

REPORT OF THE
COMMISSION ON PLANT GENETIC RESOURCES

Sixth Session
Rome, 19-30 June 1995

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I. INTRODUCTION

1. The Sixth Session of the Commission on Plant Genetic Resources met in Rome from 19 to 30 June 1995. A list of delegates and observers is attached as *Appendix O*.
2. Mr Brad Fraleigh (Canada), first Vice-Chair of the Commission, opened the Session and welcomed the delegates. He reviewed the broader international context in which the Commission was working and stressed the need to concentrate on two issues during the Session: preparations for the Fourth International Technical Conference, and the negotiations for the revision of the International Undertaking on Plant Genetic Resources. He congratulated the Secretariat for the excellent practical and technical support rendered to the Commission.

II. ELECTION OF THE CHAIR AND VICE-CHAIRS

3. The Commission elected Mr José M. Bolívar (Spain) as Chair of the Commission. Mr Moorosi Raditapole (Lesotho) and Ms Kristiane Herrmann (Australia) were elected as first and second Vice-Chairs respectively and Mr Fernando José Marroni de Abreu (Brazil) as Rapporteur.
4. Professor A. Sawadogo, Assistant Director-General for Agriculture, welcomed delegates and observers, and presented an opening statement, which is attached as *Appendix N*.

III. ADOPTION OF THE AGENDA AND TIMETABLE FOR THE SESSION

5. The Commission discussed the proposed Agenda and Timetable and agreed with the proposal of the Working Group that item 9, on international agreements, be discussed within the context of the Global System (item 5). It also agreed that item 4, the Revision of the Terms of Reference of the Working Group and the Election of its Officers, should be considered together with item 10, the Future Work of the Commission. The agenda, as adopted, is given in *Appendix A*.
6. The list of documents appears as *Appendix B*.

IV. REPORTS OF THE WORKING GROUP

7. The Commission noted that, at its First Extraordinary Session, it had discussed the reports of the Ninth Regular Session (11 to 12 May, 1994) and First Extraordinary Session (3 to 4 November, 1994) of the Working Group.
8. The Commission took note of the Report of the Chair of the Tenth Session of the Working Group (3 to 5 May, 1995), contained in document CPGR-6/95/2, and thanked him for the very thorough and useful presentation. It agreed upon the understanding that the Working Group does not negotiate and provide the Commission with binding positions, but provides the Commission with material for consideration.
9. The report by the Chairman of the Tenth Session of the Working Group is in *Appendix C*.

V. PROGRESS REPORT ON THE GLOBAL SYSTEM FOR THE CONSERVATION AND UTILIZATION OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

10. Document CPGR-6/95/4, *Progress report on the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture*, presented a succinct overview of each component of the Global System,¹ and described progress made in the last biennium. Other documents gave detailed information on specific components, and are mentioned under each sub-item. The Commission complimented the Secretariat on the excellent quality of the documentation.

11. The Commission noted that the Global System, with its component parts, was the central, continuously evolving product of its work and negotiations over the last twelve years. The Commission recalled its mandate to "recommend measures that are necessary or desirable, in order to ensure the comprehensiveness of the Global System, and the efficiency of its operation".

12. The Commission noted that, in order to comply with the request in Agenda 21 of the United Nations Conference on Environment and Development (UNCED), that the Global System be strengthened and reviewed, in harmony with the Convention on Biological Diversity, FAO had taken a number of actions: (i) two major elements of the Global System (the Report on the State of the World's Plant Genetic Resources and the Global Plan of Action) were being developed in the context of the Fourth International Technical Conference; (ii) the International Undertaking was being revised, by the Commission itself, as requested by Conference Resolution 7/93; and (iii) other elements of the Global System had been strengthened during the biennium. Some delegations stressed the need to avoid duplication. Some of these matters were covered under other items of the agenda, and the Commission therefore decided to deal with the matters that were not so covered under the present item.

(i) The International Network of Ex Situ Collections

13. The Commission considered documents CPGR-6/95/12 and its Corr. 1, which provided a *Progress report on the International Network of Ex Situ Germplasm Collections under the Auspices and/or Jurisdiction of the FAO*, as well as document CPGR-6/95/12 Add. 1, *Joint report by FAO and the International Plant Genetic Resources Institute (on behalf of the CGIAR Centres) on the implementation of the agreement signed between FAO and the CGIAR Centres on 26 October 1994*.

14. The Commission expressed satisfaction with the implementation of the International Network of Ex Situ Collections, and in particular with the Agreement signed by FAO and twelve of the CGIAR Centres placing their "designated germplasm" under the auspices of FAO and recognizing "the intergovernmental authority of FAO and its Commission in setting policies for the International Network".

15. With respect to countries joining the International Network, the Commission noted that the model agreements had been developed prior to the Convention on Biological Diversity, and noted the modifications suggested by the Secretariat to bring the model agreements concerning placing national collections in the International Network into line with recent developments, including, in particular, references to the Convention on Biological Diversity. Many delegations recognized that the modifications would be appropriate as a point of reference for future negotiations. Other delegations suggested that the model agreements should not be modified at this time. It was also noted that the final form of the agreements would depend on the outcome of the negotiations in the Commission on the revision of the International Undertaking, and that any agreements signed now may need to be

¹ *Appendix D* presents a chart identifying the elements of the Global System, and a list of countries that are formally part of the Global System, either as members of the Commission on Plant Genetic Resources, or by having adhered to the International Undertaking on Plant Genetic Resources, or both.

revised in the light of that outcome. The Commission therefore *agreed* that the Secretariat should go ahead with the negotiation of agreements, using as appropriate the revised models, and that the duration of the agreements should be reduced to allow for their possible revision in the light of the outcome of the ongoing negotiations to revise the International Undertaking on Plant Genetic Resources, in the same way as the agreements already concluded with the CGIAR Centres.

16. The Commission welcomed the joint report by FAO and IPGRI on behalf of the CGIAR Centres on the actions taken to implement the agreements. It noted the interim measures being taken by the Centres in consultation with the FAO Secretariat to ensure the implementation of Article 10 of the Agreement requiring that subsequent recipients of germplasm not claim legal ownership or intellectual property rights over such germplasm, and the continuing discussions on the need for and content of possible interim material transfer agreements.

17. The Commission invited the Director-General of IPGRI, Mr G. Hawtin, to outline the CGIAR's perception of the interlinked technical and policy problems it now faced in managing the Centres' *ex situ* collections, which they had brought into the Network under the auspices of FAO.

18. He recalled that, by signing the agreements with FAO, the CGIAR recognized the inter-governmental authority of the Commission and its role in providing policy guidance regarding the collections. The agreements also stated that the Centres "shall not claim legal ownership over the designated germplasm, nor shall [they] seek any intellectual property rights over that germplasm or related information". Within this context, he noted that the collections brought into the Network covered mostly material assembled before the coming into force of the Convention on Biological Diversity, and that the Centres were concerned that the international community rapidly reach agreement on arrangements regarding access, particularly for new material that would enter the Centres' collections.

19. Mr Hawtin discussed at length questions that the CGIAR was attempting to address, and approaches to facilitating access to plant genetic resources and to promoting the equitable sharing of the benefits arising from their commercial exploitation. He stressed the importance of the international community evolving simple, effective instruments that did not imply very high transaction costs, and that would not result in plant breeders preferring to use only existing material. The Commission welcomed the Director-General of IPGRI's excellent presentation and requested that the information it contained be recorded in writing and submitted to the Commission. Mr Hawtin said that his statement did not represent CG policy, but instead contained ideas for discussion on the development of a potential model system for the linking of access, utilization and the equitable sharing of the benefits. The statement submitted by IPGRI is in *Appendix H*.

20. The view was expressed that the document showed that it might be possible to combine both bilateral and multilateral arrangements for benefit-sharing in ways that would be compatible with the Convention on Biological Diversity. It was also noted that the document differentiated specific conditions of access to material acquired before the entry into force of the Convention on Biological Diversity from the conditions applicable to the germplasm collected after the entry into force of the Convention. Some countries stressed that the question remains as to whether material acquired after the entry into force of the Convention on Biological Diversity, as well as material developed by the Centres from germplasm acquired wholly or in part after the entry into force of the Convention, should be "designated", under the terms of the Agreement between FAO and the CG Centres. The Commission noted that "designation" should be a condition set out in a written consent of the country of origin. Some countries considered that the Commission was not yet in a position to give guidance to

the CG Centres. A number of others felt that some general guidance could be given on the manner in which the CG Centres should implement the provisions of the Convention on Biological Diversity. Centres should aim to ensure the "fair and equitable sharing of results of research and development and of benefits arising from commercial and other utilization of genetic resources with the country providing such resources", as stated in Article 15 of the Convention. This provision of the Convention should be applied to all uses not falling under the category of "not-for-profit use", and in particular in the case of the employment of intellectual property rights protection of material derived therefrom. They stressed that the CG Centres must fully apply the provisions of the Convention on Biological Diversity.

21. The Commission felt that the system proposed by Mr Hawtin could be a useful contribution for consideration in the context of the revision of the International Undertaking. The Commission *recommended* that IPGRI prepare an in-depth study, for the consideration of the Commission, of various possible systems, which would be compatible with the Convention on Biological Diversity, analyzed in terms of their likely efficiency, practicality and cost-effectiveness.

22. A number of countries suggested that it might be possible to employ the system suggested by Mr Hawtin on an experimental basis, so as to assess its advantages and disadvantages, until the negotiations of the revision of the International Undertaking had been completed. Others felt that it would first be necessary for them to analyze in depth the implications of this proposal. In any case, it provided a rich source of ideas. The Commission noted Mr Hawtin's assertion that while the problem was complex, practical solutions needed to be found and, in his view, could be found.

23. Mr Hawtin stressed the importance of quickly completing the revision of the International Undertaking, as there was at present an international policy vacuum, which, in the opinion of the CGIAR, presented difficulties for the efficient operation of its plant genetic resources activities. The Commission stressed the importance to global food security and sustainable agriculture of a fully effective and operational CGIAR system, as benefiting all countries and its role in providing germplasm, and in technology-transfer, training and capacity-building for developing countries.

24. In answering questions raised by delegates, Mr Hawtin recognized that making the proposed changes within the CG Centres might entail diverting resources from research towards policy and administration, and that the system adopted would require compromise and goodwill between countries. To assess the economic contribution of germplasm towards varieties, he noted that it would be necessary to establish acceptable arbitrary guidelines to determine benefit-sharing, and that the CGIAR could help develop such guidelines, which would be necessary to assess potential benefit-sharing liabilities at the outset of varietal development. He noted that the transaction costs of monitoring or negotiation might, in many cases, outweigh the benefit derived from a small genetic contribution to a plant variety. With respect to the operation of the CGIAR Centres in the period until the revision of the International undertaking was finalized, he felt that the policy on pre-Convention germplasm was clear, but that germplasm placed in the CGIAR collections after the Convention could either be on the same basis of the existing pre-Convention germplasm, or on the basis of the bilateral benefit-sharing agreement outlined in his statement. Some delegates expressed their great concern for the consequences of these measures for the functioning of the International Network, and the difficulties of implementing them. A number of others expressed great support for the proposals put forward by Mr Hawtin, and their support for actions to implement these ideas.

(ii) Code of Conduct on Plant Germplasm Collecting and Transfer

25. The Commission noted with satisfaction that the voluntary Code of Conduct for Plant Germplasm Collecting and Transfer, which had been agreed during its Fifth Session, had been adopted in November 1993, by Conference Resolution 8/93. It also noted that the Code had now been widely distributed.

26. The Commission recognized that the Code represented an example of a minimum international standard, and some countries mentioned that its function is to provide broad guidelines to countries for plant germplasm collection and transfer to facilitate the rational conservation and use of plant genetic resources. It expressed satisfaction that the Code had already assisted a number of countries in developing their national legislation.

27. The Commission also recalled that Article 16.1 of the Code established that the "appropriate national authorities and the Commission on Plant Genetic Resources should periodically review the relevance and effectiveness of the Code", and that it "should be considered a dynamic text that may be brought up to date as required, to take into account technical, economic, social, ethical and legal developments and constraints". In this context, and in the view of several delegations that the Code of Conduct has become obsolete after the entry into force of the Convention, some countries considered that the Code might require modification, in the light of developments and new international instruments, and, in particular, the revision of the International Undertaking, and *requested* the Secretariat to prepare questionnaires to facilitate its monitoring function, and allow any necessary development, modification and updating of the Code.

(iii) Draft Code of Conduct on Plant Biotechnologies

28. The Commission recognized that biotechnology builds on the raw material of genetic resources, and noted that many countries did not have the national capabilities in advanced biotechnologies needed. Some countries noted that the issue of an equitable sharing of the benefits, in terms of access to and the transfer of germplasm and technology, was important, particularly in the light of new developments regarding rights over genetically modified organisms.

29. The Commission recalled that, at its Fifth Session, it had considered a draft Code of Conduct which included provisions to maximize the positive effects of biotechnology and minimize its potential negative effects; to promote access to relevant biotechnologies to which they apply; and for risk assessment and management, particularly with regard to genetically modified organisms related to plant genetic resources for food and agriculture.

30. With respect to the biosafety component of the draft Code, the Commission noted with satisfaction that, as requested by its last session: (i) this component had been transmitted to the Secretariat of the Convention on Biological Diversity, as an input to the Conference of the Parties for the possible development of a protocol on biosafety; (ii) that FAO is participating in this work, "in order to ensure that the aspects of biosafety in relation to plant genetic resources for food and agriculture, are appropriately covered". The Commission *requested* that such cooperation between FAO and the Convention's Secretariat and governing bodies continue.

31. The Commission also recalled the suggestion of its last session that FAO further develop the components of the draft Code which were not related to biosafety, for presentation to its Sixth Session, or to a later session, as advised by its Working Group. The Tenth Session of the Working Group had agreed to defer consideration of a new draft to a later session, and that the Sixth Session of the

Commission should consider a Secretariat document on recent biotechnological developments that affected various aspects covered in the first draft Code.

32. Document CPGR-6/95/15, *Recent International developments of relevance to the draft Code of Conduct for Plant Biotechnology*, was then considered. The Commission *requested* that document CPGR-6/95/15 be transmitted as an information document to the Secretariat of the Convention on Biological Diversity, particularly for its relevance to the Conference of the Parties' current consideration of bio-safety issues.

33. The Commission noted that a number of issues that were covered in the draft Code (such as the transfer of agro-biotechnologies and related plant germplasm, as well as intellectual property rights, Farmers' Rights as recognized by the FAO Conference, and rewards for informal innovators) are under consideration during the revision of the International Undertaking and in other relevant forums, including the Conference of Parties to the Convention on Biological Diversity, the World Intellectual Property Organisation (WIPO), the International Union for the Protection of New Varieties of Plants (UPOV) and the World Trade Organization (WTO). It considered, however, that the focus of other forums was not specifically on plant biotechnologies for food and agriculture, as was the case of the Commission.

34. There was some discussion as to whether, in view of the current discussions and negotiations, in FAO and elsewhere, the draft Code should continue to be developed. A number of countries felt that it would be premature to drop either the Code itself, or the biosafety component alone, before the revision of the International Undertaking had been completed, and before the need for and modalities of a biosafety protocol to the Convention on Biological Diversity had been considered by the Conference of the Parties. Some countries considered that it should be dropped. Others considered that only the biosafety component should then be deleted from any further development of the draft Code.

35. The Commission *agreed* to postpone any further development of the draft Code until after the current negotiations for the revision of the International Undertaking were over.

(iv) World Information and Early Warning System (WIEWS)

36. The Commission considered document CPGR-6/95/13, which contained a *Progress report on the World Information and Early Warning System on Plant Genetic Resources for Food and Agriculture*, and noted that document CPGR-6/95/8 Annex provided a summary analysis of data in the WIEWS, on *ex situ* collections throughout the world.

37. The Commission noted that the WIEWS is based on information provided by countries. Some countries recognized the role of the WIEWS as a source of information for the periodic updating of the Report on the State of the World's Plant Genetic Resources, and the action-oriented complementary Global Plan of Action.

38. It was recognized that the Early Warning mechanism is still at an early stage of development, and that it may expand to become more operational through the projects, programmes and activities in the Global Plan of Action. The importance was emphasised of establishing national-level mechanisms effectively to implement any early warning. The Commission suggested that recent technological advances that could permit the decentralization of the WIEWS be explored.

39. The Commission also noted with satisfaction that the WIEWS would be of value to the Clearing House Mechanism of the Convention on Biological Diversity, on matters related to plant genetic diversity for food and agriculture, and suggested that FAO and the Secretariat of the Convention on Biological Diversity should work together on the possible accession by the Clearing House Mechanism to the WIEWS databases. The Commission also considered that the FAO Global System and the WIEWS should also utilize technical information available within the newly established System-Wide Genetic Resources Programme of the Consultative Group on International Agricultural Research (CGIAR), particularly on germplasm maintained by the Centres.

(v) Network of *In Situ* Conservation Areas

40. The Commission supported the need for the development of a network of areas for the *in situ* conservation of plant genetic resources for food and agriculture and felt that this should be established on the basis of national policies and strong national commitments. The complex interdisciplinary approach needed, and the lack of agreed technical criteria were noted: the Commission therefore suggested that the activities in other forums in this area be reviewed, so as to identify complementarities and opportunities for cooperation. It also suggested drawing upon relevant policy guidance provided by countries during the preparatory process of the Fourth International Technical Conference, which is expected to be reflected in the Global Plan of Action.

41. The Commission noted with satisfaction that FAO was planning to organize a worldwide technical consultation on protected areas in 1997, and *recommended* that the agenda include a review of the role of protected areas in the *in situ* conservation of the full range of plant and animal genetic resources, including wild crop relatives, and that it help identify technical criteria for the establishment of the network, and develop guidelines for action in this respect.

