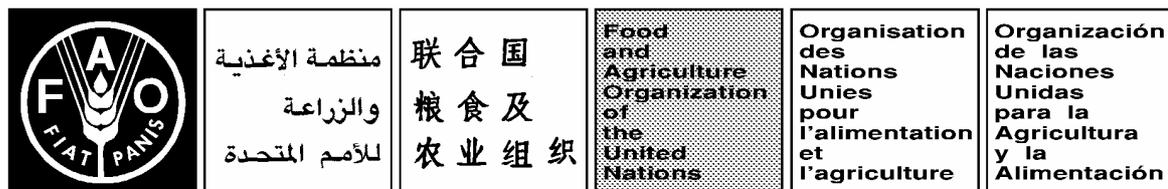


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Item 17 of the Draft Provisional Agenda

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

SECOND SESSION OF THE GOVERNING BODY

Rome, Italy, 29 October-2 November 2007

POSSIBLE ESTABLISHMENT OF A PERMANENT TECHNICAL ADVISORY COMMITTEE

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Appendix I: Statutes of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture of the Commission on Genetic Resources for Food and Agriculture.

I. INTRODUCTION

1. Article 19.3e states that one of the functions of the Governing Body shall be to “*consider and establish subject to the availability of necessary funds such subsidiary bodies as may be necessary, and their respective mandates and composition*”.

2. Rule IX of the Draft Rules of Procedure of the Governing Body¹ states:

“9.1 The Governing Body may establish such subsidiary bodies as it deems necessary for the accomplishment of its functions.

9.2 The membership, terms of reference and procedures of the subsidiary bodies shall be determined by the Governing Body.

9.3 The establishment of subsidiary bodies shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Treaty. Before taking any decision involving expenditure in connection with the establishment of subsidiary bodies, the Governing Body shall have before it a report from the Secretary on the administrative and financial implications thereof.

9.4 Each subsidiary body shall elect its own officers, unless appointed by the Governing Body.”

The Second Meeting of the Interim Committee considered a draft agenda for the first session of the Governing Body², which included an item on the possible establishment of a permanent technical advisory committee. The First Session of the Governing Body considered the possible establishment of a permanent Technical Advisory Committee and did not reach any conclusion on the issue. It “*requested the Secretary to consider further the possible establishment of a technical advisory committee, including aspects relating to terms of reference, composition and funding needs, and to report back to the second session of the Governing Body.*”³

3. The current document, therefore, reports back to the Second Session of the Governing Body and considers the need for technical advice to the Governing Body, options for responding to this need, aspects relating to terms of reference, composition and funding needs.

II. NEED FOR A PERMANENT TECHNICAL ADVISORY COMMITTEE

4. Many Articles of the Treaty deal with technical issues, or issues that have significant scientific and technical aspects. These include, in particular, the conservation and sustainable use of genetic resources (Articles 5 and 6); national commitments, international cooperation and technical assistance (Articles 7 and 8); Farmers’ Rights (Article 9); the Multilateral System of Access and Benefit-sharing (Articles 11, 12 and 13); the various supporting components of the Treaty (Articles 14 to 17); and the Funding Strategy (Article 18). Some of these provisions will require action by the Governing Body for their implementation, while others require the action of Contracting Parties. The Governing Body may wish to facilitate implementation through, for example, the preparation of guidelines and other common initiatives. In order to perform these functions, the Governing Body may consider it appropriate for scientific and technical advice to be provided on particular issues before it takes its decision.

¹ See document IT/GB-1/06/3, “*Draft Rules of Procedure of the Governing Body*”.

² See document CGRFA/MIC-2/04/6, “*Work Programme and Budget for adoption by the Governing Body*”, *Appendix II*.

³ See paragraph 18, document IT/GB-1/06/Report

5. There are three possible approaches that the Governing Body may wish to consider in relation to the provision of technical advice:
- a. establish a Joint Permanent Technical Advisory Committee, with the Commission on Genetic Resources for Food and Agriculture;
 - b. establish a Permanent Technical Advisory Committee as a specific subsidiary body of the Governing Body; or
 - c. establish an *ad hoc* body or bodies on a need basis with focused terms of reference for the provision of specialized technical advice to the Governing Body.

