



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

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pour
l'alimentation
et
l'agriculture

Organización
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para la
Agricultura
y la
Alimentación

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INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

SECOND SESSION OF THE GOVERNING BODY

Rome, Italy, 29 October-2 November 2007

REPORT ON THE STATUS OF COOPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS, INCLUDING AGREEMENTS BETWEEN THE GOVERNING BODY AND THE INTERNATIONAL AGRICULTURAL RESEARCH CENTERS OF THE CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL RESEARCH AND OTHER RELEVANT INTERNATIONAL INSTITUTIONS

TABLE OF CONTENTS

	<i>para.</i>
I. Introduction	1 - 4
II. Cooperation required by the Treaty	5 - 23
III. Cooperation with other international organizations and relevant ongoing processes in other international forums	24 - 37
IV. Conclusion	33 - 34

I. INTRODUCTION

1. At its First Session, the Governing Body:

noted that cooperation with other international organizations in many aspects of its work, was of particular importance for the Treaty. It acknowledged the ongoing fruitful collaboration with, in particular, the Convention on Biological Diversity, the World Intellectual Property Organization and the Consultative Group on International Agricultural Research.¹

further noted the need to extend its cooperation with a wide range of organisations. It emphasized the need to continue cooperation with the CBD. It welcomed in particular the invitation of the eighth Conference of the Parties to collaborate in the implementation of the cross-cutting initiative on biodiversity for food and nutrition, and the invitation to its Secretariat to participate in the Liaison Group of the Biodiversity-Related Conventions.²

2. More specifically with regard to the Funding Strategy of the Treaty, the Governing Body:

requested the Secretariat of the Treaty to positively pursue, with the Secretariats of relevant international mechanisms, funds and bodies, means by which they might contribute to the implementation of the Funding Strategy of the Treaty, and the possibility of establishing memoranda of understanding with the Governing Body in this regard;

3. This document reviews the provisions of the Treaty that either directly or indirectly require the Governing Body to cooperate with other international organizations, and identifies ongoing international processes of direct relevance to the Treaty and its Multilateral System of Access and Benefit-sharing, in order that the Governing Body may consider its position. It also reports on recent activities of the Treaty Secretariat to promote cooperation with other bodies and their secretariats, so that the Governing Body may give any further guidance for the further development of cooperation with these Organizations.

4. The present document deals with intergovernmental organizations. The relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture is dealt with in the document *Joint report by the Secretary of the Governing Body and the Secretary of the Commission on Genetic Resources for Food and Agriculture on matters concerning the relationship between the Governing Body and the Commission.*³ The Governing Body may also wish to further consider relations with international non-governmental organizations.

II. COOPERATION REQUIRED BY THE TREATY

5. The Treaty directly requires cooperation between the Governing Body and a variety of international organizations. This is reflected in Article 19.3, where several functions of the Governing Body relate to cooperation with other international organizations:

¹ para 45

² para 49

³ IT/GB-2/07/16.

- (g) *establish and maintain cooperation with other relevant international organizations and treaty bodies, including in particular the Conference of the Parties to the Convention on Biological Diversity, on matters covered by this Treaty, including their participation in the funding strategy.*
- (l) *take note of relevant decisions of the Conference of the Parties to the CBD and other relevant international organizations and treaty bodies;*
- (m) *inform, as appropriate, the Conference of the Parties to the CBD and other relevant international organizations and treaty bodies of matters regarding the implementation of this Treaty;*

6. This is reflected in the functions of the Secretary of the Governing Body, in Article 20.5:

The Secretary shall cooperate with other organizations and treaty bodies, including in particular the Secretariat of the Convention on Biological Diversity, in achieving the objectives of this Treaty.

7. At its First Session, the Governing Body concretized this function of the Secretariat by:

request[ing] the Secretariat of the Treaty to positively pursue, with the secretariats of relevant international mechanisms, funds and bodies, means by which they might contribute to the implementation of the Funding Strategy of the Treaty, to be made available through the website of the Treaty.

