

March 2006



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<b>Item 5 of the Draft Provisional Agenda</b>
<b>INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</b>
<b>FIRST SESSION OF THE GOVERNING BODY</b>
<b>Madrid, Spain, 12 – 16 June 2006</b>
<b>ANNOTATED DRAFT RULES OF PROCEDURE OF THE GOVERNING BODY</b>

1. The *Open-ended Working Group on the Rules of Procedure and Financial Rules of the Governing Body, Compliance, and the Funding Strategy*, which met from 14-17 December 2005 in Rome, Italy, reviewed and revised the draft Rules of Procedure of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture and recommended that these be submitted for consideration to the Governing Body at its first session. These are given in the document *Draft Rules of Procedure of the Governing Body*.<sup>1</sup>
2. The Open-ended Working Group also requested the Interim Secretariat, with the assistance of the Co-Chairs of the relevant Sub-Working Group of the Open-ended Working Group, to review the revised draft Rules of Procedure in detail, and prepare an annotated text. This annotated text is given in this document.
3. The following methodology has been followed:
  - The changes proposed in the “annotation: use of capitals” on page 1 have been made throughout the text.
  - Annotations are boxed, in double line frames.
  - Where an annotation relates to a specific rule, a two-column table presents the text prepared by the Open-ended Working Group, in the left column, and the proposed text reflecting the annotation, in the right column.
  - Text proposed to be deleted is shown struck out, and text proposed to be added is shown in bold and in italics.

<sup>1</sup> IT/GB-1/06/3.



## ANNOTATED DRAFT RULES OF PROCEDURE

### Annotation: use of capitals

1. As in the Treaty text, the terms, “regular session” and “session”, should be used without capitalisation throughout the Rules of Procedure.
2. Although the term, “special session”, appears capitalised in Article 19.10 of the Treaty, it is suggested that this term be used without capitalisation. This would be consistent with the Treaty’s usage of lower-case letters for the terms, “session” and “regular session”, and with the usage of lower-case letters for “special session” in Rule II.3 of the General Rules of the Organization.
3. “Provisional agenda” and “agenda” should be used without capitalisation.

### Annotation: title

The following wording is suggested for the title:

“International Treaty on Plant Genetic Resources for Food and Agriculture  
Rules of Procedure of the Governing Body”

## [GOVERNING BODY FOR THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE DRAFT RULES OF PROCEDURE

### Rule I Scope

1.1 These rules of procedure shall apply to all sessions of the Governing Body and the activities of its Secretary. They shall also apply, *mutatis mutandis*, to subsidiary bodies of the Governing Body unless the Governing Body should decide otherwise, in accordance with Rule 9.2.

### Rule II Bureau

#### Annotation to Rule 2.1

1. In line with Article 19.4 of the Treaty, it is proposed that the term, “representatives”, in the first sentence be replaced by “delegates”. “Delegates” should be replaced by the term, “representatives”, a term which the Treaty itself does not use, but which may be introduced to capture the group of “delegates, alternates, experts and advisers”.
2. The requirement to “have due regard to the principle of equitable geographical representation” in the second sentence, seems to be repetitive. The first sentence of Rule 2.1 already ensures that the Bureau consists of one representative per FAO region.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
<p>2.1 The Governing Body shall elect a Chairperson and one Vice-Chairperson per FAO region other than the region of the Chairperson (hereinafter collectively referred to as “the Bureau”), and in addition a <i>Rapporteur</i>, from among the representatives, alternates, experts and advisers (hereinafter referred to as “delegates”) of the Contracting Parties. In electing the Bureau, the Governing Body shall have due regard to the principle of equitable geographical representation and the principle of rotation. No member of the Bureau may be re-elected for a third consecutive</p>	<p>2.1 The Governing Body shall elect a Chairperson and one Vice-Chairperson per FAO region other than the region of the Chairperson (hereinafter collectively referred to as “the Bureau”), and in addition a <i>Rapporteur</i>, from among the <del>representatives</del> <i>delegates</i>, alternates, experts and advisers (hereinafter referred to as “<del>delegates-representatives</del>”) of the Contracting Parties. In electing the Bureau, the Governing Body shall have due regard to <del>the principle of equitable geographical representation and the</del> principle of rotation. No member of the Bureau</p>

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
term. [Notwithstanding Rule 2.3, if a Bureau member resigns from his or her position or finds him or herself unable to exercise his or her functions, the Contracting Party of that Bureau member shall designate another representative from the same delegation so that he or she may replace the said member during the remainder of the term.]	may be re-elected for a third consecutive term. [Notwithstanding Rule 2.3, if a Bureau member resigns from his or her position or finds him or herself unable to exercise his or her functions, the Contracting Party of that Bureau member shall designate another representative <del>from the same delegation</del> so that he or she may replace the said member during the remainder of the term.]

2.2 The terms of office of the Chairperson and Vice-Chairpersons shall commence with immediate effect upon the closure of the session at which they are elected. They shall serve as the Bureau of any ~~Special Session~~ *special session* held during their terms of office, and provide guidance to the Secretary with regard to the preparations for, and conduct of, sessions of the Governing Body.