6. At its First Session the Governing Body chose the third approach with regard to specialized technical advice it needed on the Funding Strategy of the Treaty. In document *Possible Establishment of a Permanent Technical Advisory Committee*, one of the issues identified for the work of a possible Permanent Technical Advisory Committee was “[p]reparation of the draft annexes for the Funding Strategy”.⁴ For this technical task, the Governing Body decided to establish an *Ad Hoc* Advisory Committee on the Funding Strategy to draft three annexes. The terms of reference of the *Ad Hoc* Advisory Committee were as follows:

[The Governing Body] decides to establish an *Ad Hoc* Advisory Committee, composed of seven representatives of Contracting Parties, with one representative nominated by each of the FAO Regions. This Committee will, in particular, draft, on the basis of the preparatory work of the Secretariat and information provided by the Parties, priorities, eligibility criteria and operational procedures for the allocation of funds under the direct control of the Governing Body, for the consideration of the Governing Body. The meetings of this Committee will be subject to the availability of funds;⁵

7. Experience with the *Ad Hoc* Advisory Committee on the Funding Strategy has shown that an *ad hoc* body or bodies with focused terms of reference can be a highly efficient way of preparing technical advice for the Governing Body. The Committee “worked in good harmony and was able to complete its work” in less work time than was originally planned, as reported in the Report of its Chairman.⁶ As specified in the conclusions of the Chair of the *Ad Hoc* Advisory Committee, the Governing Body may always extend the work of such a Committee under new terms of reference, if it identifies additional issues to address.⁷ Therefore, in this case, the establishment of an *ad hoc* body proved to be an efficient, flexible, cost-effective, focused and outcome-oriented approach to the provision of technical advice for the Governing Body.

III. ESTABLISHMENT OF A JOINT PERMANENT TECHNICAL ADVISORY COMMITTEE

8. The Commission on Genetic Resources for Food and Agriculture has its own Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture, the statutes of which are at *Appendix 1*. The Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture deals with a range of issues of direct relevance to the Treaty, in particular its Supporting Components.

⁴ Paragraph 20(a), document IT/GB-1/06/8

⁵ Ibid.

⁶ Paragraph 4, document IT/GB-2/07/7, *Report of the Chair of the Ad Hoc Advisory Committee of the Funding Strategy*

⁷ Paragraph 20, *ibid.*: “Should the Governing Body identify additional issues to address, including those addressed in paragraphs 5, 6 and 7 of this report, this Committee may continue its work under new terms of reference.”

9. As currently constituted, there would be some practical difficulties in the Intergovernmental Technical Working Group acting as a technical advisory committee to the Governing Body *per se*. This is because not all members of the Commission, and therefore its Intergovernmental Technical Working Group, are, as yet, also Contracting Parties of the Treaty, and its agenda is set by the Commission on Genetic Resources for Food and Agriculture. However, the establishment of a Joint Permanent Technical Advisory Committee for the Governing Body and for the Commission on Genetic Resources for Food and Agriculture would ensure consistency of approach to issues of importance to both the Treaty and the Commission on Genetic Resources for Food and Agriculture, something which the Treaty itself recognizes as important in its Article 19.9, which states that “*These sessions [of the Governing Body] should, as far as possible, be held back-to-back with the regular sessions of the Commission on Genetic Resources for Food and Agriculture*”. Such an approach would also offer potential financial savings.

10. In order to establish such a Joint Permanent Technical Advisory Committee, it would be necessary to make a proposal to the next meeting of the Commission on Genetic Resources for Food and Agriculture. The statutes of such a Joint Permanent Technical Advisory Committee could be based on those presently used for the Intergovernmental Technical Working Group with the terms of reference amended to reflect the needs of the Governing Body. However, as explained in paragraph 4 above, there may be a need for technical advice by the Governing Body in its early years. Therefore, if it is decided to establish such a Joint Permanent Technical Advisory Committee, it may be necessary to establish an *ad hoc* body or bodies for the purpose until a Joint Permanent Technical Advisory Committee is established.

IV. ESTABLISHMENT OF A PERMANENT TECHNICAL ADVISORY COMMITTEE

11. The Governing Body could decide to establish a Permanent Technical Advisory Committee as a subsidiary body of the Governing Body. If the Governing Body decided to do so it may wish, in any case, to refer questions that relate specifically to the Supporting Components of the Treaty, through the Commission on Genetic Resources for Food and Agriculture, to the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture. In relevant cases, it may also wish to establish *ad hoc* bodies to deal with specific issues it considered inappropriate for consideration by the Permanent Technical Advisory Committee.