Cooperation with the International Agricultural Research Centres of the Consultative Group on International Agricultural Research

8. The Treaty recognizes, in Article 15,

the importance to this Treaty of the ex situ collections of plant genetic resources for food and agriculture held in trust by the International Agricultural Research Centres (IARCs) of the Consultative Group on International Agricultural Research (CGIAR).

9. The IARCs will continue to have a major role to play, in consultation with the Governing Body, in supporting the implementation of the Treaty. At its First Session, the Governing Body “welcomed the decision of the International Agricultural Research Centers of the Consultative Group on International Agricultural Research to sign agreements with the Governing Body of the Treaty”⁴ and bring their *ex situ* collections under the Treaty.

10. The Treaty Secretariat has also entered into a Letter of Agreement with Bioversity International to develop information technology support systems for the operation and management of the Standard Material Transfer Agreement. Some provisional results of this existing, fruitful collaboration between the International Treaty are available in document IT/GB-2/07/Inf.4.

⁴ para 50, GB-1 Report.

11. This role includes the provision of information and technical input into the work of the Governing Body as well as other activities geared towards the implementation of the Treaty. FAO and Bioversity International are in the process of developing a Joint Programme of technical assistance on the implementation of the Treaty, and are now actively seeking financial support for it. The Joint Programme will pool the legal and technical expertise and resources of both organizations, provide for technical assistance to individual countries on request on the implementation of the Treaty, and in particular the Multilateral System of Access and Benefit-sharing under the Treaty.

12. On World Food Day (16 October 2006), the Director-General of FAO, on behalf of the Governing Body, signed agreements with the International Agricultural Research Centres, which held collections of around 600 000 samples of the world's most important plant genetic resources for food and agriculture. The Tropical Agriculture Research and Higher Learning Centre (CATIE) also brought in materials of its *ex situ* collections by signing a similar agreement. The regional collections of the International Coconut Genetic Resources Network (COGENT), held by the governments of Brazil, India, Indonesia, Côte d'Ivoire, and Papua New Guinea have been brought under the Treaty. The *ex situ* collection of mutant elite lines (the "Mutant Germplasm Repository") held by the Joint FAO/IAEA⁵ Division in Vienna have also been brought under the Treaty by virtue of an agreement signed on 18 July 2007. The Secretariat has published the agreements on its website⁶.

13. Discussions are also underway regarding an *ex situ* collection of Cocoa germplasm at the International Cocoa Genebank, Trinidad (ICGT). The Secretariat has also received inquiries from a few other entities on the process and requirements for inclusion of materials into the Multilateral System.⁷

Cooperation with the Convention on Biological Diversity

14. Throughout the negotiations of the Treaty, the Conference of the Parties to the CBD supported the process, and

"Recognize[d] the important role that the International Treaty on Plant Genetic Resources for Food and Agriculture will have, in harmony with the Convention on Biological Diversity, for the conservation and sustainable utilization of this important component of agricultural biological diversity, for facilitated access to plant genetic resources for food and agriculture, and for the fair and equitable sharing of the benefits arising out of their utilization".⁸

15. In turn, the objectives of the Treaty were composed to be in harmony with the CBD. Article 1.1 of the Treaty provides that its objectives "*will be attained by closely linking this Treaty to the Food and Agriculture Organization of the United Nations and to the Convention on Biological Diversity*".

⁵ The International Atomic Energy Agency.

⁶ http://www.planttreaty.org/art15_en.htm

⁷ See also Document IT/GB-2/07/11 *Progress in the inclusion of plant genetic resources for food and agriculture in the Multilateral System*.

⁸ Decision VI/6.