(vi) The broadening of the mandate of the Commission

42. The Commission took note of document CPGR-6/95/Inf. 4, which contained relevant paragraphs from the reports of the 1995 sessions of the Committees on Agriculture, Fisheries and Forestry, and the Hundred-and-eighth Session of the Council.

43. The Commission noted the recommendation of the Hundred-and-eighth Session of the Council to the next Conference, that the mandate of the Commission on Plant Genetic Resources be broadened to that of a Commission on Genetic Resources for Food and Agriculture, by a phased step-by-step approach, beginning with domestic animal genetic resources. The Commission agreed that this should not interfere with the ongoing negotiations for the revision of the International Undertaking, or with the preparation of the Fourth International Technical Conference. It was *suggested* that the issue should not be raised in the Commission until these two processes were complete, and that, in the meantime, *ad hoc* sectorial groups, when established, could report to the Committees on Agriculture, Forestry and Fisheries.

(vii) FAO's cooperation with the Convention on Biological Diversity

44. The Commission considered document CPGR-6/95/4 Annex 1, *Cooperation in the implementation of the Convention on Biological Diversity, on matters of interest to the Commission on Plant Genetic Resources*.

45. The Commission expressed satisfaction at the cooperation developing between FAO and the Secretariat of the Convention on Biological Diversity. It strongly supported the secondment, in accordance with the undertakings made at the first meeting of the Conference of the Parties, as soon as possible, and preferably before the first meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), of an FAO officer to the Secretariat of the Convention, so as to collaborate in matters related to food and agricultural biological diversity. The Commission *requested* that the report of its current session be transmitted to the Secretariat of the Convention on Biological Diversity, for the information of the next session of the Conference of the Parties to the Convention, and that the Chairman of the Commission should, on that occasion, speak on the Global System and the work of the Commission. The Commission also *requested* that the report of its current session be transmitted to the first meeting of the Convention's SBSTTA, to assist it in preparing the contribution of the Convention on Biological Diversity to the Fourth International Technical Conference. The Commission considered that the Global System, and its components, including the WIEWS, the Report on the State of the World's Plant Genetic Resources and the Global Plan of Action, should be highlighted as valuable inputs to the work of the Convention's Secretariat. Cooperation on biosafety is covered in para. 28 to 34 above, on the draft Code of Conduct on Biotechnology, as it affects the conservation and utilization of plant genetic resources for food and agriculture.

VI. REPORTS, PROGRAMMES AND ACTIVITIES ON PLANT GENETIC RESOURCES

46. The Commission considered document CPGR-6/95/5.1, which provided a detailed account of FAO activities from 1993 to 1995, under both the Regular and Field Programmes, related to policies, legal and technical issues on the conservation and sustainable use of plant genetic resources. The Commission complimented the Secretariat for the detailed and informative report on FAO's activities and programmes in the field of plant genetic resources, which was in line with its request in previous sessions and which should serve as a model for future reports, which should be provided to the Commission at each regular session. This would help the Commission fulfil its responsibility to advise FAO on the Organization's plant genetic resource activities. The extent and depth of FAO's various activities dealing with the conservation and sustainable use of plant genetic resources was remarked upon.

47. The Commission recognized that the crop-related networks reported on in Appendix 1 of CPGR-6/95/5.1 were a useful approach to integrating activities on plant genetic resources, and *suggested* that such networks be regarded as part of the Global System, in order to strengthen practical linkages between the conservation and utilization of crop genetic resources, at field level. Delegates encouraged FAO to pursue the continued expansion of the networks' regional and crop coverage. The Commission *recommended* that FAO's ongoing field activities be taken into account in the preparation of the Global Plan of Action on Plant Genetic Resources.

48. The Commission noted with satisfaction the increasing number of field projects with plant genetic resource components, as reflected by countries' own priorities.

49. In considering FAO's projects and programmes in forest genetic resources, some countries emphasized the importance of the recommendations of the Panel of Experts on Forest Gene Resources. It welcomed the elaboration, by the Panel, of lists of priority tree species, classified by region and operational activity. Some countries considered that such prioritization would be of value in the preparation of the Global Plan of Action.

50. The Commission also reviewed document CPGR-6/95/5.2, which contained reports provided by a number of United Nations and other inter-governmental organizations, concerning their programmes and activities for the conservation and use of plant genetic resources: *inter-governmental organizations* [the United Nations Conference on Trade and Development (UNCTAD), The United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO), the World Bank, the World Trade Organization (WTO), the Asian Development Bank (AsDB) and the Commonwealth Secretariat]; twelve *Centres of the Consultative Group on International Agricultural Research* (CGIAR) [El Centro Internacional de Agricultura Tropical (CIAT), the Centre for International Forestry Research (CIFOR), the International Maize and Wheat Improvement Centre (CIMMYT), El Centro Internacional de la Papa (CIP), the International Centre for Agricultural Research in the Dry Areas (ICARDA), The International Centre for Research in Agroforestry (ICRAF), the International Crop Research Institute for the Semi-arid Tropics (ICRISAT), the International Institute of Tropical Agriculture (IITA), the International Livestock Research Institute (ILRI), the International Plant Genetic Resources Institute (IPGRI), the International Rice Research Institute (IRRI), and the West Africa Rice Development Association (WARDA)]; and a number of *other non-governmental organizations* [the World Conservation Union (IUCN), Genetic Resources International (GRAIN) and the International Centre for Under-utilized Crops, (ICUC)].

51. During the session, Associated Country Women of the World (ACWW), the International Fund for Agricultural Development (IFAD), and the International Union for the Protection of Plant Varieties (UPOV), made written reports available, which were put at the disposition of delegates, as document CPGR-6/95/5.2 Add. 1. Verbal statements were also made by a number of the organizations present.

52. The Commission welcomed these reports, and thanked the organizations that had presented them. It felt that they provided the Commission and its member countries with very useful information on world activities on plant genetic resources for food and agriculture. It considered that such reports also contributed to the mutual enrichment of understanding, which would lead to greater coordination and synergy in plant genetic resource activities. It stressed the importance of collaboration between organizations, particularly between FAO and IPGRI.

53. In answer to questions addressed to IPGRI, its Director-General, speaking on behalf of the CGIAR Centres, informed the Commission about the CGIAR's System-Wide Genetic Resources Programme (SGRP) and its activities, which included the development of a System-Wide Information Network on Genetic Resources (SINGER), that had been initiated in 1994 in order to strengthen its overall system for the coordination of programmes on plant genetic resources, and its linkages with national programmes. Activities under the System-Wide Genetic Resources Programme included a forthcoming review of genebank operations; strategic studies on *in situ* conservation; the development of guidelines for regeneration, and standards for *in vitro* collections and field genebanks. These activities were being undertaken jointly with FAO. The Commission agreed with these initiatives, and *suggested* that the standards for *in vitro* and field genebanks, and the proposed guidelines for regeneration, be submitted to the Commission for consideration, in view of their possible approval.

54. The Commission considered it important to be regularly apprised of the activities of organizations active in the field of plant genetic resources for food and agriculture, and encouraged organizations that had submitted reports to continue to do so, and the submission of reports by other organizations with relevant activities on plant genetic resources for food and agriculture, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), the World Intellectual Property Organization (WIPO), the Conference of the Parties to the Convention on Biological Diversity, the Global Environment Facility

(GEF), l'Association de coopération culturelle et technique (ACCT), l'Association des universités partiellement ou entièrement de langue française (AUPELF), the World Wide Fund for Nature (WWF), and the Rural Advancement Fund International (RAFI). It also *asked* the Secretariat to invite relevant regional forums (the Council of Europe, the Southern Common Market (MERCOSUR) and the "Junta del Acuerdo de Cartagena" were mentioned) to submit reports to its future sessions.

VII. THE PREPARATORY PROCESS FOR THE FOURTH INTERNATIONAL TECHNICAL CONFERENCE ON PLANT GENETIC RESOURCES

55. The Commission expressed satisfaction with the quality and comprehensive nature of the documentation, and with the progress of the preparatory process for the Fourth International Technical Conference, described in document CPGR-6/95/6, in particular its country-driven nature, as shown, for example, by the 101 Country Reports that had been received.

56. The Conference Secretariat reported upon the forthcoming sub-regional meetings, which would further strengthen country participation in the process. It noted that these meetings would prepare synthesis reports, based on the Country Reports of each sub-region. India, Kenya and Zimbabwe announced that they would host meetings in their respective sub-regions.

57. Latin American and Caribbean countries expressed a strong desire for a regional meeting to be held, in order to facilitate a regional consensus concerning the documents to be submitted to the Fourth International Technical Conference. The Commission noted the budgetary and time constraints, which may give rise to practical difficulties in holding such a meeting. Nevertheless, the Latin American and Caribbean group insisted on its importance for the preparatory process. The Commission welcomed Colombia's generous offer to host and finance, up to the sum of US\$100,000, a regional meeting, in early 1996, for Latin America and the Caribbean, and also thanked Cuba for its willingness to collaborate in the organization of this meeting.

58. The very large task before the Secretariat was noted, and concern expressed over the resources and time available for the completion of its work. It was noted that the budgetary resources were 23 per cent below the objective set for the preparatory process. The Commission also noted suggestions that further extrabudgetary resources might be needed to fund the participation of two representatives from each developing country in the Leipzig Conference.

59. The Commission also reiterated that the main purpose of the Fourth International Technical Conference, and its preparatory process, is the elaboration of the first Report on the State of the World's Plant Genetic Resources, and the first Global Plan of Action, as an integral part of the FAO Global System for the Conservation and Utilization of Plant Genetic Resources. Many delegations also emphasized the importance of a progress report on the revision of the International Undertaking.

60. The Commission noted that the first draft Report on the State of the World's Plant Genetic Resources and the first draft Global Plan of Action would be prepared by the Secretariat in mid-February, in order to be ready for distribution to countries six weeks before the expected date of the extraordinary session of the Commission, in April 1996. Therefore, substantive inputs for the preparation of the first draft of documents could be made until the beginning of January 1996. The first drafts, as finalized by the Commission for consideration at the Fourth International Technical Conference, would be transmitted to countries immediately after that session of the Commission.

61. The draft provisional agenda for the Fourth International Technical Conference on Plant Genetic Resources was reviewed and modifications were proposed. A revised draft provisional agenda was agreed (*Appendix E*). It was, however, emphasized that this was still a draft, which includes options in brackets and which should be finalized at the Commission's proposed extraordinary session in April 1996, and that the Fourth International Technical Conference itself would decide the definitive version of the agenda.

62. The Commission *agreed* that the question of high level participation in the Leipzig Conference should be addressed at the Extraordinary Session in April 1996.

63. Germany, as the host country, proposed a number of events complimentary to the formal agenda. The Commission welcomed these proposals. It was announced that the host country agreement between FAO and Germany would soon be signed.

64. The Commission *called* for non-governmental organizations active in the field of plant genetic resources for food and agriculture, including national non-governmental organizations, to be invited as observers to the Leipzig Conference, and to be able to participate as observers in the preparatory process, including the sub-regional meetings.

**(i) The Report on the State of the World's Plant Genetic Resources
for Food and Agriculture**

65. The Commission expressed satisfaction with the outline of the State of the World's Plant Genetic Resources submitted to it by document CPGR-6/95/10. The Report would be divided into three main parts:

- *State of Diversity* - an assessment of the state of conservation, erosion and utilization of plant genetic resources, and an analysis of the underlying processes;
- *State of the Art* - a survey of the state of scientific, technical, legal and other methodologies and tools for the conservation and utilization of plant genetic resources;
- *State of Capacity* - a review of the state of human resources, institutional structures, and capacity to use relevant methodologies and tools, for the conservation and utilization of plant genetic resources, at the sub-regional, regional and global levels.

Additionally, there would be a part providing a Summary and Conclusions, drawing together the main findings of the Report.

66. A number of comments and suggestions were made by some delegations concerning the Report:

- in dealing with appropriation of benefits, the Report should assess the extent to which there is a fair and equitable sharing of the benefits;
- the Report should deal with technology development, as well as with technology transfer;
- the Report should include a factual assessment of the legal capacity of countries;
- the subjects of trade and of intellectual property rights, including the work of the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO) and the International Union for the Protection of New Varieties of Plants (UPOV), in this context, and the effects of intellectual property rights on agricultural and rural communities, should be included;

- the Report should include an examination of current government and private sector financial support for the conservation and use of plant genetic resources for food and agriculture;
- the need specifically to focus on the role of farming communities.

67. It was *agreed* that the contribution of plant genetic resources for food and agriculture to world food security should be emphasized, in the context of sustainable agriculture, and that the special nature and needs of agriculture should be stressed. In so far as the Report covered matters specifically related to forest genetic resources, it was *agreed* that it should concentrate on agroforestry and forestry for food production.

68. It was noted that several sources of information, including the World Information and Early Warning System, would be used for the preparation of the Report. It was suggested that the methodology used in producing the Report should be made clear in the Report itself, including identification of areas for which scientific methods of assessment were not available, or lacked precision.

69. Noting the above comments, the Commission endorsed the Outline of the Report on the State of the World's Plant Genetic Resources (CPGR-6/95/10), as the basis on which the Report should be developed.

(ii) The Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources

70. The Commission stressed that the Global Plan of Action must be action-oriented. Since it would provide a strategy to guide international cooperation on plant genetic resources for food and agriculture in the coming years, it should be based on clear, but succinctly stated, aims and principles, and include a strategy, information on current activities in the area of the Global Plan of Action, cost estimates, identification of possible sources of financial resources, and priorities and criteria for the allocation of resources. The Commission recalled its recommendation at its Fourth Session that the "Technical Conference be followed by a meeting to define the financial commitments needed for the implementation of the Global Plan of Action, and the terms and conditions of financing". Some countries suggested that the World Food Summit be considered an opportunity to address these issues. It was also *recommended* that the Director-General should report on the outcome of the Leipzig Conference to the World Food Summit.

71. The Commission emphasized the importance of incorporating certain activities into the Global Plan of Action: *inter alia*, characterization and evaluation of germplasm samples, genetic enhancement, pre-breeding, and the use of new technologies, as well as the importance of research. It also noted the need to link conservation activities to the sustainable utilization of plant genetic resources, including plant breeding, and the particular importance of the Plan in improving the use of genetic resources to promote sustainable agriculture in marginal areas, such as areas subject to desertification. The need for the integration of activities in the field of plant genetic resources with activities to promote the development of sustainable agriculture was also emphasized.

72. The Commission agreed that the outline provided by the Secretariat in document CPGR-6/95/11 provided a useful basis for the further development of the Global Plan of Action. It was also stated that the structure and content of the Plan should draw upon Agenda 21. After discussion, the Commission endorsed a revised structure for the Global Plan of Action (*Appendix F*). A preliminary draft, prepared by the Secretariat and reflecting the comments of some delegations, including bracketed text, of a

declaration that might be adopted during the Fourth International Technical Conference (the "Leipzig Declaration"), either as part of the Global Plan of Action or separately, is appended to this report (*Appendix G*). It was understood, however, that further negotiations on the draft Declaration would take place, in particular, during the Extraordinary Session of the Commission in April 1996.

VIII. CONTINUATION OF NEGOTIATIONS FOR THE REVISION OF THE INTERNATIONAL UNDERTAKING

73. The Commission, taking into account the recommendations of its Working Group, decided to undertake a first reading of the preamble and to focus its discussions on Articles 3, 11 and 12 of the International Undertaking, which generated considerable controversy. Formal written proposals made during this session are in the consolidated texts contained in *Appendices I, J, K and L*. The Commission *requested* the Secretariat to review these texts, and integrate them into a single consolidated text, with the texts contained in document CPGR-6/95/7 Rev.1, and make them available by August 1995.

IX. REVISION OF THE TERMS OF REFERENCE AND PROCEDURES OF THE WORKING GROUP, AND ELECTION OF ITS OFFICERS

74. The Commission considered document CPGR-6/95/3, *Draft terms of reference and procedures for the Working Group*. These terms of reference and procedures were prepared at the request of the Commission, and discussed by the Tenth Session of its Working Group. Noting that the issues of the broadening of the Commission, and the possible nature of its Working Group, would be discussed by the FAO Conference in November 1995, the Commission *decided* to postpone consideration of this issue until its next session. It also *decided* in the meantime to allow members of the Commission who are not members of the Working Group to participate, upon request, in the Working Group, in an observer capacity. It *agreed* that experts, as well as representatives of inter-governmental organizations and international non-governmental organizations, could be invited to attend its sessions in an observer capacity.

75. The Commission *agreed* that its Chair should attend all meetings of the Working Group as an *ex officio* member.

76. The Regional Groups announced their nominees for membership of the Working Group, and the Commission elected the new Chair:

Chair: Mr R.S. Paroda (India)

Africa: Ethiopia, Guinea, Lesotho, Madagascar, Morocco

Asia and the Pacific: Australia, India, Japan, Malaysia, Thailand

Europe: France, Germany, Israel, Poland, Sweden.

Latin America and the Caribbean: Brazil, Mexico, Peru, Venezuela

Middle East: Egypt, Iran, Libya

North America: Canada

X. THE FUTURE WORK OF THE COMMISSION

77. The Secretary of the Commission, while proposing the draft provisional agenda for its Seventh Regular Session, indicated that the possibility of convening extraordinary sessions of the Commission would be subject to the availability of funds.

78. The Commission discussed the provisional agenda of its Seventh Session, to be held in spring 1997, and suggested that the item on Reports from International Organizations on their Programmes, Policies and Activities should include a report from the Secretariat of the Conference of the Parties to the Convention on Biological Diversity. It was also suggested that FAO's report should include information on the 1996/97 biennium and on plans for the 1998/99 biennium. The draft provisional agenda for the Commission's Seventh Session is in *Appendix M*.