Membership of A Permanent Technical Advisory Committee

12. There are three models that the Governing Body may wish to consider:
- a. open-ended (similar to the Subsidiary Body for Scientific, Technical and Technological Advice of the Convention on Biological Diversity);
 - b. nominated experts (similar to the Scientific and Technical Advisory Panel of the Global Environment Facility);
 - c. restricted membership based on regions (similar to the Intergovernmental Technical Working Groups on Plant and Animal Genetic Resources for Food and Agriculture).

13. An open-ended approach may be inclusive and flexible, but might prove less efficient than a restricted group, and would carry potential additional financial implications in the context of support for developing country participants. A Permanent Technical Advisory Committee composed of nominated experts may need to be quite large to deal with the wide range of specific technical questions facing the Treaty or, if it is smaller, may find it difficult to cover all the necessary areas of expertise. Nominated experts would likely be more independent of government positions. A restricted membership approach, based on that used by the Intergovernmental Technical Working Groups on Plant and Animal Genetic Resources for Food and Agriculture, combines effectiveness with flexibility, as countries can choose their representatives based on which technical questions are

addressed during any one meeting. This approach has worked well for the Commission on Genetic Resources for Food and Agriculture.

14. Should the Governing Body decide to use the model of the Intergovernmental Technical Working Groups on Plant and Animal Genetic Resources for Food and Agriculture, the composition of country representatives for the Permanent Technical Advisory Committee might be as follows:

- 5 from Africa
- 5 from Europe
- 5 from Asia
- 5 from Latin America and the Caribbean
- 3 from Near East
- 2 from North America⁸
- 2 from Southwest Pacific

Terms of Reference

15. The terms of reference for the Permanent Technical Advisory Committee might be:

“To review all issues referred to it by the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture regarding, in particular, the technical, scientific and practical aspects of implementation of the Treaty and to provide the Governing Body with its advice and recommendations on those issues.”

Procedures

16. The Governing Body may wish to use the model of the statutes of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture for procedures regarding the election and terms of office of members; officers; sessions and observers.

17. Based on the above, the statutes of a Permanent Technical Advisory Committee could be based, *mutatis mutandis*, on those of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (see *Appendix I*) with the terms of reference proposed in paragraph 15 above.

V. FINANCIAL IMPLICATIONS

18. The cost of a technical advisory committee established on the model of the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture will depend on three main factors: interpretation; preparation of documents; and the length of the meetings. On the assumption that interpretation into all six Treaty languages is provided (which would only be the case if the composition of the technical advisory committee required this) and on the basis of experience with the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture, the cost of a 3-day meeting in Rome is estimated at \$130 000 and of a 5-day meeting in Rome at \$180 000.

19. The estimated cost to the budget of the Treaty for a meeting of a Joint Permanent Technical Advisory Committee might, subject to the agreement reached with the Commission on Genetic Resources for Food and Agriculture, be around half of the amounts shown in the preceding paragraph. However, given that its agenda will be set by two separate bodies, it may become more likely that meetings would be of a five-day duration rather than three.

⁸ At present there is only one Contracting Party from this Region.

20. The estimated costs to the budget of the Treaty for a meeting of a Permanent Technical Advisory Committee would be those indicated in paragraph 18.

21. In addition to the cost to the budget of the Treaty, the Governing Body will also need to decide on the level of support to be offered to those members of the technical advisory committee coming from developing countries or countries with economies in transition⁹. In the case of a joint technical advisory committee, the cost would depend on the arrangements to be agreed with the Commission on Genetic Resources for Food and Agriculture¹⁰. In either case, such support would be made available through the Trust Fund which has been established for this purpose,¹¹ to the extent that funds are available.

VI. NEED FOR A MEETING OF A TECHNICAL ADVISORY COMMITTEE BEFORE THE THIRD SESSION OF THE GOVERNING BODY

22. Whether the Governing Body decides to seek to establish a Joint Permanent Technical Advisory Committee with the Commission on Genetic Resources for Food and Agriculture, or to establish a Permanent Technical Advisory Committee, it may wish to decide that a technical advisory committee of one nature or another should meet in the period between the second and third sessions of the Governing Body, subject to the availability of adequate resources within the budget. If it so decides, the Governing Body will need to identify the issues for consideration. These might include any issues foreseen for the agenda for the Third Session of the Governing Body (see *Appendix 5* of the document, “*Draft Work Programme and Budget for the Biennium 2008/2009*”)¹² on which the Governing Body requires technical, scientific or practical advice.