16. At the level of practical implementation of the Treaty, several provisions of Treaty require close cooperation with the CBD.⁹

17. Cooperation between FAO and the CBD has fostered the development of joint and complementary policies and programmes of work, and has largely avoided duplication of activities, in a spirit of mutual respect for mandates. There is considerable ongoing policy and technical cooperation between FAO and its Commission on Genetic Resources for Food and Agriculture and the CBD, as described in the document of the Eleventh Session of the Commission, *Cooperation with the Convention on Biological Diversity*.¹⁰

18. In the case of the CBD, the prime focus is the work of the *Ad Hoc* Open-ended Working Group on Access and Benefit-sharing, charged with the elaboration and negotiation of an international regime on access and benefit-sharing. The First Session of the Governing Body was informed that the Eighth Conference of the Parties to the CBD (Curitiba, Brazil, 20 - 31 March 2006) took a number of decisions of relevance to the Governing Body and the Treaty. These are excerpted in *Appendix 1* to the document IT/GB-1/06/Inf.4, *Report on the status of cooperation with other International Organizations*.

19. Following the invitation of the Conference of Parties to the CBD to the Treaty's Secretariat to participate in the Liaison Group of the Biodiversity-Related Conventions, the Interim Secretary of the Treaty attended the Fifth Meeting of the Liaison Group of the Biodiversity-Related Conventions, convened by the Secretariat of the CBD, held in Gland, Switzerland on 14 September 2006.¹¹

20. The Secretariat of the Treaty also attended the Meeting of the Group of Technical Experts on an internationally recognized certificate of origin/source/legal provenance held in Lima, Peru, from 22-25 January 2007. This expert group was established to advise the CBD *Ad Hoc* Open-ended Working Group on Access and Benefit-sharing, which has the mandate to negotiate an international regime on access and benefit-sharing, with a target date of 2010.

21. The Secretary attended the CBD's Twelfth Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-12). Prior to SBSTTA-12, a meeting of Chairs of the scientific and technical bodies or advisory bodies of the biodiversity-related conventions together with representatives of the secretariats, which the Secretary attended on behalf of Mr Mwila, Chair of the the Governing Body of the Treaty.

22. The Thirteenth Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-13) of the CBD will be held at FAO from 18 to 22 February 2008 and provides opportunity for further cooperation and coordination. The Governing Body may wish to decide how it may want its Secretariat to participate at the meeting.

⁹ For example, Article 17.1 of the Treaty provides that “*in developing the Global Information System, cooperation will be sought with the Clearing House Mechanism of the Convention on Biological Diversity*”.

¹⁰ Document CGRFA-11/07/17.

¹¹ The Liaison Group is composed by the following Conventions: CITES, Ramsar, CBD, the Convention on Migratory Species (CMS) and the World Heritage Convention (WHC), and the International Treaty on Plant Genetic Resources for Food and Agriculture.

Relationship with the Global Crop Diversity Trust

23. The Governing Body recognises the Trust *as an essential element of the Funding Strategy of the Treaty in relation to the ex situ conservation and availability of plant genetic resources for food and agriculture, and...that the Trust will operate under the overall policy guidance of the Treaty's Governing Body.*¹² The Association Agreement, which defines its relationship with the Governing Body, was signed during its First Session. As a result, it is expected that the two Secretariats (Treaty and Trust) will work closely together in the implementation of the relevant aspects of the Treaty. The Trust Secretariat submits regular reports of its activities to the Governing Body as given in Document IT/GB-2/07/10, *Report from the Global Crop Diversity Trust*.

III. COOPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS AND RELEVANT ONGOING PROCESSES IN OTHER INTERNATIONAL FORUMS

Ongoing processes in other international forums

24. Major international discussions on matters of direct relevance to the Treaty, related to access and benefit-sharing for genetic resources, continued throughout the period of the *Interim Committee*, particularly in three forums: the Convention on Biological Diversity (CBD) and its subsidiary bodies; the World Intellectual Property Organization (WIPO) and its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore; the World Trade Organization (WTO) Council for Trade-related Aspects of Intellectual Property Rights (TRIPS); and the International Union for the Protection of New Varieties of Plants (UPOV). The Interim Secretariat attended a number of meetings in these organizations, and provided, where appropriate, information on the provisions of the Treaty and the work of the Interim Committee.