79. The Commission discussed at length the possibility of, and the need for, holding one or more extraordinary sessions in 1996, to finalize preparations for the Fourth International Technical Conference and to continue the process for the revision of the International Undertaking. A contact group was established which agreed that there should be two such sessions of one week each, subject to the availability of funds: one in early 1996, to prepare the Report on the State of the World's Plant Genetic Resources and negotiate the Global Plan of Action, as well as review any recent developments relating to the harmonization of the International Undertaking with the Convention on Biological Diversity; the other in late 1996, to continue negotiations for the revision of the International Undertaking.

80. The Commission *agreed* that the extraordinary session to be held in April 1996 should be of six days duration and should entail evening sessions. While the main focus of the meeting would be to finalize preparation for the Technical Conference, an adequate period of time should be devoted to questions relating to the Undertaking to prepare well the substantive negotiations to be held at the extraordinary session, which, it had been agreed, should be held in the second half of 1996. In this connection, some countries suggested that each member should prepare a short statement of its views on the main issues of scope, access and Farmers' Rights, which would facilitate the discussions of the Commission on these points.

81. The Secretariat informed the Commission that in FAO's 1996/97 Programme of Work and Budget, provision had been made for one extraordinary session of two weeks, preceded by a Working Group in 1996, and regular sessions in 1997. The holding of two sessions of one week each would require additional resources. The Commission urged the Secretariat to secure allocation of these resources from the Regular Programme budget of FAO. The need for a clear time-table for completing this process was stressed. If funds were not obtained for a second session from the Regular Programme budget of FAO, the agenda for a single one-week session, to be held in April 1996, would have to be reconsidered to ensure that both issues were definitely addressed, first the Global Plan of Action, and then the revision of the Undertaking.

82. The Commission also reiterated the need for funds to be made available to facilitate the participation of developing countries in the negotiating process. The Commission thanked Canada, Italy and the Netherlands for their contributions and appealed for additional funds for the full participation of developing countries.

83. Other matters relevant to the future work of the Commission were discussed. Sweden informed the Commission that it was considering to host a meeting of experts participating in the negotiations for the harmonization of the International Undertaking with the Convention on Biological Diversity, and those active in the CGIAR system, to address the issue of access to genetic resources. The Commission was also informed that Brazil was considering the possibility to host a meeting, perhaps under the auspices of FAO, to consider the issues underlying Farmers' Rights as well as technical aspects relating to the possible ways of implementing them.

XI. OTHER BUSINESS

84. The Commission was pleased to see the opening of a server linked to the Internet and *requested* the Secretariat to make Commission documents available through the Internet. The Secretariat agreed to distribute the documents by electronic mail, as well as in printed form, and to consider availability through the Internet.

XII. DATE AND PLACE OF THE NEXT SESSION

85. The Commission *agreed* that its Second Extraordinary Session would be held during the third or fourth weeks of April 1996, in Rome, and the dates for the Third Extraordinary Session would then be decided.

APPENDIX A

COMMISSION ON PLANT GENETIC RESOURCES

Sixth Session

Rome, 19 - 30 June 1995

AGENDA

1. Election of the Chair and Vice-Chairs
2. Adoption of the agenda and timetable for the Session
3. Reports of the Working Group
4. Progress Report on the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture
5. Reports, programmes and activities on plant genetic resources
6. Progress report on the Fourth International Technical Conference on Plant Genetic Resources
 - 6.1 The Report on the State of the World's Plant Genetic Resources
 - 6.2 The Global Plan of Action
7. Continuation of negotiations for the revision of the International Undertaking
8. Revision of the terms of reference and procedures of the Working Group, and election of its officers
9. The future work of the Commission
10. Other business
11. Date and place of the next session

APPENDIX B

LIST OF DOCUMENTS

CPGR-6/95/1	Provisional annotated agenda
CPGR-6/95/2	Report by the Chairman of the Working Group on the Group's Tenth Meeting
CPGR-6/95/3	Draft terms of reference and procedures for the Working Group
CPGR-6/95/4	Progress report on the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture
CPGR-6/95/4 Annex 1	Cooperation in the implementation of the Convention on Biological Diversity on matters of interest to the Commission on Plant Genetic Resources
CPGR-6/95/5.1	Reports, programmes and activities on plant genetic resources. 1. Report of FAO's activities
CPGR-6/95/5.2	Reports, programmes and activities on plant genetic resources. 2. Reports on the activities of intergovernmental and international non-governmental organizations
CPGR-6/95/5.2 Add 1 (<i>only in English</i>)	Reports, programmes and activities on plant genetic resources. 2. Reports on the activities of intergovernmental and international non-governmental organizations (reports submitted during the session itself)
CPGR-6/95/6	Progress report on the preparatory process of the Fourth International Technical Conference on Plant Genetic Resources
CPGR-6/95/7 Rev. 1	Revision of the International Undertaking on Plant Genetic Resources. Stage I - New consolidated text of the International Undertaking
CPGR-6/95/8 (CPGR-Ex1/94/5)	Revision of the International Undertaking on Plant Genetic Resources. Issues for consideration in Stage II: access to plant genetic resources, and Farmers' Rights
CPGR-6/95/8 Supp.	Revision of the International Undertaking on Plant Genetic Resources.

CPGR-6/95/REP

(CPGR-Ex1/94/5 Supp.)	Analysis of some technical, economic and legal aspects for consideration in Stage II.
CPGR-6/95/8 Annex (CPGR-Ex1/94/5 Annex)	Survey of existing data on <i>ex situ</i> collections of plant genetic resources for food and agriculture
CPGR-6/95/9	Revision of the International Undertaking on Plant Genetic Resources. Stage III - Legal and institutional matters
CPGR-6/95/10	Outline of the Report on the State of the World's Plant Genetic Resources
CPGR-6/95/11	Outline of the Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture
CPGR-6/95/11 Add. 1	Revised structure of the Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture
CPGR-6/95/12 and CPGR-6/95/12 Corr. 1	Progress report on the International Network of <i>Ex Situ</i> Germplasm Collections under the Auspices and/or Jurisdiction of FAO
CPGR-6/95/12 Add. 1	The International Network of <i>Ex Situ</i> Germplasm Collections and the CGIAR Centres. Joint report by FAO and the International Plant Genetic Resources Institute, on behalf of the CGIAR Centres, on the implementation of the agreement signed between FAO and the CGIAR Centres on 26 October 1994
CPGR-6/95/13	Progress report on the World Information and Early Warning System on Plant Genetic Resources for Food and Agriculture
CPGR-6/95/14 Rev. 1	Draft agenda of the Fourth International Technical Conference on Plant Genetic Resources
CPGR-6/95/15	Recent international developments of relevance to the draft Code of Conduct for Plant Biotechnology
CPGR-6/95/Inf. 1 (CPGR-Ex1/94/3)	Mandate, context, background and proposed process
CPGR-6/95/Inf. 1 Add. 1	Updating of the project document for support to developing country participation in the negotiation of the revision of the International Undertaking on Plant Genetic Resources
CPGR-6/95/Inf. 2 (CPGR-Ex1/94/4 Alt.)	Revision of the International Undertaking on Plant Genetic Resources. Stage I - Integration of the annexes and harmonization with the Convention on Biological Diversity. (First draft, in a possible new structure)

CPGR-6/95/REP

- CPGR-6/95/Inf. 3 Extract from the Report of the 107th of the FAO Council (15 - 24 November 1994): matters regarding the Commission on Plant Genetic Resources (CL 107/REP, para. 72-92)
- CPGR-6/95/Inf. 4 Extracts from the reports of FAO technical bodies, and the 108th Session of the FAO Council: matters regarding the Commission on Plant Genetic Resources
- CPGR-6/95/Inf. 5 Report of the First Session of the Conference of the Parties to the Convention on Biological Diversity (Nassau, 28 November - 9 December 1994)
- CPGR-6/95/Inf. 5 Add. 1 Agreements with CGIAR Centres
- CPGR-6/95/Inf. 6 Extracts from the Report of the Third Session of the Commission on Sustainable Development (11 - 28 April 1995)
(only in English)
- CPGR-6/95/Inf. 7 Statement of competence and voting rights submitted by the European Community (EC) and its Member States
- CPGR-6/95/Inf. 8 Extract from the Programme Evaluation Report, 1994-95. Chapter 1: Conservation and management of plant genetic resources (sub-Programme 2.1.2.1) and animal genetic resources (sub-Programme 2.1.3.3)
- CPGR-6/95/Inf. 9 Rev. 1 Second provisional list of delegates and observers
- CPGR-6/95/Inf. 10 A preliminary abstract of a current study on *ex situ* collections at botanic gardens, with particular emphasis on plant genetic resources for food and agriculture
- Background Study Paper No. 1 The appropriation of the benefits of plant genetic resources for agriculture: an economic analysis of the alternative mechanisms for biodiversity conservation
(only in English)
- Background Study Paper No. 2 Sovereign and property rights over plant genetic resources
(only in English)
- Background Study Paper No. 3 Providing Farmers' Rights through *in situ* conservation of crop genetic resources
(only in English)
- Background Study Paper No. 4 Identifying genetic resources and their origin: The capabilities and limitations of modern biochemical and legal systems
(only in English)

International Undertaking on Plant Genetic Resources

CPGR-6/95/REP

Convention on Biological Diversity

Report of the Fifth Session of the Commission

Report of the First Extraordinary Session of the Commission

Report of the Eighth Session of the FAO Panel of Experts on Forest Gene Resources,
28-30/6/93 (*only in English, French and Spanish*)

APPENDIX C

REPORT BY THE CHAIRMAN OF THE TENTH SESSION OF THE WORKING GROUP OF THE COMMISSION ON PLANT GENETIC RESOURCES

I. INTRODUCTION

1. The tenth meeting of the Working Group, which was held on 3, 4 and 5 May 1995, was attended by representatives of Australia, Brazil, Canada, Cape Verde, Congo, Egypt, Ethiopia, France, Germany, India, Israel, Japan, Lesotho, Libya, Madagascar, Malaysia, Mexico, Peru, Sweden, Tunisia and Venezuela. The European Union was also represented at the meeting under the terms of para. 8 and 9 of Article II of the FAO Constitution. The meeting was chaired by Mr J. M. Bolívar (Spain). The list of participants is given in Annex 1.
2. Professor A. Sawadogo, Assistant Director-General for Agriculture, opened the meeting and emphasized the relevance and importance which FAO and its Director-General attached to plant genetic resources and the issues to be examined by the Working Group, and specifically the negotiated revision of the International Undertaking and the Fourth International Technical Conference on Plant Genetic Resources. Before taking the floor, all the delegations congratulated Professor Sawadogo.

II. ADOPTION OF THE AGENDA AND TIMETABLE FOR THE MEETING

3. The Working Group adopted the provisional agenda and drew up a timetable. It adopted the proposal made by two delegations to discuss the agenda and timetable for the next meeting of the Commission, the public aspects of the negotiations for the revision of the Undertaking, and to be given a briefing on the informal meeting sponsored by SAREC in Stockholm, under "Any other business".
4. The possibility of inviting observers from international organizations to the Working Group meetings was then discussed. It was recalled that under the present terms of reference and procedures, this was only possible as an exception and at the request of the Group itself, while in the new draft terms of reference and procedures to be submitted to the Commission for eventual approval at its Sixth Session, provision was made for the routine participation of observers. At the request of several delegations, the meeting discussed the advisability of inviting representatives of the International Plant Genetic Resources Institute (IPGRI), other Centres of the Consultative Group on International Agricultural Research (CGIAR) and the Secretariat of the Convention on Biological Diversity (CBD) to attend the meeting with observer status. The Group agreed to request the Secretariat to invite IPGRI as an exceptional measure to attend the debate on agenda item 3 "The Fourth International Technical Conference on Plant Genetic Resources" as an observer.

III. REVISION OF THE INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES

5. The Legal Advisor introduced this item, recalling the points that had been left pending at the last meeting of the Commission, and said that the Commission had defined three stages for the revision of the Undertaking, even though all three stages were linked.
6. It was decided that in order to debate this agenda item each delegate in turn should make general comments before moving on to the substantive debate on the issues which the extraordinary session of the Commission had specifically requested the Working Group

to examine: Articles 3, Scope; 11, Access to genetic resources; and 12, Farmers' Rights. The speakers considered that these were interrelated issues, and that it was necessary to define and explore all possible options.

7. The importance of cooperation and complementarity between the CBD and the FAO Global System for the Conservation and Utilization of Plant Genetic Resources. The Undertaking could be the instrument used by the CBD for plant genetic resources for food and agriculture.

8. The meeting appealed to donor countries to support the participation of the developing countries at the negotiating sessions of the Commission and its Working Group. A conservative estimate of the support required was 33 600 US dollars for each meeting of the Working Group, and 214 500 US dollars for each meeting of the Commission.

Scope of the International Undertaking

9. It was suggested that the revised International Undertaking should comprise both *in situ* and *ex situ* conservation, and sustainable utilization. It was suggested that the revised International Undertaking should also include the objectives of the CBD adapted to the case of Plant Genetic Resources for Food and Agriculture and Farmers' Rights, and other objectives intended to enhance food security.

10. The meeting then discussed whether the scope of the Undertaking should be limited to resources acquired before the entry into force of the CBD or to those acquired subsequently, or whether it should include both.

11. It was felt that the revised Undertaking should encompass all plant genetic resources for food and agriculture. It was pointed out that the Undertaking should provide a solid legal framework for the FAO Global System for the Conservation and Utilization of Plant Genetic Resources as a necessary element for ensuring worldwide food security.

12. Some countries were opposed to the inclusion of forest genetic resources in the Undertaking. Others held the opposite view, and it was recalled that these resources formed part of the mandate of FAO, and that approximately 20 percent of all farmers lived in woodlands. Different options were open in this regard:

- to keep the present formula used by the Undertaking, to cover "plant genetic resources of economic and/or social interest, particularly for agriculture";
- to restrict the scope of the Undertaking to genetic resources of cultivated plants, their wild relatives and wild food crops which are harvested, specifically excluding forestry genetic resources;
- not to exclude any group of plants that were actually or potentially of relevance to food and agriculture, but to add a list of mutually agreed species to which specific provisions of the Undertaking would apply, particularly in relation to access to and the distribution of benefits. This list would be an appendix to the revised Undertaking and could be periodically updated. It was suggested that the concept of "genepool" might be the best criterion for the list.

13. The Working Group discussed this latter possible option which, in principle, would reconcile different points of view. The option received fairly broad acceptance. However, one objection raised was that the incorporation of this list might lead to greater attention being given to major crops to the detriment of minor or local crops. It was felt that detailed consideration should be given to whether or not such a list should be incorporated into the revised Undertaking, bearing in mind both the practical and the scientific aspects.

Access to plant genetic resources

14. The question of how the Undertaking should treat material acquired before and after the entry into force of the CBD was then raised. Attention was drawn to the difficulty of making a distinction in practice between plant genetic resources acquired before the CBD and those acquired afterwards, and of identifying the place of origin of the former. The importance of national sovereignty and the need to take account of national legislation were stressed. It was acknowledged that there was a difference between sovereignty and ownership, and that the latter could be private.

15. Many delegations considered it necessary to distinguish between plant genetic resources acquired before and after the CBD, and that Model A (CPGR-6/95/7, p. 34, Art. 11) might help to facilitate this distinction. This being so, the option for Model A could be reformulated by splitting the article in two: the new Article "11" would refer to material acquired before CBD and the new Article "11-bis" to material acquired subsequently.

16. Access to previously existing collections could be governed by Article "11" on the basis of free access and the implementation of Farmers' Rights on mutually agreed terms in a multilateral framework. Article "11-bis" would deal with the conditions of access to material acquired after the CBD, which would be negotiated by the Parties on mutually agreed terms. This would also be reflected in Article 14 (Financial Security). However, the difficulty of maintaining different access regimes was raised. Some delegations wished to be able to apply a common multilateral regime, at least to those species or gene pools of relevance to food security, and those for which there was strong interdependency between countries. These could be the species or gene pools set out in the list annexed to the Undertaking, to which reference was made earlier.

17. FAO has an important role to play in any multilateral agreement on plant genetic resources for food and agriculture, particularly with regard to the material being kept in the International Agricultural Research Centres (IARCs).

18. Article 16 of the CBD on access to technology and the need for this to be linked to plant genetic resource access was also recalled. It was recognized that access to plant genetic resources, biotechnology and the funds should be linked, in both multilateral agreements and bilateral agreements. Against this background, reference was made to document CPGR-6/95/8 Sup., which highlighted the technical constraints on applying bilateral agreements to certain types of plant genetic resources.

Farmers' Rights

19. While these rights were not incorporated into the CBD, Resolution 3 in the Nairobi Final Act had requested FAO to develop them within the Global System. The meeting acknowledged the importance of this concept, the pioneering work performed by FAO and its Commission on Plant Genetic Resources, and the need to make the concept operational within the framework of the International Undertaking and in the context of sustainable agriculture.

20. It was noted that it was difficult to exercise these rights in the absence of legislation, and they required a legal framework, perhaps beginning at the level of "international law". Many delegations considered that Farmers' Rights should be developed on an equal footing with Plant Breeders' Rights.

21. The meeting then discussed whether collective or individual rights were at issue here, and considered that these concepts to be compatible and that a collective compensation system should facilitate the fair and equitable distribution of the commercial benefits accruing as a result of the use of the material, which would encourage farmers to continue their work of conserving and developing plant genetic resources.

22. The concept of "added value" inherent in Farmers' Rights was emphasized, which justified their collective character, as was the difficulty of likening them to the concept of Plant Breeders' Rights. Farmers could be considered beneficiaries of the work performed by plant breeders, and Farmers' Rights should be considered as being complementary, and not opposed, to Plant Breeders' Rights.