VII. CONCLUSION

23. The guidance of the Governing Body is sought on whether or not it wishes to seek the establishment of

- a Joint Permanent Technical Advisory Committee with the Commission on Genetic Resources for Food and Agriculture,
- a Permanent Technical Advisory Committee,
- *ad hoc* technical bodies with focused, specialized and outcome-oriented terms of reference, or
- neither of these options.

24. If the Governing Body decides to seek to establish a Joint Permanent Technical Advisory Committee, the Governing Body may wish to recommend to the next meeting of the Commission on Genetic Resources for Food and Agriculture that the Secretariat of the Treaty and the Secretariat of the Commission on Genetic Resources for Food and Agriculture be requested to consider together modalities for the establishment of such a Joint Permanent Technical Advisory Committee and make proposals to the next meetings of their respective governing bodies. In this context, it should be noted that the next session of the Governing Body should, as far as possible, be held back-to-back with the next regular session of the Commission (Art. 19.9 of the Treaty).

⁹ See document IT/GB-1/06/16, “*Arrangements for supporting the participation of developing country Contracting Parties in sessions of the Governing Body and its subsidiary bodies*”.

¹⁰ It should be noted that support for the participation of representatives from developing countries to meetings of the Commission on Genetic Resources for Food and Agriculture cannot be given using FAO Regular Programme Funds. When provided, this is given using extra-budgetary resources.

¹¹ See Rule VI.2c of the “Consolidated Text Reflecting the Comments and Suggestions made in Reviewing the Draft Financial Rules” at Appendix 1 of document IT/GB-1/06/4 Add.1.

¹² Document IT/GB-1/06/13

25. Should the Governing Body decide to establish a Permanent Technical Advisory Committee, it may wish to:

- a. Adopt statutes as recommended in paragraph 17 above.
- b. Elect the first members of the Permanent Technical Advisory Committee.
- c. Request the Secretariat, subject to the availability of adequate resources within the Treaty budget, to convene the first meeting of the Permanent Technical Advisory Committee prior to the third session of the Governing Body.
- d. Identify the issues to be considered by the first meeting of the Permanent Technical Advisory Committee.

**APPENDIX I: STATUTES OF THE INTERGOVERNMENTAL TECHNICAL
WORKING GROUP ON PLANT GENETIC RESOURCES FOR FOOD AND
AGRICULTURE OF THE COMMISSION ON GENETIC RESOURCES FOR FOOD
AND AGRICULTURE**

Article 1 - Terms of Reference

The Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (the Working Group) shall:

- review the situation and issues related to agrobiodiversity in the area of plant genetic resources for food and agriculture and advise and make recommendations to the Commission on these matters;
- consider the progress made in implementing the Commission's programme of work on plant genetic resources for food and agriculture as well as any other matters referred to the Working Group by the Commission;
- report to the Commission on its activities.

In order for the Working Group to carry out this mandate, the Commission will assign specific tasks to the Working Group.

Article II - Composition

The Working Group shall be composed of twenty-seven Member Nations from the following regions:

- 5 from Africa
- 5 from Europe
- 5 from Asia
- 5 from Latin America and the Caribbean
- 3 from the Near East
- 2 from North America
- 2 from Southwest Pacific.

Article III - Election and term of office of Members

The Members of the Working Group shall be elected at each regular session of the Commission and serve until the next regular session of the Commission. They will be eligible for re-election.

Article IV - Officers

1. The Working Group shall elect its Chairperson and one or more Vice-Chairpersons from among the representatives of Members of the Working Group at the beginning of each session. These officers shall remain in office until the next session of the Working Group and shall be eligible for re-election.
2. The Chairperson, or a Vice-Chairperson in the absence of a Chairperson, shall preside over the meetings of the Working Group and exercise such other functions as may be required to facilitate its work.

Article V - Sessions

The Commission shall decide on the timing and duration of the sessions of the Working Group, when required. In any case, the Working Group shall hold no more than one regular session annually.

Article VI - Observers

1. Members of the Commission which are not Members of the Working Group may participate, upon request to the Commission Secretariat, in the work of the Working Group in an observer capacity.
2. The Working Group, or the bureau on behalf of the Working Group, may invite experts, as well as representatives of specialized international organizations, to attend its meetings.