WIPO and its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

25. In the case of WIPO, the prime focus is the work of its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. In this context, and in WIPO and the WTO more generally, a variety of matters are being discussed of direct relevance to the Treaty, including the possible role of a certificate of origin/source/legal provenance of genetic resources, in the context of applications for the grant of patents. The Interim Secretariat has in this forum regularly noted that, in the event of such an instrument being agreed, materials from the Treaty's Multilateral System of Access and Benefit-sharing should declare their origin as being the Multilateral System, with the Standard Material Transfer Agreement playing the role of such a certificate.

26. WIPO has submitted to the First Session of the Governing Body a Progress report on work towards the assessment of patent data relevant to availability and use of material from the International Network of Ex Situ Collections under the auspices of FAO and the International Treaty on Plant Genetic Resources for Food and Agriculture: a draft patent landscape surrounding gene promoters relevant to rice¹³. The Progress Report is an update on a project undertaken by WIPO in response to a request from the Commission on Genetic Resources for Food and

¹² Para 36, GB-1 Report.

¹³ IT/GB-1/06/Inf.17

Agriculture at its ninth session for a study on how intellectual property rights may affect the availability and use of material from the International Network and the International Treaty¹⁴.

27. Both the *Interim* Secretariat and the Secretariat have worked with WIPO and have attended most Sessions of its Intergovernmental Committee on Intellectual Property Rights and Genetic Resources, Traditional Knowledge and Folklore (IGC). WIPO has also, regularly attended meetings and made progress reports on its own work regarding intellectual property and genetic resources to both the Commission on Plant Genetic Resources for Food and Agriculture Acting as the *Interim* Committee for the Treaty and the Governing Body.

International Union for the Protection of New Varieties of Plants (UPOV)

28. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) – its governing body – formally requested the Secretariat of the Treaty to make a presentation on the International Treaty and the outcome of the First Session of the Governing Body of the Treaty. Pursuant to this request, the Interim Secretariat attended the Fortieth Session of the UPOV Council, on 19 October 2006, to present the Treaty. The presentation¹⁵ highlighted, *inter alia*, that the Treaty and the UPOV Convention are major building blocks of the overall policy and regulatory framework for food and agriculture, and it is right and useful that the respective governing bodies keep each other informed, and seek synergy, in mutual respect for their individual mandates.

29. As part of the cooperation between UPOV and FAO, the Secretariat of UPOV held a briefing session in February 2006 at the FAO Headquarters for relevant FAO officers and the FAO Legal Office. The Governing Body may wish to note these developments.

World Trade Organization (WTO)

30. Member states of the World Trade Organization have given recognition to the work the FAO on the conservation and sustainable use of agricultural genetic resources, and associated benefit-sharing as well as the specificity of the problems in agriculture, and the need for specific solutions. However, current discussions at the WTO's Council for Trade-Related Aspects of Intellectual Property Rights in particular, are of direct interest to the Treaty, especially in the context of the Council's discussions on intellectual property rights and genetic resources.

31. Specific references are made of the Treaty and its Multilateral System in the discussions, and the possible outcomes may have significant implications for the implementation of the Treaty and its Multilateral System.¹⁶ One of the issues under consideration by the Council for TRIPS is a proposal for the declaration of origin/source in patent applications for inventions related to genetic resources. The Governing Body may wish to request that if and when this and

¹⁴ Report of the Commission on Genetic Resources for Food and Agriculture, Ninth Regular Session, Rome, 14-18 October 2002, para. 31, CGRFA-9/02/REP.

¹⁵ UPOV Document C/40/17, *Presentation by the Food and Agriculture Organization of the United Nations (FAO) on the International Treaty on Plant Genetic Resources for Food and Agriculture (IT/PGRFA)*, available at: http://www.upov.int/en/documents/c/40/c_40_17.pdf

¹⁶ See WTO Document IP/C/W/473, *The Relationship between the TRIPS Agreement, the Convention on Biological Diversity and the protection of traditional knowledge — Amending the TRIPS Agreement to Introduce an Obligation to Disclose the Origin of Genetic Resources and Traditional Knowledge in Patent Applications* Communication from Norway (also circulated as WT/GC/W/566 and TN/C/W/42); WTO Document IP/C/W/491, *The Relationship between the TRIPS Agreement, CBD, and Protection of Traditional Knowledge — Amending the TRIPS Agreement to Introduce an Obligation to Disclose the origin of Genetic Resources and Traditional Knowledge in Patent Applications — Answer from Norway to Questions Posed by Switzerland in the TRIPS Council*;

other relevant proposals were agreed upon, they should be consistent with the International Treaty.