23. Agreement was expressed on the need to develop the International Fund on Plant Genetic Resources agreed upon in Resolution 3/91 in order to make Farmers' Rights effective. The proposals made by certain countries on the (sometimes interrelated) purposes/objectives to which the fund would contribute included the following:

- financing the *in situ* and *ex situ* conservation and sustainable use of plant genetic resources, particularly through a Global Plan of Action;
- compensating farmers to make good their reduced income as a result of maintaining traditional varieties instead of cultivating more productive commercial varieties;
- making possible the fair and equitable participation of farmers and their communities in the benefits deriving from the use of their plant genetic resources; and
- raising the living standards of farmers and agricultural communities.

24. Some delegations considered that Farmers' Rights should be considered socio-economic rights, and that their implementation should not be limited to the Fund but should also include aspects such as the following:

- the traditional rights of farmers and their communities to keep, use, exchange, share and market their seeds and plant reproductive material, including the right known as the "farmers' privilege";
- access by farmers to new technologies and other research achievements;
- protecting local technologies, traditional cropping practices and other informal innovative systems; and
- the rights of communities as custodians of indigenous knowledge and of their own plant genetic resources.

25. Many delegations considered that Farmers' Rights should be developed through a *sui generis* system (whether or not based on intellectual property rights) at the national and international levels.

26. It was pointed out that the concept of Farmers' Rights had several operational dimensions, and in order to avoid confusion these dimensions should be dealt with separately, perhaps in separate articles. Three articles were suggested dealing with the following points:

- i) restating and balancing the concept of Farmers' Rights against the concept of Plant Breeders' Rights; including the acknowledgement of the right to "the farmers' privilege" namely the right to continue the traditional practice of re-using on their own holdings the seeds they harvest themselves;
- ii) linking Farmers' Rights to the funding mechanism, which would not only make it possible to compensate and incentivate farmers to contribute towards the conservation and development of plant genetic resources, but would also lay the

- foundations for just and equitable sharing of the benefits deriving from plant genetic resources, with a possible reference to the Global Plan of Action;
- iii) establishing the rights of traditional farmers and communities in the national context, as custodians of indigenous knowledge and plant genetic resources (in line with Article 8(j) of the CBD).

27. On the subject of funding sources (related to Art. 14) several delegations felt that the Fund for implementing Farmers' Rights should be replenished through "fixed contributions" regulated under international agreements. It was also felt that the resources of the Fund could come from both public sector and private sector sources. It was also suggested that it did not necessarily have to be a completely new Fund, but could be an autonomous "window" of existing funding mechanisms.

Legal and institutional options

28. The Working Group decided to examine this item in view of the relationship between the issues on the agenda and legal and institutional considerations. The Legal Counsel introduced document CPGR-6/95/9, on "The Revision of the International Undertaking. Stage III: Legal and Institutional Options" which had been prepared for the Commission's Fifth Session.

29. There were four options for the legal status of the revised Undertaking:
- a non-legally binding instrument;
 - a legally binding instrument under Article XIV of the FAO Constitution;
 - a legally binding instrument adopted at a diplomatic conference (outside the framework of FAO);
 - a protocol to the CBD.

The status as a legal instrument would have implications for the nature of its governing body: the advisory, technical and scientific body; the secretariat and the financial mechanism, and ultimately on the type of support which FAO might give the Undertaking. The Working Group thanked the Legal Adviser for his clear and specific account of document CPGR-6/95/9, which would facilitate the work of the Commission when it examined these points.

30. It was noted that the revised Undertaking could be a protocol to the CBD, but that it could also have a different multilateral financing instrument from the financing mechanism specific to the Convention. Nevertheless, it was still premature to decide on whether the Undertaking should be a protocol to the CBD.

31. Several countries considered that it was very important to ensure FAO's support for the revised Undertaking. If the Undertaking were to be adopted outside the ambit of FAO's Constitution, the Parties could seek financial support from FAO and FAO could act as the Secretariat, but in no case could the Conference act as the governing body. Two options were open regarding the adoption of the Undertaking: wait for the FAO Conference, or convene a diplomatic conference. The first option was felt to be the most economical.

32. The meeting then discussed whether the Undertaking could be adopted under Article XIV of the FAO Constitution and whether it could, at the same time, be a protocol to the Convention. The Legal Adviser felt that this was possible in principle. The matter was left pending for subsequent examination.

33. The future role of the Commission was discussed in the event that the Undertaking were adopted under Article XIV. Even if the governing body were formally the Conference, or more specifically, the FAO members who were parties to the instrument, meeting in the Conference, the Commission would still remain the forum for discussion.

IV. THE FOURTH INTERNATIONAL TECHNICAL CONFERENCE ON PLANT GENETIC RESOURCES

34. The Project Director of the Trust Fund for the preparation of the Fourth International Technical Conference introduced this item. He explained that the report before the Working Group was still provisional, and that the Commission would be issuing a more detailed and updated version. He therefore gave an informal progress report on the preparations for the Conference.

35. Letters of Agreement had been signed with the offices of the International Plant Genetic Resources Institute and its regional offices in various countries, and 16 regional consultants had been contracted to help with the preparation of the country reports. FAO and IPGRI personnel had visited about 90 countries; 125 countries had already designated their Focal Points and over 120 reports were expected. Reports had also been submitted by 12 CGIAR (Consultative Group on International Agricultural Research) Centres. Twelve sub-regional meetings had been organized for the latter half of 1995. Contact had been made with NGOs, and with many scientists and representatives of commercial organizations. The project had set up an electronic Bulletin Board to facilitate participation in the preparatory process. There were still financing problems. 1 468 000 US dollars were needed for the basic budget, plus a further 881 000 dollars to enable 200 delegates from developing countries to attend the Conference.

36. A representative of IPGRI was invited to address the Working Group. He said that IPGRI attributed great importance to the Conference and its preparatory process, and wished to cooperate fully with FAO.

37. During the following debate a number of countries expressed an interest in convening regional meetings to complement the scheduled sub-regional meetings, where the possibility existed.

38. It was felt that the Report on the State of the World's Plant Genetic Resources should concentrate more on assessing their status rather than on describing it. The Global Plan of Action should be geared to action, with a portfolio of projects and an order of priorities. The importance of involving funding institutions in this project portfolio was also emphasized.

39. The Global Plan of Action had to be based on a strategy, but a distinction needed to be drawn between the strategy and the Plan of Action itself. The Commission had to be the forum for developing the strategy. Similarly the project portfolio and the funding mechanisms had to be negotiated in this forum.

40. It was important to establish a clear methodology for project evaluation. Each project had to set out the problem, the objectives, the activities and the benefits, so that they could be systematically evaluated.

41. While the Undertaking laid down the legal framework for the Global System on Plant Genetic Resources, the Global Plan of Action would be one of the instruments to reach its objectives and facilitate the realization of Farmers' Rights. As a result, the Undertaking and the Technical Conference were very closely related within the Global System. Some

delegations pointed out that until the revised Undertaking was ready, uncertainty would remain that would hamper the implementation of any Plan of Action.

42. Many countries mentioned the interdependency between Plant Genetic Resources and food security. Some considered that the Food Summit convened by FAO for the end of 1996 should draw on the results of the Fourth International Technical Conference on Plant Genetic Resources and the negotiation of the International Undertaking.

43. The Secretariat was asked whether it would be possible to convene another extraordinary meeting before the end of 1995. The Secretariat said that while this was technically feasible, no funds had been allocated to it for the 1994-95 biennium. It had been suggested that an Extraordinary Session of the Commission should be convened in March 1996, even though the 1996 budget had not yet been adopted.

V. ANY OTHER BUSINESS

44. The agenda for the next meeting of the Commission was then discussed. It was emphasized that as much time as possible should be devoted to negotiating the International Undertaking and preparing the Fourth International Technical Conference. It was suggested that, as far as possible, the other issues should be discussed during the first three days of the meeting, and to facilitate this it was proposed that the provisional agenda items 5 (Progress Report on the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture) and 9 (Progress Reports on the Preparation of other International Agreements) should be discussed together, within the framework of the Global System.

45. Agreement was also reached to link the various stages proposed for the revision of the International Undertaking, and to suggest that the Commission open the negotiations by discussing the three aspects (the Scope of the Undertaking, Access to Plant Genetic Resources, Farmers' Rights) that had already been debated in the Working Group.

46. With regard to the Code of Conduct on Biotechnology, the Group recalled that the Fifth Meeting of the Commission had discussed the first draft and had asked the Working Group to advise the Secretariat as to whether the new draft should be submitted to the Sixth Meeting of the Commission. Bearing in mind the heavy workload on the provisional agenda and the fact that some of the issues covered by the first draft of the Code had been discussed in the framework of the revision of the International Undertaking and the preparatory work for the Fourth International Technical Conference, the Group felt that it would be better to wait for a later meeting of the Commission to discuss a new draft of the Code. Meanwhile, the Sixth Meeting could examine a document prepared by the Secretariat giving details of the biotechnological developments of the last two years of relevance to the various aspects covered by the first draft of the Code.

47. At the request of the Working Group, the Secretariat gave a wide-ranging report on the status of cooperation with the Secretariat of the Convention on Biological Diversity and the conclusions of the First Conference of the Parties to the Convention, saying that these issues had been dealt with in detail in one of the documents prepared for the meeting of the Commission. The Group asked the Secretariat to ensure that the report of the last session of the Conference of the Parties to the CBD and the relevant parts of the report of the Third Session of the Commission on Sustainable Development were submitted to the Commission as information documents.

48. The meeting then discussed the proposals made by several delegations to enlist external support to publicize the negotiations of the Commission through the media (for example through the Earth Negotiations Bulletin). It was also suggested that the relevant documents of the Commission should be disseminated through Internet.

49. One delegation submitted the report of the Informal Meeting organized by SAREC in Stockholm on 1 and 2 March 1995, entitled "Plant Genetic Resources for Food and Agriculture. Towards a Multilateral Agreement".

50. The Working Group requested the Chairman to send his report of the meeting to the delegations as soon as it was ready in the original language, and asked the Secretariat to have it translated into the other official languages as soon as possible.

51. Before adjourning the meeting, the Director of the Plant Production and Protection Division emphasized the importance of the ongoing negotiations and congratulated the delegates on the high level of the debate. Lastly, the Chairman thanked the delegates for their constructive contributions to the meeting, the Secretariat for the excellent documentation and organizational arrangements, and the interpreters for their good work.

ANNEX 1 TO APPENDIX C

**LIST OF PARTICIPANTS
LISTE DES PARTICIPANTS
LISTA DE PARTICIPANTES**

**10th Session of the Working Group of the Commission on Plant Genetic Resources
10^{ème} réunion du Groupe de travail de la Commission des ressources phylogénétiques
10^{ma} Reunión del Grupo de Trabajo de la Comisión de Recursos Fitogenéticos**

**Mexico Room, 3 - 5 May 1995
Salle du Mexique, 3 - 5 mai 1995
Sala de México, 3 - 5 de Mayo de 1995**

CHAIRMAN - PRESIDENT - PRESIDENTE

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CPGR-6/95/REP

Mr. Inge Gerremo
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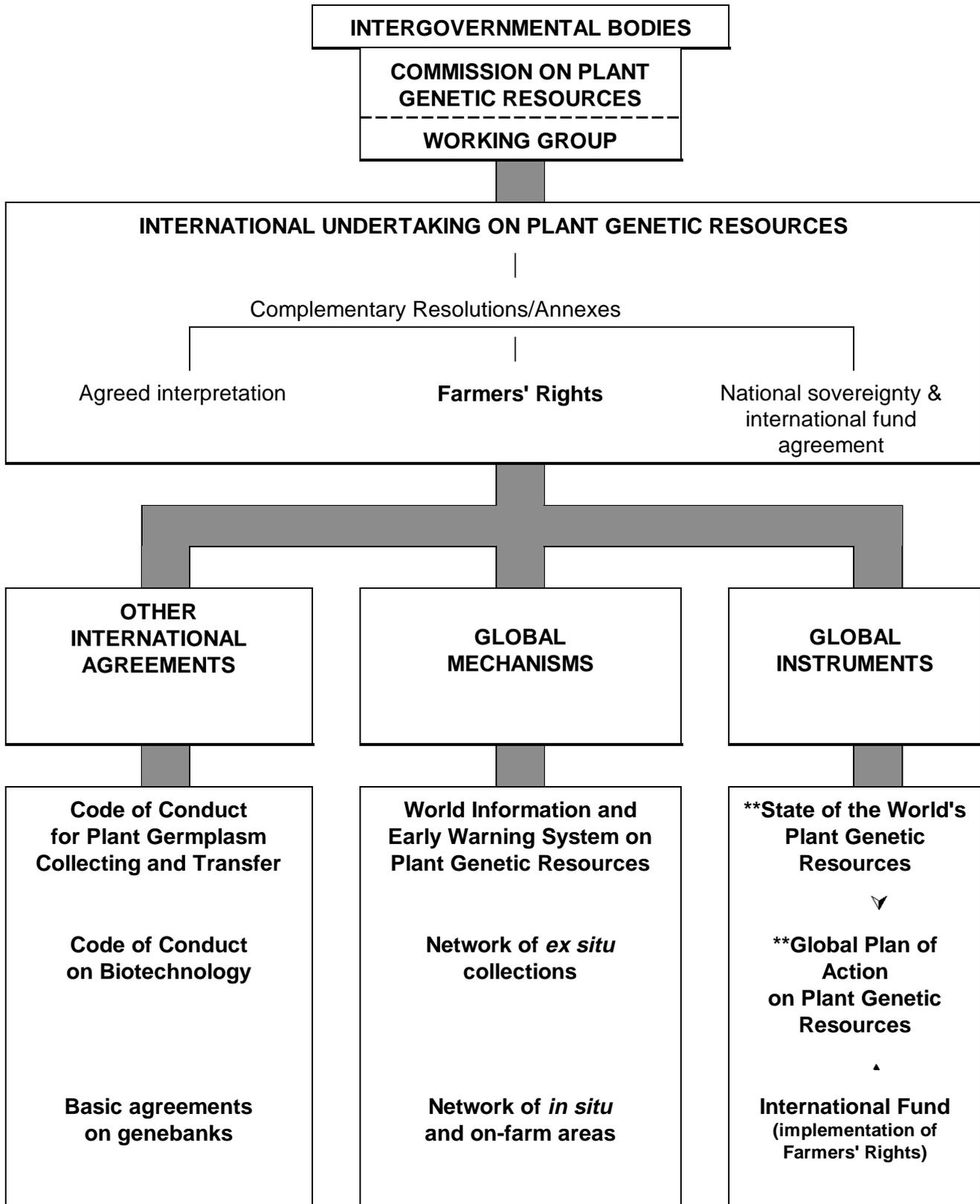
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Rome

APPENDIX D

THE GLOBAL SYSTEM FOR THE CONSERVATION AND UTILIZATION OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE*



* For illustrative purposes only

** The first State of the World and Global Plan of Action on Plant Genetic Resources is being produced during the preparatory process for the Fourth International Technical Conference

**MEMBERS OF FAO COMMISSION ON PLANT GENETIC RESOURCES
AND/OR COUNTRIES WHICH HAVE ADHERED TO THE
INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES**

(June 1995)

AFRICA	ASIA AND THE SOUTH WEST PACIFIC	EUROPE	LATIN AMERICA AND THE CARIBBEAN
Algeria 1/2	Australia 1/2	Albania 1/	Antigua and Barbuda 2/
Angola 1/2	Bangladesh 1/2	Austria 1/2	Argentina 1/2
Benin 1/2	China, People's	Belgium 1/2	Bahamas 1/2
Botswana 1/	Republic of 1/	Bulgaria 1/2	Barbados 1/2
Burkina Faso 1/2	Democrat. People's	Croatia 1/	Belize 1/2
Burundi 1/	Rep. of Korea 1/2	Cyprus 1/2	Bolivia 1/2
Cameroon 1/2	Fiji 2/	Czech Republic 1/2	Brazil 1/
Cape Verde 1/2	India 1/2	Denmark 1/2	Chile 1/2
Central African Rep. 1/2	Indonesia 1/	Estonia 1/	Colombia 1/2
Chad 1/2	Japan 1/	European	Costa Rica 1/2
Congo 1/2	Korea, Rep. of 1/2	Community 1/	Cuba 1/2
Côte d'Ivoire 2/	Malaysia 1/	Finland 1/2	Dominica 1/2
Equatorial Guinea 1/2	Maldives 1/	France 1/2	Dominican Rep. 1/2
Ethiopia 1/2	Mongolia 1/	Germany 1/2	Ecuador 1/2
Gabon 1/2	Myanmar 1/	Greece 1/2	El Salvador 1/2
Gambia 1/	Nepal 1/2	Hungary 1/2	Grenada 1/2
Ghana 1/2	New Zealand 1/2	Iceland 1/2	Guatemala 1/
Guinea 1/2	Pakistan 1/	Ireland 1/2	Guyana 1/
Guinea-Bissau 1/	Philippines 1/2	Israel 1/2	Haiti 1/2
Kenya 1/2	Samoa 1/2	Italy 1/2	Honduras 1/2
Lesotho 1/	Solomon Islands 2/	Latvia 1/	Jamaica 2/
Liberia 1/2	Sri Lanka 1/2	Liechtenstein 2/	Mexico 1/2
Madagascar 1/2	Thailand 1/	Lithuania 1/	Nicaragua 1/2
Malawi 1/2	Tonga 2/	Malta 1/	Panama 1/2
Mali 1/2	Vanuatu 1/	Netherlands 1/2	Paraguay 2/
Mauritania 1/2		Norway 1/2	Peru 1/2
Mauritius 1/2	NEAR EAST	Poland 1/2	Saint Christopher
Morocco 1/2	Afghanistan 1/	Portugal 1/2	and Nevis 1/
Mozambique 2/	Bahrain 2/	Romania 1/2	Saint Lucia 1/
Niger 1/2	Egypt 1/2	Russia 2/	Saint Vincent and
Rwanda 1/2	Iran, Islamic	Slovak Republic 1/	the Grenadines 1/
Senegal 1/2	Rep. of 1/2	Spain 1/2	Suriname 1/
Sierra Leone 1/2	Iraq 1/2	Sweden 1/2	Trinidad and Tobago 1/2
South Africa 1/2	Jordan 1/	Switzerland 1/2	Uruguay 1/
Sudan 1/2	Jordan 1/	Turkey 1/2	Venezuela 1/
Tanzania 1/2	Kuwait 2/	United Kingdom 1/2	
Togo 1/2	Lebanon 1/2	Yugoslavia 1/2	NORTH AMERICA
Uganda 1/	Libya 1/2		Canada 1/
Zaire 1/	Oman 2/		United States of America
Zambia 1/2	Syria 1/2		1/
Zimbabwe 1/2	Tunisia 1/2		
	Yemen 1/2		

1/ Members of the Commission.

