  
Fax: 1 204 925 8034  
E-mail: [silvia@rafi.org](mailto:silvia@rafi.org)

**CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL RESEARCH –**

**GRUPE CONSULTATIF POUR LA RECHERCHE AGRICOLE INTERNATIONALE–**

**GRUPO CONSULTIVO SOBRE INVESTIGACION AGRICOLA INTERNACIONAL**

Geoff HAWTIN  
Director-General  
International Plant Genetic Resources Institute  
Via delle Sette Chiese 142  
00145 Rome  
Italy  
Tel: 39 06 51892202  
Fax: 39 06 51892405  
E-mail: [g.hawtin@cgiar.org](mailto:g.hawtin@cgiar.org)

Cary FOWLER  
International Plant Genetic Resources Institute  
NLH  
P.O. Box 5001  
1430 Aas, Norway  
Tel: 47 64949824  
Fax: 47 64940760  
E-mail: [c.fowler@cgiar.org](mailto:c.fowler@cgiar.org)

Gerald MOORE  
Honorary Fellow  
International Plant Genetic Resources Institute  
Via die Ceraseti 23  
Marino, Rome  
Italy  
Tel: 39 06 51892202  
Fax: 39 06 51892405  
E-mail: [gerald.moore@pcg.it](mailto:gerald.moore@pcg.it)

**FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS  
ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE  
ORGANIZACION DE LAS NACIONES UNIDAS PARA LA AGRICULTURA Y LA ALIMENTACION**

**SECRETARIAT OF THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

**SECRETARIAT DE LA COMMISSION DES RESSOURCES GENETIQUES  
POUR L'ALIMENTATION ET L' AGRICULTURE**

**SECRETARIADO DE LA COMISION DE RECURSOS GENETICOS  
PARA LA ALIMENTACION Y LA AGRICULTURA**

José ESQUINAS-ALCAZAR  
Secretary, Commission on Genetic Resources for  
Food and Agriculture  
Food and Agriculture Organization of the United  
Nations  
Viale delle Terme di Caracalla  
00100 Rome  
Tel: 39 06 570 54986  
E-mail: [jose.esquinas@fao.org](mailto:jose.esquinas@fao.org)

Clive STANNARD  
Assistant Secretary  
Commission on Genetic Resources for Food and  
Agriculture  
Food and Agriculture Organization of the United  
Nations  
Viale delle Terme di Caracalla  
00100 Rome  
Tel: 39 06 570 55480  
E-mail: [clive.stannard@fao.org](mailto:clive.stannard@fao.org)

Luís M. BOMBIN  
Chief, General Legal Affairs Service  
Food and Agriculture Organization of the United  
Nations  
Viale delle Terme di Caracalla  
00100 Rome  
Tel: 39 06 570 55643  
E-mail: [luis.bombin@fao.org](mailto:luis.bombin@fao.org)

---

**APPENDIX C**

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**MEMBERSHIP OF THE CONTACT GROUP**

---

Angola	Malta
Argentina	Mexico
Australia	Morocco
Benin	Netherlands
Brazil	New Zealand
Burkina Faso	Norway
Canada	Philippines
China	Poland
Colombia	Romania
Cuba	Samoa
Ethiopia	Senegal
European Community	South Africa
France	Switzerland
Germany	Tanzania, United Republic of
India	United Kingdom
Iran, Islamic Republic of	United States of America
Japan	Uruguay
Korea, Republic of	Venezuela
Libya	Zambia
Malaysia	Zimbabwe