32. It is, therefore, required that the Governing Body and its Secretariat continue to follow these discussions and make necessary representations and submissions so that the provisions of the Treaty may be adequately taken into account. The Governing Body may also wish to call for further collaboration with the WTO, its Subsidiary bodies and Secretariat in order to ensure mutual supportiveness and mutual respect for the respective mandates of the two bodies.

Common Fund for Commodities (CFC)

33. The Common Fund for Commodities is an inter-governmental financial institution established within the framework of the United Nations. The Fund's specific mandate is to support developing countries that are commodity dependent to improve and diversify commodities production and trade. The Fund has strong links to FAO and has collaborated with FAO on a broad range of issues and activities. Its mandates are of major relevance to the Treaty, especially in the context of the Funding Strategy.

34. The Governing Body may wish to request the Secretariat to establish contacts with the Secretariat of the Fund with a view to presenting the relevant provisions of the Treaty as well as activities and priorities under the Funding Strategy, and in order to explore possible areas of cooperation and mutual support, including invitation to attend the sessions of the Governing Body as observers, carrying on collaborative activities and reporting.

Global Environmental Facility (GEF)

35. The mandate and projects of the Global Environment Facility (GEF) are of importance to the Treaty, especially in the context of the Funding Strategy, including GEF's strategic priorities on capacity building, mainstreaming biodiversity and, in particular, on the conservation and sustainable use of biological diversity important to agriculture. GEF has strong links to FAO and has collaborated with FAO on a broad range of issues and activities. FAO is one of the Executing Agencies which contribute to the management and execution of GEF Projects.

36. At its First Session, the Governing Body invited "*the Global Environment Facility, the World Bank and the Regional Development Banks to take steps to ensure that their activities will include support for the conservation and sustainable use of agricultural biodiversity and thereby contribute towards the objectives of the Treaty, and to report to the Governing Body on these activities*".¹⁷

37. In accordance with the request of the Governing Body at its First Session,¹⁸ the Secretariat has communicated this invitation to the GEF Secretariat and invited it to make a written report to the Second Session of the Governing Body; to provide relevant information to the Governing Body; and to explore the possibility of establishing a memorandum of understanding with the Governing Body, in response to the invitation of the Governing Body.

IV. CONCLUSION

38. Several ongoing negotiations and activities in other international organizations are of direct relevance to the Treaty, which require to be continuously followed as well as call for continued coordination and cooperation with the relevant organizations in order that the Treaty

¹⁷ Resolution 1/2006.

¹⁸ Resolution 1/2006.

and its Multilateral System is given adequate recognition. These negotiations span the CBD; WIPO, its Inter-Governmental Committee on Genetic Resources, Traditional Knowledge and Folklore, and its Patent Cooperation Treaty and Patent Law Treaty; the FAO Commission on Genetic Resources for Food and Agriculture; and the World Trade Organization and its Council for Agreement on Trade Related Aspects of Intellectual Property Rights.

39. The Governing Body may wish to consider what actions it might want to further take to deepen cooperation with relevant international organizations in order to enhance support for the Treaty and ensure that the Treaty's provisions are respected. The Governing Body may also wish to request that its Secretariat positively pursue, with the Secretariats of relevant international organizations, means by which they might enhance cooperation and mutual support between the Governing Body and their respective organizations. This collaboration may include, i.e. mutual reporting, following developments and discussions at their meetings and processes, as they relate to the Treaty, and, where necessary, making presentations and interventions on the provisions of the Treaty, its implementation and on the Resolutions of the Governing Body.