2/ Countries which have adhered to the International Undertaking.

The above totals 147 countries and one Regional Economic Integration Organizations which have become members of the Commission on Plant Genetic Resources (135) or which have adhered to the International Undertaking (110).

APPENDIX E

**DRAFT PROVISIONAL AGENDA FOR THE FOURTH INTERNATIONAL
TECHNICAL CONFERENCE ON PLANT GENETIC RESOURCES**

Leipzig, Germany

17 - 23 June 1996

1. Opening of the Conference
2. Election of the Officers
3. Adoption of the Agenda and Organization of Work
4. The Fourth International Technical Conference in the context of the FAO Global System for the Conservation and Utilization of Plant Genetic Resources, and the preparatory process
5. Progress report on the revision of the International Undertaking on Plant Genetic Resources
6. Review of the Report on the State of the World's Plant Genetic Resources
7. Review of the Global Plan of Action
8. Adoption of the Report on the State of the World's Plant Genetic Resources, [and] the Global Plan of Action [and recommendations for its implementation and financing]
9. [Review of possibilities for the implementation and financing of the Global Plan of Action]
10. [Adoption of the Leipzig Declaration]
11. Adoption of the Report of the Fourth International Technical Conference on Plant Genetic Resources
12. Closing of the Conference

APPENDIX F

REVISED STRUCTURE FOR THE GLOBAL PLAN OF ACTION FOR THE CONSERVATION AND SUSTAINABLE UTILIZATION OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

1. The Global Plan of Action must be action-oriented. The main body of the Plan, therefore, should provide details of technically sound activities designed to strengthen plant genetic resource conservation and sustainable use. The Global Plan of Action will also provide a strategy to guide international cooperation on plant genetic resources for food and agriculture in the coming years. It must, therefore, be based upon clear aims and principles and include a strategy with priorities for action. These latter elements should be provided by means of a Declaration and a concise and explicit Introduction which gives purpose to the document as a whole. As previously decided by the Commission, the Plan must also be costed [and refer to mechanisms for implementation].
2. It is proposed, therefore, to organize the Global Plan of Action according to the following structure. The Plan would include:
 - [2.1 A **Declaration** which sets the tone for the Global Plan of Action and includes the main principles on which the Plan is based. A draft of the Leipzig Declaration is provided in *Appendix G*];
 - 2.2 A brief **introduction** providing the framework for action, including:
 - a short statement of the context and basis for action, based on the Report on the State of the World's Plant Genetic Resources;
 - a succinct statement of aims, referring to and drawing upon, as appropriate, the Convention on Biological Diversity and the International Undertaking;
 - an overall strategy for the Global Plan of Action as a whole, drawing upon section C of CPGR-6/95/11.
 - 2.3 The **main body** of the Plan would provide recommendations of policies and priority activities for meeting the objectives of the Plan. In line with the wish that the Plan be "action-oriented", this will constitute the main body of the plan. This section would build upon the relevant parts of Agenda 21 for structure and content, and, in particular, programme area G of Chapter 14 [as described below].

The major areas of action in the plan will be based upon the list in para 14 of CPGR-6/95/11, taking into account the suggestions made by the Commission, *inter alia*, for adequate treatment of characterization of collected germplasm, genetic enhancement or pre-breeding, and the use of new technologies, and a greater attention to the role of research.

For each of the major areas of activity, the following would be provided:

- Basis for the activity: statement of the problem including a summary of relevant conclusions from the Report on the State of the World's Plant Genetic Resources and relevant recommendations from Agenda 21, *etc.*;
- Activities, including specific objectives, approach, assumptions, expected benefits and level of priority;

- Implementation of the activity through capacity building, research, technology development and transfer, policy guidance, regional cooperation and international coordination;
- Identification of financial resource needs: cost estimates[, possible sources of financing, including resource reallocation].

2.4A concluding section would provide preliminary cost estimates (organized by category and tallied). It would refer to and summarize priorities (associated with the various activities detailed in the main body of the Plan) and list basic criteria for the allocation of resources (drawing upon section E of CPGR-6/95/11). The concluding section would also identify all possible sources of funding¹ for the conservation and utilization of plant genetic resources for food and agriculture.

It is understood that the above would not imply the negotiating of a financial mechanism for the funding of the Global Plan of Action, or the making of a binding commitment to the funding - at any level - of the Global Plan of Action.²

2.5[A provisional project portfolio] [Illustrative examples of projects] will be provided as an *annex* to the Plan, [containing indicative projects and programmes, and project and programme ideas].

1. See also section E of CPGR-6/95/11.

2. [The question of funding associated with the Global Plan of Action will be dealt with separately: Agenda Item 9: Review of possibilities for implementation and financing.]

APPENDIX G

DRAFT OF A POSSIBLE DECLARATION TO BE ADOPTED AT THE FOURTH INTERNATIONAL TECHNICAL CONFERENCE ON PLANT GENETIC RESOURCES

("THE LEIPZIG DECLARATION")

A Call for [Commitment for] the Conservation and Sustainable Utilization of Plant Genetic Resources for World Food Security

1. We have gathered together in Leipzig, at the invitation of the Food and Agriculture Organization of the United Nations, to recognize the vital importance of Plant Genetic Resources for food and agriculture to present and future generations. We have gathered together to assert and renew our commitment to the conservation, sustainable utilization and fair and equitable sharing of the benefits [arising out of the] of these resources.
2. Above all else, plant genetic resources are an essential foundation of world food security and sustainable development. We are also conscious of the intrinsic value of this biological diversity and of its ecological, genetic, social, economic, scientific, educational, cultural, and aesthetic importance.
3. While recognizing and reaffirming states' sovereign rights over their biological resources, we also confirm our common and individual responsibilities towards this heritage.
4. Plant genetic resources for food and agriculture are the product of years of natural evolution, of creative human selection and scientific plant breeding. We acknowledge the roles played by generations of farmers, and in particular women farmers, farming communities and indigenous populations, as well as breeders and scientists, in conserving and improving plant genetic resources.
5. We are aware of the serious threats to the security of plant genetic resources and acknowledge that efforts to conserve, develop and use genetic diversity are inadequate. Diversity is being lost not only in the field, but also in gene banks. Major gaps and weaknesses exist in the capacity of existing national and international mechanisms to assess, study, monitor and use plant genetic resources to increase food production. Existing institutional capacity, structures and programmes are inadequate. And existing diversity in crop species is not used to the extent possible for increased food production in a sustainable way.
6. We recognize the interdependence of countries and peoples regarding plant genetic resources for food and agriculture. Access to and the sharing of both genetic resources and technologies are essential to the meeting of food and other needs of the growing world population and must be facilitated. We affirm the need to promote international and regional cooperation among States, intergovernmental organizations and non-governmental organizations. And we recognize that national capacities must be strengthened, especially in developing countries, to address the problems of conservation and utilization. [The mobilization of the necessary financial resources for these activities is of utmost importance] [Particular efforts will be required to mobilize financial resources for the priority activities].

7. Our primary objective must be to safeguard the world's plant genetic resources while conserving them to use sustainably. This will require integrated approaches combining the best of traditional knowledge and modern technologies. We believe in addition that means are needed to increase the benefits derived from this diversity and the fair and equitable sharing of those benefits and that such mechanisms would be in the interest of both equity and conservation.

8. We gather together in Leipzig in a spirit of hope, commitment and action, aware of the difficulties ahead, but confident that progress can, must and will be achieved. Our commitment to common action is a key element of our commitment to promoting world food security. It is part of our fundamental responsibilities to the people of this world.

9. We commit ourselves, therefore, to this Declaration and to [this Global Plan of Action] [the development of the Global System] for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture. We invite all people as well as the international community to join us in our common cause.

APPENDIX H

**STATEMENT TO THE SIXTH SESSION OF THE COMMISSION ON
PLANT GENETIC RESOURCES, BY MR G. HAWTIN, DIRECTOR-GENERAL,
INTERNATIONAL PLANT GENETIC RESOURCES INSTITUTE (IPGRI),
28 JUNE 1995, ON APPROACHES TO FACILITATING ACCESS TO
PLANT GENETIC RESOURCES AND PROMOTING THE EQUITABLE SHARING
OF BENEFITS ARISING FROM THEIR COMMERCIAL EXPLOITATION,
WITHIN THE CONTEXT OF THE CGIAR**

1. During its Sixth Session, the Commission on Plant Genetic Resources invited the Director-General of IPGRI to outline the CGIAR's perception of the interlinked technical and policy problems it faced in managing the *ex situ collections* held in trust by the Centres, which they had now brought into the Network under the auspices of FAO. The Commission believed that the information he had given verbally was of value for its work, and requested him to prepare for its consideration a note containing this information. The present note responds to that request, and outlines some of the ideas under discussion within the Consultative Group on International Agricultural Research (CGIAR) concerning the possible development of a multilateral framework for plant genetic resources, its implications for the germplasm collections held in trust by the Centres of the CGIAR, and its possible application to a wider agreement on terms of access.

Background

2. With the coming into force of the Convention on Biological Diversity (CBD), the Centres of the CGIAR have been giving attention to how they might operate in the future in order to meet the terms and conditions of the Convention, particularly with respect to ownership, access on mutually agreed terms, and the fair and equitable sharing of benefits arising from the commercial exploitation of plant genetic resources. In the pre-Convention period, the Centres collectively have assembled what is probably the world's largest *ex situ* collection of genetic resources of food and fodder crops of importance to developing country agriculture. These collections have been assembled with the full participation and knowledge of the countries, primarily developing countries providing the germplasm, that the materials would be made available to the world community. In October 1994, the Centres signed agreements with FAO bringing the collections under the auspices of FAO. In these agreements the Centres undertake to make the germplasm and information on it available to users, and agree not to take out intellectual property protection on the materials and to ensure that recipients of samples are bound by the same obligation.

3. The agreements only cover the existing collections - i.e. collections that were assembled prior to the coming into force of the CBD. It is of particular concern to the Centres and to their partners, particularly the National Agricultural Research Systems (NARS) in developing countries, that agreement be reached quickly on future arrangements to ensure continued and easy access to plant germplasm, at low transaction cost, under the terms of the CBD. The CGIAR regards plant genetic resources to be of fundamental importance as a resource for development. While their conservation is essential for the future, it is even more important to ensure that they are available for use today, by farmers,

plant breeders and others who would seek to use them as a basis for sustainable agricultural development.

The general approach

4. In order to promote the continued availability of plant genetic resources for food and agriculture under the terms of the CBD, it is proposed that a system be developed, within a multilateral framework, which would both respect the principle of access on mutually agreed terms, although these would be multilaterally agreed, as well as provide mechanisms for the sharing of benefits. Countries would agree to place their plant genetic resources for food and agriculture (see para 13) into such a system based on Prior Informed Consent, and access to samples of these resources would be "unrestricted" (unpaid, at point of access, but regulated through a legal mechanism such as a material transfer agreement) for all other countries which are parties to the system. Such "unrestricted" access would be limited to those countries.

5. All plant genetic resources for food and agriculture in the system could be used, without payment, for research and for not-for-profit purposes. However, in cases where profits are generated through the commercial exploitation of the resources, there would be an obligation on users of samples of plant genetic resources for food and agriculture to negotiate a share of the profits with countries of origin for material collected after the entry into force of the CBD. The definitions of "not-for-profit use" and "commercial use" would need to be agreed (see para 10).

6. Material obtained prior to the coming into force of the Convention would either continue to be distributed on the present basis, or on the condition that any benefits derived from commercial use could be put into the envisaged international fund for the implementation of Farmers' Rights. In the latter case, this could be limited only to material where the country of origin is unknown (see para. 13).

7. All participating countries (but with special emphasis on developing countries) would be eligible for support from an international funding mechanism, in order to promote conservation and utilization of plant genetic resources for food and agriculture, as elaborated in the Global Plan of Action, once it is adopted. Developed country parties to the system would contribute financially to the funding mechanism, in addition to making their own plant genetic resources for food and agriculture available.

8. Countries placing their material into the system would get several types of benefit:

- (i) access to technologies of use in agricultural development, including improved materials and biotechnologies, particularly through the involvement of international organizations in the system;
- (ii) access to other countries' plant genetic resources for food and agriculture as well as other benefits from the multilateral system (see para 14);
- (iii) access to funds and other support through the Global System; and
- (iv) shares of profits derived from particular samples of plant genetic resources for food and agriculture, in cases where country of origin is known and the product is commercialized.

Some comments and observations

9. Access to plant genetic resources for food and agriculture in the system would essentially be "unrestricted" for research and not-for-profit use. However, it would be regulated in line with the provisions in the CBD for Prior Informed Consent (PIC) and access on mutually agreed terms. This requirement might be implemented through a material transfer agreement or other appropriate legal mechanisms (e.g. it might be possible to negotiate "umbrella" country agreements) to ensure that benefits can be shared on a fair and equitable basis in cases where research leads to commercialization.

10. As noted, the definitions of "not-for-profit use" and "commercial use" need to be agreed. For example, "not-for-profit use" might include farmer-to-farmer exchanges, and varieties bred by public institutions which are made available without profit. "Commercial use" might include all cases where profits are involved, or might be limited to cases where IPR protection is employed. Enforcement in the latter case might be easier.

11. It might be necessary to have a minimum "cut off" point, in terms of the contribution of material from a specific accession to a commercial variety, for sharing benefits. It might not be worthwhile, for example, negotiating with multiple countries of origin the sharing of benefits from a relatively unprofitable new variety with a complex pedigree. In any case, the international community will have to weigh the transaction costs against the possible benefits. In such cases it might be better for a share of profits to be paid according to a standard formula in line with internationally agreed guidelines, or into the proposed international fund. In other cases, for example when a single sample contributes a characteristic of major significance (such as resistance to an important disease), the share of benefits awarded to a country of origin might exceed that normally granted purely on the basis of the theoretical overall percentage contribution of genes to the genome.

12. Clearly negotiations on the equitable sharing of benefits are likely to be very complex and recipients of germplasm are likely to want to know their potential liability in advance of conducting any expensive research. It will thus be important to establish internationally accepted guidelines for such negotiations on benefit sharing, that are as simple as possible, and reasonable in terms of the benefits that may result. In addition, consideration should be given to the provision of legal assistance to countries with a limited capacity in this regard.

13. For the particular case of materials obtained prior to the coming into force of the CBD there are several options:

- (i) the materials would continue to be distributed and used freely, subject only to the provisions of the agreements with FAO concerning IPRs, i.e. that the holders of international collections would not take out any IPRs on the germplasm and would pass this obligation on to any recipients of the material;
- (ii) in cases of commercialization, the users of the germplasm could negotiate, within the framework of the Global System, with the holder of an international collection for sharing profits, with the proceeds going into the international fund (see para. 6 and 7);
- (iii) in cases where the country of origin is known, a similar arrangement could be put in place as proposed in para 5, i.e. that the country of origin would negotiate a share of profits.

14. With respect to sharing financial benefits, the proposed multilateral system would increase the probability of materials placed in the system being used, and therefore of

benefits being realized and shared, due to their wider availability for screening and evaluation. However in most cases such financial benefits are unlikely to be large, which again underlines the importance of analyzing the transaction costs involved. Other advantages accruing to countries participating in the proposed multilateral system include:

- access to information on the performance and characteristics of the germplasm they have placed in the system;
- added security of plant genetic resources for food and agriculture, through duplication and through its wider dissemination;
- access to improved materials developed through the use, for non-profit purposes, of material placed in the system;
- access to opportunities for capacity building, e.g. provision of facilities and training.

15. A fundamental decision would be required as to the species coverage of any multilateral agreement of the type presented here. Should it cover all plant genetic resources for food and agriculture, all food crop gene pools, or just crops of critical importance for food security? Should there be a list of all the taxa to be included, or would it be better to include all plant genetic resources for food and agriculture and agree on certain exclusions? Given the scope for bilateral negotiations on the sharing of benefits within the proposed system, it would seem desirable for the system to be as inclusive as possible. Indeed, there would be strong incentives to join a well-designed system. As a minimum, however, the system could make a start based on the commodity gene pools covered by the CGIAR. However, thought needs to be given to situations where it would be agreed to exclude a particular taxon, and to the possibility, and the consequences, of a country opting out of the system for certain taxa, but participating with respect to others.

16. Developed countries which are not particularly rich in plant genetic resources for food and agriculture and are thus heavily dependent on plant genetic resources for food and agriculture from outside their borders, would still have full access to genetic resources under the proposed system. A fully bilateral system with restrictions at point of access risks leaving them with few opportunities to access the resources they need.

17. The effectiveness of any system, whether multilateral or bilateral, would depend to a considerable extent on mutual goodwill, and the willingness of all the participating countries to make it work, recognizing that a fully effective and equitable system is in the best interests of all. Appropriate legal instruments, whether material transfer agreements or other mechanisms, would need to be developed. Other possibilities for helping to ensure compliance could also be explored, e.g. it might be possible to include in IPR legislation the requirement to disclose the origin of component genetic resources in all IPR applications. Good documentation systems would also assist in the monitoring of the movement of materials and thus help to minimize infringements.

Conclusion

18. In conclusion, the CGIAR regards it as a high priority that agreement be reached on an effective multilateral framework for plant genetic resources for food and agriculture. Such a system should help ensure efficient conservation, promote access and use, and ensure an equitable sharing of any benefits arising from the commercial exploitation of plant genetic resources for food and agriculture. It should conform to both the letter and the spirit of the CBD and should aim to minimize transaction costs while maximizing efficiency and effectiveness. Although many details remain to be resolved, a system such as the one

outlined here would meet such criteria, if developed and shaped by the international community, working together.

APPENDIX I¹

ARTICLE 3 - SCOPE

3.1 This [Undertaking] relates [applies] to the plant genetic resources described in para. 2.1 (f) [, of all species of economic and/or social interest], particularly for agriculture at present or in the future, and has particular reference to food crops.

PROPOSALS FOR NEW WORDING:

3.1 This [Undertaking] relates to plant genetic resources for food and agriculture, [excluding] [including] forest genetic resources, as a basis for meeting present and future needs for adequate food and feed supplies, raw materials and renewable energy for the growing world population.

PROPOSALS FOR NEW WORDING:

3.1. This [Undertaking] relates to Farmers' Rights and to ex situ collections of plant genetic resources for food and agriculture not acquired in accordance with the Convention on Biological Diversity.

PROPOSALS FOR NEW WORDING:

3.1 This Undertaking relates to the plant genetic resources described in para. 2.1(f) of all species of economic and/or social interest, whether in the conventional or transgenic forms, particularly for food and agriculture at present or in the future.

PROPOSALS FOR NEW WORDING:

3.1 This Undertaking relates to plant genetic resources for food and agriculture. Plant genetic resources for food and agriculture means the reproductive or vegetative propagating material of those species cultivated for food, fibre, fuel, fodder for domesticated animals, or for wood production, and wild relatives of such species [as well as harvested wild food plants].

NOTE: This definition renders redundant the definition in Article 2.1(f), which should be deleted.

PROPOSALS FOR NEW WORDING

3.1 This Undertaking relates [applies] to the plant genetic resources for food and agriculture, including their wild relatives as well as harvested wild food plants, which are listed in Annex ...

NOTE: This Annex would consist of a list of plant genera. It would begin as a comprehensive list and each country could designate genera which will then be excluded from the list and the scope of the Undertaking for all countries. The Annex

¹ In this Appendix the original text of the International Undertaking and its annexes is indicated in **bold characters**. Proposed new wordings are given in *italics*. Square brackets [] indicate proposed deletions and additions.

can be updated as appropriate. An example of such a list of genera important for food and agriculture was proposed and is attached as Annex 1 to this Appendix I.

A further proposal, attached as Annex 2 to this Appendix I, gives examples of two possible scenarios addressing questions of access and scope, the second of which involves a "positive list".

PROPOSALS FOR NEW WORDING

- 3.1 This [Undertaking] relates to plant genetic resources for food and agriculture as a basis for meeting present and future needs for the growing world population and has particular reference to food crops.*

PROPOSALS FOR NEW WORDING:

- 3.1 This Undertaking relates to the conservation and sustainable use of plant genetic resources for food and agriculture including species of economic and social importance having actual and the potential value as a basis of meeting present and future needs for adequate food and agricultural production for the growing world population and that access to plant genetic resources shall be linked within the national sovereignty, legislation, Farmers' Rights, transfer of technology and equitable sharing of benefits accruing from utilization of such plant genetic resources.*

ANNEX 1 TO APPENDIX I**EXAMPLE PROPOSED DURING THE SIXTH SESSION OF THE COMMISSION OF A LIST OF
GENERA IMPORTANT FOR FOOD AND AGRICULTURE**(List referred to in the antepenultimate "proposal for new wording" in *Appendix I*)**Major grain crops-grasses**

<i>Genus</i>	<i>Common Name</i>
Avena	oats
Cicala	rye
Eleusine	finger millet
Hordeum	barley
Oryza	rice
Panicum	common (proso) millet
Pennisetum	pearl millet
Setaria	foxtail millet
Sorghum	sorghum
Triticum	wheat
Aegilops	wheat
Zea	maize

Minor grain crops

<i>Genus</i>	<i>Common Name</i>
Croix	Job's tears
Echinochloa	Japanese barnyard millet
Eragrostis	teff
Panicum	little millet
Paspalum	kodo millet
Zizania	wild rice

Major grain legumes

<i>Genus</i>	<i>Common Name</i>
Arachis	peanut
Cajanus	pigeon pea
Cicer	chick pea
Glycine	soy bean
Lens	lentil
Phaseolus	bean
Pisum	pea
Vicia	faba
Vigna	cowpea

Minor grain legumes

<i>Genus</i>	<i>Common Name</i>
Canavalia	jack bean
Cyamopsis	cluster bean
Derris	derris
Dipteryx	tonka bean
Dolichos	horsegram
Lablab	hyacinth bean
Lathyrus	grass pea
Lupinus	lupines, tarohui
Pachyrhizus	yam bean
Psophocarpus	winged bean
Trigonella	fenugreek
Vigna	bambara groundnut

Cereals from other families

<i>Genus</i>	<i>Common Name</i>
Helianthus	sunflower
Sesamum	sesame
Amaranthus	amaranth
Chenopodium	quinoa
Fagopyrum	buckwheat

Major starch crops

<i>Genus</i>	<i>Common Name</i>
Colocasia	taro
Xanthosoma	tannia
Dioscorea	yams
Musa	plantain, bannana
Ipomoea	sweet potato
Solanum	potato
Manihot	cassava

Minor starch Crops

<i>Genus</i>	<i>Common Name</i>
Arracacia	peruvian parsnip
Oxalis	oca
Pachyrhizus	jicana

Oil crops*Genus Common Name*

Carthamus	safflower
Caryocar	piqui
Elaeis	oil palm
Jessenia	seje
Orbignya	babassu

Fruits*Genus Common Name*

Ananas	pineapple
Fragaria	strawberry
Passiflora	passion fruit

Shrub fruits*Genus Common Name*

Malpighia	acerola
Punica	pomegranate
Ribes	currants
Rubus	brambles
Vaccinium	blueberries, cranberries
Viburnum	blueberries, cranberries

Tree fruits*Genus Common Name*

Actinidia	kiwi
Anacardium	cashew
Annona	soursop, etc.
Artocarpus	breadfruit, jackfruit
Blighia	akee
Carica	papaya
Chrysophyllum	star apple
Citrus	citrus
Cocos	coconut
Phoenix	dates
Diospyros	black sapota
Durio	durian
Eugenia	cloves, various fruits
Ficus	fig
Garcinia	mangosteen
Guilielma	pejibaye
Litchi	litchi
Malus	apple, pear, etc
Mangifera	mango
Manilkara	sapodilla
Morus	mulberry
Olea	olive
Persea	avocado
Pourouma	uvilla
Pouteria	mammea
Prunus	apricot, cherry, plum
Psidium	guava
Pyrus	pear

Syzygium	jambolan
Tamarindus	tamarind

Vegetable crops*Genus Common Name*

Abelmoschus	okra
Allium	onions, garlics & leeks
Asparagus	asparagus
Apium	celery
Bambusa	bamboo shoots
Basella	tropical spinach
Beta	beets
Brassica	broccoli, cauliflower
Benincasa	melon
Capsicum	chillies, peppers
Cnidoscus	chaya
Citrullus	watermelon
Cucumis	melon, cucumber
Cucurbita	pumpkin
Cynara	artichoke
Daucus	carrots
Lactuca	lettuce
Lepidium	cress
Lycopersicon	tomato
Nasturtium	watercress
Pestipaca	parsnip
Petroselinum	parsley
Physalis	tomatilla
Raphanus	radish
Rheum	rhubarb
Sechium	choyote
Solanum	eggplant
Spinacia	spinach
Taraxacum	dandelion
Tetragonia	NZ spinach
Tragopogon	salsify
Acrocomia	heart of palm
Bactris	"
Euterpe	"
Guilielma	"
Prestoea	"
Roystonea	"
Sabal	"

Nuts*Genus Common Name*

Bertholletia	Brazil
Carya	pecan
Corylus	filbert
Pinus	pinenut
Pistacia	pistachio
Prunus	almonds
Juglans	walnut

Spices

<i>Genus</i>	<i>Common Name</i>
Cinnamomum	cinnamon
Curcuma	tumeric, arrowroot
Elettaria	cardomom
Myristica	nutmeg
Piper	black pepper
Vanilla	vanilla
Zingiber	ginger

Herbs

<i>Genus</i>	<i>Common Name</i>
Anethum	dill
Armoracia	horseradish
Artemisia	tarragon
Borago	borage
Carum	caraway
Ceratonia	carob
Coriandrum	coriander
Cuminum	cumin
Foeniculum	fennel
Glycyrrhiza	licorice
Laurus	bay leaf
Mentha	mint
Ocimum	basel
Origanum	oregani, marjoram
Papaver	poppy
Pimpinella	anise
Rosmarinus	rosemary
Salvia	sage
Satureia	savory
Thymus	thymus

Beverages

<i>Genus</i>	<i>Common Name</i>
Camellia	tea
Cinchona	quinine
Coffea	coffee
Cola	kola
Humulus	hop
Theobroma	cocoa

Fiber

<i>Genus</i>	<i>Common Name</i>
Agave	sissel
Boehmeria	ramie
Corchorus	jute
Gossypium	cotton
Hibiscus	kenaf
Linum	flax

Sugar crops

<i>Genus</i>	<i>Common Name</i>
Saccharum	sugar cane
Beta	sugar beet

Industrial crops

<i>Genus</i>	<i>Common Name</i>
Cyamopsis	guar
Hevea	rubber
Indigofera	indigo
Nicotiana	tobacco
Parthenium	guayule
Simmondsia	jojoba

Forage-grasses

<i>Genus</i>	<i>Common Name</i>
Agropyron	wheatgrass
Agrostis	redtop
Alopecurus	meadow foxtail
Andropogon	gamba
Anonopus	carpet
Arrhenatherum	oatgrass
Bothriochloa	sweet pitted
Brachiaria	para
Bromus	rescue
Cenchrus	buffel
Chloris	rhodes
Cynodon	star
Dactylis	orchard
Elymus	wild rye
Festuca	fescue
Hyparrhenia	jaragua
Ischaemum	batiki-blue
Melinis	molasses
Phalaris	reed canary
Phleum	timothy
Poa	blue
Themeda	red oat

Forage-legumes

<i>Genus</i>	<i>Common Name</i>
Aeschynomene	joint vetch
Alysicarpus	alyce clover
Centrosema	butterfly pea
Clitoria	butterfly pea
Desmodium	beggars tick
Galactia	
Lablab	lablab
Lathyrus	vetch
Lespedeza	lespedeza
Leucaena	
Medicago	alfalfa
Melilotus	sweet clover

Neonotonia	perennial soyabean
Pueraria	kudzu
Stylothanus	stylo
Stizolobium	
Teramnus	
Tephrosia	
Trifolium	red clover

ANNEX 2 OF APPENDIX I

TWO EXAMPLES PROPOSED DURING THE SIXTH SESSION OF THE COMMISSION
OF POSSIBLE SCENARIOS ADDRESSING QUESTIONS OF ACCESS AND SCOPE

(Referred to in the antepenultimate "proposal for new wording" in *Appendix I*)

SCENARIO I²

	EX SITU		IN SITU
BEFORE CBD		WILD SPECIES	
AFTER CBD		WILD SPECIES	

SCOPE of Scenario I would refer only to plant genetic resources collected prior to the CBD, excluding wild genetic material. Rest of plant genetic resources for food and agriculture would not be covered by the Undertaking, but will be covered by the CBD.

ACCESS for Scenario I would not have restrictions, nor payment for research purposes. Any further benefit arising from the use of plant genetic resources for food and agriculture would have to be shared in a fair and equitable manner, according to the CBD.

SCENARIO II

This scenario establishes a multilateral system or Undertaking for those harvested species most used for food and agriculture; it refers to those crops which currently present the highest rate of genetic material exchange.

SCOPE of Scenario II would refer to a positive list of harvested species of most used crops for food and agriculture.

- As a first stage, the list would refer only to ex situ material.
- The list would be built from a minimum of a very few species mutually agreed to be essential for the world's food and agriculture. It would be slowly widened, according to international needs and agreements.

ACCESS of Scenario II would not have restrictions, nor payment for research purposes. Any further benefit arising from the use of plant genetic resources for food and agriculture would have to be shared in a fair and equitable manner, according to the CBD.

GENERAL

² In this figure, the shaded zone would be given a multilateral treatment (for research purposes) with access without restriction. The unshaded zones would be given a bilateral treatment, with access under the Convention on Biological Diversity.

For both scenarios, conditions should have to be established, so that developing countries can benefit from technology development and transfer.

A payment formula could be arranged for developed countries to maintain the system, and the international banks, and to promote the necessary capacity building and institutional strengthening in developing countries.

Other kind of conditions, such as collection duplication, may be established as well.

Both scenarios will always refer to plant genetic resources for food and agriculture.

APPENDIX J¹

ARTICLE 11 - AVAILABILITY OF PLANT GENETIC RESOURCES

11.1 Governments and institutions adhering to this [Undertaking] recognize that States have sovereign rights over their plant genetic resources.

PROPOSALS FOR NEW WORDING

[11.1 Access to plant genetic resources shall be in accordance with the Convention on Biological Diversity.]

11.2 It will be the policy of [adhering Governments] [Parties] having plant genetic resources under their control to allow access to samples of such resources, and to permit their export [transfer] [exchange on prior informed consent], where the resources have been requested for the purposes of scientific research, plant breeding [seed multiplication and distribution] [for non-commercial purposes] or genetic resource conservation [or replenishment]. The samples will be made available[: (i)] free of charge, [(ii)] on the basis of mutual exchange[,] or [(iii)] on mutually agreed terms.

PROPOSALS FOR NEW WORDING:

[11.2 States have sovereign rights over their natural resources and the authority to determine access to plant genetic resources for food and agriculture rests with national governments and is subject to national legislation.]

NOTE: It was suggested that paragraphs 1 and 2 could be integrated into a revised Article 4.

11.3 A state may impose only such minimum restrictions on the free exchange of materials covered by Article 2.1 (f) of this International [Undertaking] as are necessary for it to conform to its national and international obligations;

11.3 Parties with the authority to determine access to plant genetic resources for food and agriculture shall endeavour to [provide such] [create conditions to facilitate] access without imposing restrictions that run counter to the objectives of [this agreement] [the Convention]².

11.4 Breeders' lines and farmers' breeding material should only be available at the discretion of their developers during the period of development.

¹ In this Appendix the original text of the International Undertaking and its annexes is indicated in **bold characters**. Proposed new wordings are given in *italics*. Square brackets [] indicate proposed deletions and additions.

² Article 1 setting out Objectives for the Undertaking should reflect the intention that access to plant genetic resources for food and agriculture should be provided with minimum restriction.

ALTERNATIVE A

11.4 *In promoting the sharing of benefits resulting from the use of plant genetic resources for food and agriculture, parties agree that access to samples of such resources for use in research, breeding and education will be non-paid and unrestricted.*

ALTERNATIVE B

11.4 *Parties agree to grant, at minimum restriction and cost, [for research] [and development], [breeding and education] [purposes], access to plant genetic resources for food and agriculture held as follows:*

[(i) in in situ conditions;]

[(ii) in ex situ collections [located in the country of origin;³ or]]

(iii) in ex situ collections [not] [acquired in accordance with the Convention on Biological Diversity;

subject to the following conditions:

(iv) prior to being granted access, applicants for access shall meet the information requirements set out in annex 1;⁴

(v) applicants shall cooperate with the country providing the plant genetic resources for food and agriculture to develop and carry out scientific research based on such resources, with the full participation of, and where possible in, the country of origin;]

[(vi) applicants] [11.4 bis Parties will] undertake to negotiate with the country providing the plant genetic resources for food and agriculture to share the results of research and development, and any future benefits arising from commercial and other utilization, in a fair and equitable way and on mutually agreed terms. Such sharing shall take into account technical guidelines on benefit-sharing to be adopted [by the Commission on Plant Genetic Resources] [at a time to be determined].⁵

ALTERNATIVE TO PARA (vi)

(vi) Parties shall take appropriate measures to share in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of plant genetic resources for food and agriculture.

ALTERNATIVE C

11.4 *Access to plant genetic resources [, when granted,] shall be on mutually agreed terms and subject to prior informed consent of the party providing such resources. Parties may grant, on preferential terms and on a case-by-case basis for research and*

³ This provision covers *ex situ* collections not acquired in accordance with the Convention, but which are located in the country of origin and for which the country of origin may wish to claim an equitable share in benefits, in accordance with the Convention.

⁴ Annex 1 could be drafted at a future meeting of the Commission [or future Parties to an Agreement], setting out standard information requirements for prior informed consent.

⁵ Given the possible complexity of benefit sharing involving multiple plant genetic resource and intellectual inputs, a set of guidelines to facilitate negotiations could reduce transaction costs.

development purposes, access to plant genetic resources for food and agriculture, subject to the following conditions:

- (i) prior to being granted access, applicants for access shall meet the information requirements set out in annex 1;
- (ii) applicants shall cooperate with the country providing the plant genetic resources for food and agriculture to develop and carry out scientific research based on such resources, with the full participation of, and where possible in, the country of origin;
- (iii) Applicants [shall] undertake to negotiate with the country providing the plant genetic resources for food and agriculture to share the results of research and development, and any future benefits arising from commercial and other utilization, in a fair and equitable way and on mutually agreed terms. [Such sharing shall take into account technical guidelines on benefit-sharing to be adopted [by the Commission on Plant Genetic Resources] [at a time to be determined]].

ALTERNATIVE D

11.4 Access to plant genetic resources for food and agriculture listed in Annex 1, by the Parties to this Agreement, for research, education, development and breeding for non-commercial purposes shall be provided on the following terms:

...

11.4 bis

Parties providing plant genetic resources not listed in Annex 1 may establish, in each case, particular preferential terms to allow access for research, breeding and educational non-commercial purposes.

11.5 The contracting party that has had access to plant genetic resources for food and agriculture according to the provisions of this Undertaking, shall endeavour to develop and carry out scientific research based on the genetic resources provided by another contracting party with the full participation of, and where possible in, such contracting party.

11.6 Contracting parties [must establish necessary] [shall take appropriate] measures to ensure the fair and equitable sharing of benefits arising from the use of plant genetic resources for food and agriculture according to the provisions of this Undertaking.

11.7 Breeders' lines and [farmers' breeding material] [land races and traditional cultivars possessed by farmers] should only be available at the discretion of their developers[/holders] during the period of development.

ALTERNATIVE A

11.8 Parties shall ensure that plant genetic resources for food and agriculture held in ex situ collections acquired prior to the entry into force of the Convention on Biological

Diversity, [other than those set out in paragraph 11.4], are available at minimum restriction and cost⁶ [for research and development purposes].

ALTERNATIVE B

11.8 Plant genetic resources for food and agriculture acquired by the [CGIAR system and other international agencies] [IARCs and other parties] before the entry into force of the Convention on Biological Diversity, shall not be subject to restrictions and payments for research and development purposes. Conditions and terms for any access to this material shall be governed by a material transfer agreement or any other appropriate agreement agreed upon by the international community. [Such agreements will be consistent with the provisions of this Agreement.] Further access to [plant genetic resources for food and agriculture and ex situ collections] [ex situ collections of plant genetic resources for food and agriculture] [will] [shall] be governed by the principles laid down in the Convention on Biological Diversity. The past utilization of the ex situ collections related to the pre-convention period would not be re-opened.

11.9 Sovereign States will [be able to] take measures to further [control and even stop temporarily or permanently, genetic material exchange,] [regulate the access to plant genetic resources for food and agriculture] in response to [strong] national [security] [priorities] needs, including biosafety.

PROPOSALS FOR NEW WORDING (for the entire Article 11)

11.1 States have sovereign rights over their natural resources and the authority to determine access to plant genetic resources for food and agriculture rests with national governments and is subject to national legislation.

11.2 Parties with the authority to determine access to plant genetic resources for food and agriculture endeavour to provide such access without imposing restrictions that run counter to the objectives of the Convention on Biological Diversity and the present [agreement].

11.3 In the exercise of their sovereign rights, States encourage institutions or other organizations to place plant genetic resources for food and agriculture held in their collections into the International Network [referred to in article 9]. Regional and other international organizations are also encouraged to place plant genetic resources for food and agriculture held in their collections into the International Network. Access to plant genetic resources for food and agriculture in the International Network is submitted to no restrictions or payments for the participants to the Network.

11.4 Non-participants in the International Network will not be granted access to plant genetic resources for food and agriculture within the International Network except on terms to be agreed with the country or organization holding the plant genetic resources for food and agriculture.

⁶ The majority of *ex situ* holdings collected prior to the Convention coming into force were collected on the shared presumption of its common heritage and a major benefit flowing from their development has been shared food security. Prescribing prior informed consent and benefit sharing for these holdings would substantially increase transaction costs (due in part to the need to identify original sources) without generating commensurate benefits.

APPENDIX K¹

ARTICLE 12: FARMERS' RIGHTS

12.1 [States adhering] [Parties] to this [Undertaking] recognize the enormous contribution that farmers of all regions have made to the conservation and development of plant genetic resources, which constitute the basis of plant production throughout the world, and which form the basis for the concept of Farmers' Rights;

12.2 Farmers' Rights are vested in [the International Community], as trustee for present and future generations of farmers, for the purpose of ensuring full benefits to farmers, and supporting the continuation of their contributions, as well as the attainment of the overall purposes of this [Undertaking] in order to:

- (a) [ensure] that the need for conservation is globally recognized and that sufficient funds for these purposes will be [made] available;**
- (b) assist farmers and farming communities, in all regions of the world, but especially in the areas of origin/diversity of plant genetic resources, in the [protection and] conservation [and sustainable use] of their plant genetic resources, and [the protection] of the natural biosphere;**
- (c) allow farmers, their communities, and countries in all regions, to participate fully in the benefits derived, at present and in the future, from the improved use of plant genetic resources, through plant breeding and other scientific methods.**

PROPOSALS FOR NEW WORDING

12.1 States adhering to this Undertaking recognize the enormous contribution that farmers of all regions of the world, particularly those in the centres of origin and crop plant diversity, have made to the conservation and development of plant genetic resources which constitute the basis of food and agricultural production throughout the world, which in turn form the basis for the concept of Farmers' Rights.

12.2 Farmers' Rights² are vested in the national government as trustee for the present and future generations of farmers, for the purpose of ensuring full benefits to farmers, indigenous and local communities embodying traditional life styles (farmers), supporting the continuation of their contributions as well as the attainment of the overall purposes of this Undertaking. Countries adhering to the Undertaking agree to:

- (a) Protect and compensate the use of knowledge, innovations, and practices of farmers relevant for the conservation and sustainable use of plant genetic*

¹ In this Appendix the original text of the International Undertaking and its annexes is indicated in **bold characters**. Proposed new wordings are given in *italics*. Square brackets [] indicate proposed deletions and additions.

² 2.1 (d) Farmers' Rights means the rights of farmers, indigenous and local communities embodying traditional life styles, particularly in centres of origin/diversity, for compensation and fair and equitable sharing of benefits arising from the utilization of their knowledge, know-how, innovations/improvements, and practices relevant for the conservation and sustainable use of plant genetic resources.

resources for food and agriculture and promote their wider application with the consent and involvement of holders of such knowledge, innovations and practices and encourage the equitable sharing of benefits arising from the utilization of plant genetic resources, knowledge, innovations and practices.

- (b) Assist farmers in all regions of the world, especially in areas of origin/diversity of plant genetic resources in the evolution, conservation, improvement and sustainable use of plant genetic resources.*
- (c) Promote the development and establishment of an international sui generis system for recognition and protection of Farmers' Rights, as key contributors to the conservation, utilization and development of plant genetic resources. This system would have to protect plant genetic resources provided by farmers as well as their knowledge, innovations and practices.*
- (d) Recognize and ensure the rights of farmers, in fully sharing the benefits on a fair and equitable basis, and as mutually agreed, including through transfer of technology, participation in research, and access to its results, derived at present, and in future, from the improved use of plant genetic resources through plant breeding and other modern scientific methods, as well as from their commercial use.*
- (e) Support research and training activities and transfer of technology that protect, integrate, enhance and validate traditional farmers' knowledge, know-how and practices, ensuring that owners of that knowledge will directly benefit on a fair and equitable basis, and on mutually agreed terms, from its commercial utilization, or from any technological development derived from that knowledge.*
- (f) Facilitate as appropriate the adaptation of traditional farmers' knowledge, know-how and practices, to wide use and integrate them with modern technologies as appropriate.*
- (g) Implement an international fund (referred to in article 14.6) and develop its operational mechanism to ensure conservation and sustainable use of plant genetic resources, traditional farmers' knowledge, access to new technologies and equitable sharing of benefits derived from the products obtained through the use of plant genetic resources for the benefit of present and future generations of farmers.*

PROPOSALS FOR NEW WORDING

12.1.³ The purpose of Farmers' Rights is to ensure the continuing mutual flow of benefits between farmers and traditional communities and other peoples of the world, arising from the conservation, improvement and availability of plant genetic resources for food and agriculture, on a fair and equitable basis.⁴

³ Article 12.1 as currently formulated could be moved to the Preamble.

⁴ This paragraph stresses the mutual benefit inherent in the Farmers' Rights system and, therefore, the need to continue and maintain the system. It offers an alternative to vesting of rights in the International Community, which was an innovative legal device but never actualised and, relevantly, the traditional communities described as beneficiaries did not have a direct opportunity to act upon their rights within the system.

12.2. *The Parties, for the purpose of implementing Farmers' Rights, shall.*⁵

- (a) *assist farmers and traditional communities in all regions of the world, especially in the areas of origin/diversity of plant genetic resources for food and agriculture, in the conservation and sustainable use of their plant genetic resources for food and agriculture,*⁶
- (b) *promote for farmers and traditional communities a fair and equitable share in the benefits from the improved use of their plant genetic resources for food and agriculture. The sharing of such benefits shall be in accordance with Article 11 of this Agreement; and*⁷
- (c) *subject to their national legislation, respect, preserve and maintain knowledge, innovations and practices of farmers and traditional communities relevant for the conservation and sustainable use of plant genetic resources for food and agriculture, and promote their wider application, with the approval and involvement of those farmers and traditional communities, and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices. The sharing of such benefits shall be in accordance with Article 11.3 of this Agreement.*⁸

PROPOSALS FOR NEW WORDING (ARTICLE 12.2)

The Parties shall:

- (a) *Protect and compensate knowledge, innovations and practices of farmers and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of plant genetic resources, and promote their wider application, and the approval and involvement of the holders of such knowledge, innovations and practices, and encourage the equitable sharing of benefits arising from the utilization of those plant genetic resources provided by these farmers and traditional communities, as well as from the utilization of such knowledge, innovations and practices;*
- (b) *assist farmers and traditional communities, in all regions of the world, but especially in the areas of origin/diversity of plant genetic resources, in the protection and conservation of their plant genetic resources and of the natural biosphere;*
- (c) *promote the development and establishment of an international sui generis system for recognition and protection of farmers and traditional communities' rights as key actors in the conservation, utilization and development of plant genetic resources. This*

⁵ The chapeau simplifies elements in the current chapeau to Article 12.2 of the Undertaking, most of which are subsumed in the proposed Article 12.1 above. The following proposed sub-paragraphs set out steps for practical implementation of Farmers' Rights.

Article 12.2(a) is not reproduced here as the coordination of international funds towards conservation of plant genetic resources for food and agriculture and other financing linked with the Global Action Plan are best addressed under Article 14 (on Financial Security) of the Undertaking.

⁶ This paragraph is adapted from Article 12.2(b) of the Undertaking to include language consistent with the Convention on Biological Diversity ("conservation and sustainable use") and to delete a reference ("the natural biosphere") which is not helpful to the purpose of the Undertaking.

⁷ This paragraph assumes that Article 11 (on access, as eventually revised) will incorporate the following elements: prior informed consent; cooperation in scientific research; and sharing in the results of research and development, and of commercial and other utilization.

⁸ This paragraph deals with the knowledge and rights of farmers and traditional communities, and closely reflects Article 8(j) of the Convention on Biological Diversity. It also assumes that Article 11.3 (on access, as eventually revised) will incorporate the elements described above (prior informed consent; cooperation in scientific research; and sharing in the results of research and development, and of commercial and other utilisation). The development and establishment of a legal system for protection of the collective and cumulative knowledge, innovations and practices of farmers and traditional communities could be further explored at a future stage in collaboration between the FAO Commission and other relevant international bodies.

system would have to protect plant genetic resources provided by farmers, as well as their knowledge, innovations and practices.

- (d) *recognize and ensure the rights of farmers, their communities, and countries in all regions, to fully share the benefits, including through the international fund referred to in article 14.6 of this Undertaking, transfer of technology, participation in the research and access to its result, derived at present and in the future, from the improved use of plant genetic resources, through plant breeding and other scientific methods, as well as from their commercial use.*

PROPOSALS FOR NEW DEFINITIONS OF FARMERS' RIGHTS

During the discussion on Article 12: Farmers' Rights, two definitions of Farmers' Rights were proposed:

PROPOSAL 1:

To be added at the beginning of Article 2.1(d): Farmers' Rights refer specifically to the rights described in this Undertaking, as they relate to plant genetic resources for food and agriculture.

PROPOSAL 2:

To be added as 2.1(d): Farmers' Rights mean the rights of farmers and traditional communities to an equitable share, as set out in this agreement, in benefits arising from their past, present and future contributions to the conservation, improvement and availability of plant genetic resources, particularly in centres of origin/diversity.⁹

12.3 The [adhering States] [Parties] consider that the [best way] [one of the ways] to implement the concept of Farmers' Rights is to ensure the conservation, management and [sustainable] use of plant genetic resources [and access to new technologies by the communities concerned], [and benefit from the products derived from them] [for the benefit of present and future generations of farmers]. This could be achieved through appropriate means, monitored by the Commission on Plant Genetic Resources.

⁹ This paragraph is based upon the changes proposed prior to and during the First Extraordinary Session of the Commission to clause 2.1(d) of the Undertaking. The above formulation seeks to identify the holders of Farmers' Rights as traditional communities and farmers, rather than the holder as the international community in the role of trustee.

APPENDIX L¹

PREAMBLE

NOTE ON THE PREAMBLE

The Convention on Biological Diversity should be mentioned, and the principle of national sovereignty over plant genetic resources should be reaffirmed.

The possibility of developing countries adding value to their plant genetic resources by effective breeding programmes should be mentioned. The transfer of technology, and new and additional resources, should be mentioned.

The link between conservation and sustainable utilization should be mentioned.

NOTE ON THE PREAMBLE

Paragraphs (a) and (b) are obsolete. Instead, one paragraph should be introduced, referring to the Convention on Biological Diversity, and another on "common concern of mankind in line with biodiversity conservation", and a third on sovereign rights over plant genetic resources for food and agriculture;

Paragraphs (c) to (v) are also obsolete. Parts of them may be rephrased, following the formulation of the substantive articles.

A new paragraph is needed on access, financial resources, technology, etc. It can only be formulated on the basis of the agreed substantive articles.

NOTE ON THE PREAMBLE: New general drafting proposals for the Preamble

- 1. Reaffirm that the authority to determine access to genetic resources rests with the national governments and is subject to national legislation. Access, where granted, shall be on mutually agreed terms, and be subject to prior informed consent of the country providing such resources. There must be fair and equitable sharing of the benefits arising from the commercial and other utilization of genetic resources with the country providing such resources.*
- 2. Acknowledge the need to establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of plant genetic resources, taking into account the risks to human health.*

THE CONFERENCE

[Recognizing that]

PROPOSALS FOR A NEW PARAGRAPH TO PRECEDE PARAGRAPH (a):

¹ In this Appendix the original text of the International Undertaking and its annexes is indicated in **bold characters**. Proposed new wordings are given in *italics*. Square brackets [] indicate proposed deletions and additions.

Conscious of the intrinsic value of plant genetic resources as part of biological diversity;

- (a) Plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations;**

PROPOSALS FOR NEW WORDING:

Affirming that the conservation and sustainable use of plant genetic resources, for the benefit of present and future generations, are a common concern of humankind;

PROPOSALS FOR NEW WORDING:

Plant genetic resources for food and agriculture are part of the inheritance of all humanity, because of their importance for world food security, and, because of this, their long-term conservation is a common concern of all countries.

PROPOSALS FOR NEW WORDING:

Plant Genetic Resources constitute basic genetic material of great importance to mankind which need to be preserved and made freely available, keeping in line with the Convention on Biological Diversity's provision reaffirming that States have sovereign rights over their own biological resources, for the benefit of present and future generations.

NOTE: The paragraph should be redrafted, using language more in harmony with the Convention on Biological Diversity. "The conservation and the availability for utilization of plant genetic resources, for the benefit of present and future generations, are of common interest to all humanity".

PROPOSALS FOR NEW WORDING OF PARAGRAPHS (a) AND (b):

Substitute (a) and (b) by paras. 3 and 4 of the Convention on Biological Diversity.

PROPOSALS FOR NEW WORDING OF PARAGRAPHS (a) AND (b):

Substitute (a) and (b) by para. 4 of the Convention on Biological Diversity.

PROPOSALS FOR NEW WORDING AND NOTE ON PARAGRAPHS (a) and (b):

The original wording of the Undertaking relating to "heritage of mankind" was based on a concept previously used in the Convention concerning the Protection of World Cultural and Natural Heritage, adopted under the sponsorship of UNESCO in 1972. This concept, as used in the UNESCO Convention, was not intended to exclude in any way either the overriding sovereign rights of the State over natural or man-made sites located on its territory, or private property rights existing under national law. The United Nations Convention on the Law of the Sea of 1982, on the other hand, used the concept of "the common heritage of mankind" to refer to the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction. In the Undertaking, as in the UNESCO Convention, the use of the concept does not entail the exclusion of sovereign rights, as clarified by Resolution 3/91 (see paragraph (b) below) or of rights of private property under national law. For its part, the Convention on Biological Diversity does not refer at all to the concept of "heritage of mankind", but rather to the "common concern of mankind". In order to harmonize this text with the language of the Biodiversity Convention, the Commission may wish either:

- (a) *to delete "freely" in the third line so as to make this paragraph of the Undertaking clearly compatible with the principle of access on mutually agreed terms, as set out in the Biodiversity Convention; or*
- (b) *to recast the whole paragraph, using wording closer to that of the Biodiversity Convention, for example, along the following lines: "The conservation and availability for use of plant genetic resources, for the benefit of present and future generations, are a common concern of mankind".*

If paragraph (a) above is redrafted, and the concept of the "heritage of mankind" deleted, paragraph (b) could be modified in order to state simply that: "States have sovereign rights over their plant genetic resources".

- (b) [The concept of mankind's heritage, as applied in the International Undertaking on Plant Genetic Resources, is subject to the sovereignty of the States over their plant genetic resources;]**

PROPOSALS FOR NEW WORDING:

Reaffirming that States have sovereign rights over their plant genetic resources;

PROPOSALS FOR NEW WORDING:

States have sovereign rights over their plant genetic resources, which include the right to develop them, to profit from this, and to be associated with any advantages that accrue.

PROPOSALS FOR A NEW PARAGRAPH AFTER PARAGRAPH (b):

- *the sovereign rights of States should be exercised, with regards to plant genetic resources for food and agriculture, in consideration of the importance of facilitating access to plant genetic resources for food and agriculture, for conservation and sustainable use by other States, and of not imposing restrictions which run counter to the objectives of this [Agreement];*
 - *non-restricted and non-paid access to samples of plant genetic resources for food and agriculture, for research and breeding purposes, is essential to achieve progress in benefiting from these resources, and contribute to sharing those benefits.*
- (c) Full advantage can be derived from plant genetic resources through an effective programme of plant breeding, and that, while most such resources, in the form of wild plants and old land races, are to be found in developing countries, training and facilities for plant survey and identification, and plant breeding, are insufficient, or even not available in many of those countries;**

PROPOSALS FOR NEW WORDING:

Aware that plant genetic resources are indispensable for the genetic improvement of cultivated plants, and that full advantage can be derived from them through an effective programme of plant breeding;

PROPOSALS FOR NEW WORDING:

Full advantage can be derived from plant genetic resources (cultivated and wild) found in developing countries, through comprehensive and effective programmes on exploration and collection, evaluation and characterization, and identification of potential genes that can be used in the plant breeding programmes for the development of new varieties.

NOTE: Could be left as it is, or could be joined to (d) and expressed positively: "Plant genetic resources are indispensable for the genetic improvement of cultivated plants, and full advantage should be taken of them through an effective programme of plant breeding, to meet the needs of the international community". If the paragraphs are maintained as they are, it should be stated that they should be explored, and that this requires a transfer of technology.

(d) Plant genetic resources are indispensable for the genetic improvement of cultivated plants, but have been insufficiently explored, and are in danger of erosion and loss;

NOTE: Paragraph (d) should be merged with paragraph (c).

(e) The availability of plant genetic resources and the information, technologies and funds necessary to conserve and utilize them [sustainably], are complementary [and of equal importance];

PROPOSALS FOR NEW WORDING:

Recognizing that the availability of plant genetic resources, and access to the information, technologies and funds necessary to conserve and utilize them sustainably, are complementary and of equal importance;

PROPOSALS FOR NEW WORDING:

Access and availability of Plant Genetic Resources and relevant information, and technologies, are linked with the necessary funding to allow sustained conservation and utilization.

[(f) All nations can be contributors and beneficiaries of plant genetic resources, information, technologies and funds;]

(g) The best way to guarantee the maintenance of plant genetic resources is to ensure their [effective and beneficial utilization] [sustainable utilization] [conservation and sustainable use] in all countries;

PROPOSALS FOR NEW WORDING:

Acknowledging that the best way to guarantee the maintenance of plant genetic resources is to ensure their sustainable use and the fair and equitable sharing of benefits arising out of their utilization;

(h) The farmers [and local and traditional communities] of the world have, over the millennia, domesticated, conserved, nurtured, improved and made available plant genetic resources, and continue to do so today;

PROPOSALS FOR NEW WORDING:

Noting that the farmers of the world have, over the millennia, domesticated, conserved, nurtured, improved and made available plant genetic resources, and continue to do so today;

PROPOSALS FOR NEW WORDING:

States recognise the enormous contribution that farmers and traditional communities of all regions have made to the conservation and development of plant genetic resources, which constitute the basis of plant production throughout the world, and which form the basis for the concept of Farmers' Rights.

Note: This paragraph is drawn from clause 12.1 of the Undertaking. As it sets out a conceptual foundation, but is not an operational paragraph, it could be moved to the Preamble, and placed together with Preambular paragraphs (h), (n) and (o) which deal with Farmers' Rights.

PROPOSALS FOR NEW WORDING:

(h) Farmers all over the world have, over millennia, acclimatized, conserved, maintained, improved and made available plant genetic resources, and often continue to do so at present.

(h bis)

Scientists in research institutions and genebanks have greatly contributed to exploring, conserving and better understanding genetic resources, thereby limiting genetic erosion, and have contributed to alerting the international community to the importance of plant genetic resources.

(h ter)

Plant breeders, in both the public and private sectors, have contributed to supplying farmers with improved varieties and quality seed, and should be encouraged to develop and diversify their activities to cover local species and varieties, so as to promote sustainable agriculture.

(h quater)

The time has come to mobilize the entire international community, particularly farmers, plant breeders and scientists, within a universal strategy, based on a clear and stable instrument.

(i) Advanced technologies and local rural technologies are both important and complementary in the conservation and utilization of plant genetic resources;

PROPOSALS FOR NEW WORDING:

Stressing that advanced technologies and local rural technologies are equally important and complementary in the conservation and utilization of plant genetic resources;

PROPOSALS FOR NEW WORDING:

Traditional/rural technologies and advanced technologies are equally important and complementary in the sustainable conservation and utilization of plant genetic resources.

- (j) *In situ* and *ex situ* conservation are important and complementary strategies for maintaining genetic diversity;**

PROPOSALS FOR NEW WORDING:

Emphasizing that the fundamental requirement for the conservation of plant genetic resources is the in situ conservation of ecosystems and natural habitats and the maintenance and recovery of a viable population of species in their natural surroundings, and that ex situ measures, preferably in the country of origin, also have an important role to play;

NOTE: It was suggested to redraft this in harmony with the Convention on Biological Diversity, dividing it into two parts:

- (i) the fundamental need for the conservation of plant genetic resources is their conservation, in situ, in their natural ecosystems and habitats, and the maintenance and recovery of those resources in danger of extinction in their natural environment.*
- ii) ...the adoption of ex situ methods, preferably in the country of origin, nonetheless has an important function.*

Considering that

- (k) The international Community should adopt a concrete set of principles designed to promote the exploration, preservation, documentation, availability and [full] [sustainable] use of relevant plant genetic resources essential to agricultural development;**

PROPOSALS FOR NEW WORDING:

The International community should adopt a concrete set of principles designed to promote the conservation and sustainable use of relevant plant genetic resources essential to agricultural development;

- (l) It is the responsibility of governments to undertake such activities as are needed to ensure the exploitation, collection, conservation, maintenance, evaluation, documentation and exchange of plant genetic resources [in the interest of all mankind]; to provide financial and technological support to institutions engaged in such activities; and to ensure the [equitable and unrestricted distribution of the benefits] [equitable distribution of the benefits] [fair and equitable sharing of the benefits] of plant breeding;**

PROPOSALS FOR NEW WORDING:

States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner;

NOTE: A division into three parts was suggested: the first would end at advantage to humanity; the second would go up to activities; and the third would cover plants. Mention could be made of international cooperation and financial resources.

[(m) Progress in plant breeding is essential to the present and future development of agriculture; and [the need for] the establishment or strengthening of plant breeding and seed production capabilities, at the national, sub-regional and regional levels, is [a prerequisite] [critical] to making efficient use of international cooperation in the exploration, collection, conservation, maintenance, evaluation, documentation and exchange of plant genetic resources;]

NOTE: This paragraph could be reformulated in such a way as to not put any conditions upon international cooperation.

(n) The majority of these plant genetic resources come from developing countries, the contribution of whose farmers [and local and traditional communities] [has not been] [must be] sufficiently recognized [or rewarded] [, protected, and/or rewarded through equitable sharing of benefits];

PROPOSALS FOR NEW WORDING:

The majority of these plant genetic resources come from developing countries, the contribution of whose farmers and local communities embodying traditional lifestyles should be sufficiently recognized and rewarded through an appropriate system of sharing benefits;

PROPOSALS FOR NEW WORDING:

All plant genetic resources come (originate) from developing countries, the contribution of whose farmers and indigenous communities should be sufficiently recognized, protected and rewarded through an appropriate system of equitable sharing of benefits;

NOTE: The article should be formulated positively, underlining the importance of traditional and local communities in the conservation of germplasm.

(o) The farmers [and local and traditional communities], especially those in developing countries, [should] [shall] benefit fully from the improved and increased use of the natural resources they have preserved;

PROPOSALS FOR NEW WORDING:

The farmers, especially those in developing countries, shall benefit fully from the improved and increased use of the natural resources they have conserved;

(p) There is a need to continue the conservation (*in situ* and *ex situ*), development and [sustainable] use of the plant genetic resources in all countries, and to strengthen [, through international cooperation and the transfer of technology,] the capabilities of developing countries in these areas;

PROPOSALS FOR NEW WORDING:

*There is a need to continue the conservation (*in situ* and *ex situ*), development and sustainable use of the plant genetic resources in all countries, and, through international cooperation and transfer of technology, strengthen the capabilities of developing countries in these areas;*

(q) This International Undertaking on Plant Genetic Resources constitutes [a formal framework] [is within the framework of the Convention on Biological Diversity, and covers plant genetic resources for food and agriculture, and is] aimed at ensuring conservation, use and availability of plant genetic resources, and that it is intended to lay the basis for an equitable and, therefore solid and lasting, global system;

PROPOSALS FOR NEW WORDING:

This International Undertaking on Plant Genetic Resources constitutes a formal framework aimed at ensuring conservation and sustainable use of plant genetic resources for food and agriculture, subject to a fair and equitable sharing of benefits;

PROPOSALS FOR NEW WORDING:

This International Undertaking on Plant Genetic Resources constitutes an official framework aimed at ensuring conservation and sustainable use of plant genetic resource, and that it is intended to lay the basis for a global system with a just and equitable sharing of the benefits.

NOTE: A definition on "availability" should be included in Art. 2.

[(r) Conditions of access to plant genetic resources need further clarification;]

NOTE: This concept could be included in Chapter IV.

PROPOSALS FOR A NEW PARAGRAPH (x OR y):

Stressing the importance of, and the need to promote international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation and sustainable use of plant genetic resources for food and agriculture.

Has agreed as follows:

APPENDIX M

COMMISSION ON PLANT GENETIC RESOURCES
Seventh Session
DRAFT PROVISIONAL AGENDA

1. Election of the Chair and Vice-Chair
2. Adoption of the Agenda and Timetable for the Session
3. Reports of the Working Group
4. Revision of the terms of reference and procedures of the Working Group, and election of its officers
5. Report of the Fourth International Technical Conference
6. Progress Report on the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture
 - 6.1 Report on the State of the World's Plant Genetic Resources
 - 6.2 Global Plan of Action
 - 6.3 International Fund
 - 6.4 World Information and Early Warning System
 - 6.5 Codes of Conduct
 - 6.6 International Network of *Ex Situ* Collections
 - 6.7 International Network of *In Situ* Conservation Areas
 - 6.8 Crop-Related Networks
7. Reports from international organizations on their programmes, policies and activities on plant genetic resources for food and agriculture
8. Consideration of FAO's Programme on Plant Genetic Resources
9. Continuation of negotiations for the revision of the International Undertaking on Plant Genetic Resources
10. Future work of the Commission
11. Other business
12. Date and place of the next session
13. Adoption of the Report

APPENDIX N

OPENING STATEMENT BY PROFESSOR A. SAWADOGO, ASSISTANT DIRECTOR GENERAL FOR AGRICULTURE

Mr Chairman, distinguished Delegates and Observers:

On behalf of the Director-General, it is my pleasure to welcome you to this Sixth Session of the Commission on Plant Genetic Resources. I should like especially to greet the new members of the Commission who have joined since April 1993: in alphabetical order, these are Albania, Algeria, the Bahamas, China, Croatia, the Czech Republic, Gabon, Latvia, Maldives, Malta, Nepal and Slovakia. There are now 131 members of the Commission on Plant Genetic Resources.

I should also like to note that an additional three members of the Commission (Angola, Algeria and the Bahamas) have now adhered to the International Undertaking, bringing the number of countries adhering to the Undertaking to 110.

I should also like to extend a warm welcome to the Observers from member and non-member nations of FAO, from sister organisations of the United Nations system and other governmental and non-governmental organizations.

I must also thank the many organizations that have provided this session of the Commission with written reports on their plant genetic resource activities, particularly the International Plant Genetic Resources Institute.

Mr Chairman:

Plant genetic resources are central elements of sustainable agriculture and food security, and can be seen as a bridge between the environment and development. They provide the basis for our crops' biological adaptation to ever-changing environmental conditions and human needs. Since the advent of agriculture some 10,000 years ago, our ancestors - the farmers and farming communities - conserved and developed the world's crop genetic resources on which we all depend. It is not surprising, then, that the Commission began with the conviction that the past and present contribution of farmers to protecting, enhancing and using plant genetic resources should be recognised, and their future contributions encouraged.

Mr Chairman:

The conservation of plant genetic resources for food and agriculture is both an insurance and an investment for the future. Their importance cannot be over-emphasised, particularly in a time of growing population pressure on natural resources, and their increasing degradation. These resources are unique in a number of ways. Firstly, man shaped and developed them; secondly, they are essential in satisfying humanity's basic needs; and, thirdly, all countries and regions are highly interdependent in plant genetic resources for food and agriculture. International cooperation cannot, therefore, be considered a choice, but an obligation. It is a challenge to the international community, and to our generation, to find specific multilateral solutions for the conservation and sustainable use of plant genetic

resources for food and agriculture, and for the definition of equitable conditions of access and benefit-sharing.

Over the past decades, it has become apparent that cooperation in seeking consensus in this area is not only a technical issue. In a changing world where, because of rapid technological advance, our ability to utilise plant genetic resources more efficiently has led to a growing realisation that they have both economic and social values, the question of their conservation and utilisation for global food production and security has now firmly entered the social, political and economic arenas.

For the last 12 years, the Commission on Plant Genetic Resources has provided a unique inter-governmental forum, where consensus on global policy matters relating to plant genetic resources for food and agriculture could be reached by discussions among the countries of the world, and the donors and users of germplasm, biotechnology and funds.

Mr Chairman, distinguished Delegates and Observers:

To facilitate international cooperation in these fields, in line with its mandate, the Commission has established a continuously evolving *Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture*. The System is now largely in place, and includes a number of international agreements, mechanisms and instruments to facilitate the utilization of plant genetic resources, and the sharing of the resulting benefits. Adjusting and strengthening the FAO Global System, as the United Nations Conference on Environment and Development (UNCED) recommended in 1992, has been the major focus of the Commission and its secretariat during the last biennium, and will constitute the major focus of this session.

Document CPGR-6/95/4 gives a progress report on the Global System, and provides the general context for the issues to be discussed this session. You also have a number of progress reports on individual elements of the Global System, including the *World Information and Early Warning System on Plant Genetic Resources*; the *International Network of Ex Situ Collections under the Auspices of FAO*; and the *Code of Conduct for Plant Germplasm Collecting and Transfer*. The Commission may also wish to provide guidance regarding elements where little progress has been made, essentially the development of a *Network of In Situ Conservation Areas*, and a *Code of Conduct on Plant Biotechnologies*. This session of the Commission also has the important task of acting as the preparatory committee for development of two major elements of the Global System, the *Report on the State of the World's Plant Genetic Resources*, and the costed *Global Plan of Action*, in the context of the Fourth International Technical Conference.

The bulk of this session is expected to be dedicated to the preparation of this Conference, and to the continuing negotiations to revise the very basis of the *Global System*, the *International Undertaking*, in harmony with the Convention on Biological Diversity.

Mr Chairman, distinguished Delegates and Observers:

In your discussions, you may wish to return to the need - which the Commission has repeatedly recognized - to find extrabudgetary funds to ensure the full participation of developing countries in the meetings of the Commission, that are guiding the preparations for the Technical Conference on Plant Genetic Resources, and negotiating the revision of the Undertaking. I would like to take the opportunity to thank the countries that have already contributed for this purpose, Canada (by a second donation), Italy and the Netherlands and to invite other donors to come forward rapidly.

Mr Chairman, distinguished Delegates:

Finally, I wish to assure delegates that the work of this Commission is accorded the highest importance within FAO. Your task over the next two weeks is of importance for the world's long-term food security. The agenda is a full and complex one. I am confident that through your discussions and actions this fortnight, the Commission will meet the high expectations placed upon it.

In ending, I wish you full success in your work.

المرفق سين
附录 0
APPENDIX 0
ANNEXE 0
APENDICE 0

قائمة المندوبين والمراقبين
代表和观察员名单
LIST OF DELEGATES AND OBSERVERS
LISTE DES DELEGUES ET OBSERVATEURS
LISTA DE DELEGADOS Y OBSERVADORES

الرئيس

主席

Chair

Président

Presidente

:
:
: José M. BOLIVAR (Spain)
:

النائب الأول للرئيس

第一副主席

First Vice-Chair

Premier Vice-Président

Primer Vicepresidente

:
:
: Moorosi RADITAPOLE (Lesotho)
:

النائب الثاني للرئيس

第二副主席

Second Vice-Chair

Deuxième Vice-Président

Segundo Vicepresidente

:
:
: Ms. Kristiane HERRMANN (Australia)
:

أعضاء الهيئة

委员会成员

MEMBERS OF THE COMMISSION

MEMBRES DE LA COMMISSION

MIEMBROS DE LA COMISION

ALBANIA - ALBANIE

Representative

Pandeli PASKO

Alternate Permanent Representative
to FAO

Rome

ALGERIA - ALGERIE - ARGELIA الجزائر

Représentant

Nasreddine RIMOUCHE
 Représentant permanent adjoint
 auprès de la FAO
 Rome

مندوب

نصر الدين ريموش
 الممثل الدائم المناوب لدى المنظمة
 روما

Tas SAKELLARIS

Biodiversity Unit
 Department of Environment, Sport
 and Territories
 Canberra

Adviser

Lindsay COOK
 Chief
 Plant Industry NSW Agriculture
 Orange, NSW

AUSTRIA - AUTRICHE

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