2.3 The Chairperson shall preside at all sessions of the Governing Body and shall exercise such other functions as may be required to facilitate the work of the Governing Body. [The Chairperson, if temporarily absent from a session or any part thereof or temporarily unable to fulfil his or her intersessional duties, shall designate a Vice-Chairperson to act as Chairperson. If the Chairperson is permanently unable to fulfil his or her intersessional duties, the Bureau shall designate another member of the Bureau to act as Chairperson.] A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

### Rule III Secretary

#### Annotation to Rule III

This rule adds no substance to the provisions of Article 20. The Governing Body may therefore wish to consider deleting it.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
3.1 In accordance with Article 20.1 of the Treaty, the Director General of the FAO shall appoint, with the approval of the Governing Body, a Secretary of the Governing Body to perform the functions included in Articles 20.2 to 20.5 of the Treaty. The Secretary shall be assisted by such staff as may be required.	<i>DELETION</i>

### Rule IV Sessions

#### Annotation to Rule 4.1

This rule simply restates Article 19.10 of the Treaty. The Governing Body may wish to consider deleting it. If retained, “least”, should be inserted after “at” in order to reflect the exact wording of Article 19.9.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
4.1 In accordance with Article 19.9 of the Treaty, the Governing Body shall hold Regular Sessions at once every two years. These Sessions should, as far as possible, be held back-to-back with the Regular Sessions of the Commission on Genetic Resources for Food and Agriculture.	<i>DELETION or:</i> 4.1 In accordance with Article 19.9 of the Treaty, the Governing Body shall hold <del>Regular Sessions</del> <b>regular sessions</b> at <b>least</b> once every two years. These <del>Sessions</del> <b>sessions</b> should, as far as possible, be held back-to-back with the <del>Regular Sessions</del> <b>regular sessions</b> of the Commission on Genetic Resources for Food and Agriculture.

#### **Annotation to Rule 4.2**

This rule simply restates Article 19.10 of the Treaty. The Governing Body may wish to consider deleting it. However, should the Governing Body decide to retain it, it may wish to take into account that special sessions will usually be requested to make urgent decisions over a particular issue. The Governing Body may therefore wish to require a special session to be convened within a certain period of time after the request has received the required support of one third of the Contracting Parties. According to Rule I.2 of the General Rules of the Organization special sessions of the FAO Conference shall be convened within six months of such a request.

4.2 In accordance with Article 19.10 of the Treaty, special Sessions of the Governing Body shall be held at such other times as may be deemed necessary by the Governing Body, or at the written request of any Contracting Party, provided that this request is supported by at least one third of the Contracting Parties.	4.2 In accordance with Article 19.10 of the Treaty, special <del>Sessions</del> <b>sessions</b> of the Governing Body shall be held at such other times as may be deemed necessary by the Governing Body, or at the written request of any Contracting Party, provided that this request is supported by at least one third of the Contracting Parties. <b><i>In the case of special sessions convened at the request of a Contracting Party, these shall be held within ..... months of the request having received the support of one third of the Contracting Parties.</i></b>
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#### **Annotation to Rule 4.3**

Read with Rule 4.4, Rule 4.3 implies that both the decision to convene the session and the decision on the date and place of the session shall be taken by the Chairperson of the Governing Body, with the agreement of the Bureau and ~~after~~ consultation with the Director-General of the FAO and the Secretary. It should be noted, however, that according to Part R of the Basic Texts of the FAO “the site and date of all sessions [...] shall be determined in consultation with the Director-General” (*see* para. 37 of the *Appendix* of Part R).

4.3 Sessions of the Governing Body shall be convened by the Chairperson of the Governing Body with the agreement of the Bureau and ***in*** ~~after~~ consultation with the Director-General of the FAO and the Secretary.

#### **Annotation to Rule 4.4**

For consistency with Rule 4.5 which refers to the opening of the session, Rule 4.4 might also specify that the date and place of a session should be communicated to Contracting Parties eight weeks before “the opening” of the session.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
4.4 Notice of the date and place of each Session of the Governing Body shall be communicated to all Contracting Parties at least eight weeks before the Session.	4.4 The date and place of each <del>Session</del> <b>session</b> of the Governing Body shall be communicated to all Contracting Parties at least eight weeks before the <b>opening of the Session</b> <del>session</del> .

#### **Annotation to Rule 4.5**

1. According to Article 19.4 of the Treaty, each Contracting Party may be represented at sessions of the Governing Body “by a single delegate who may be accompanied by an alternate, and by experts and advisers”. If the Governing Body decides, in line with the annotation to Rule 2.1, to define “representatives” as “delegates, alternates, experts and advisers” this Rule should be amended accordingly, as in the amended text below.
2. According to Rule III of the General Rules of the Organization, the credentials shall, “insofar as possible, be deposited with the Director-General not less than 15 days before the date fixed for the opening of the Conference”. This Rule applies, *mutatis mutandis*, as credentials are not specifically dealt with under the draft Rules of Procedure (cf. Rule XIII of these draft Rules). It is suggested to adjust the deadline for notifications under Rule 4.5 (“before the opening of the session”) to the deadline foreseen in Rule III of the General Rules of the Organization (“insofar as possible, not less than 15 days before the opening”). One and the same deadline would then apply to notifications in accordance with Rule 4.5 and to the submission of credentials.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
4.5 Each Contracting Party shall communicate to the Secretary of the Treaty the name of its representative on the Governing Body before the opening of each Session of the Governing Body. Where possible the names of other members of its delegation shall also be provided to the Secretary of the Treaty before the opening of each session of the Governing Body.	4.5 Each Contracting Party shall communicate to the Secretary of the Treaty the names of its <del>representative</del> <b>representatives</b> on the Governing Body, <b>insofar as possible, not less than 15 days</b> before the opening of each <del>Session</del> <b>session</b> of the Governing Body. <del>Where possible the names of other members of its delegation shall also be provided to the Secretary of the Treaty before the opening of each session of the</del> <b>Governing Body.</b>

#### **Annotation to Rule 4.6**

As the Treaty, Articles 13.2; 13.4; and 21, uses the term, “session”, it is suggested that it be used in this rule, too.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
4.6 Meetings of the Governing Body shall be held in public unless the Governing Body decides otherwise.	4.6 <del>Meetings</del> <b>Sessions</b> of the Governing Body shall be held in public unless the Governing Body decides otherwise.

#### **Annotation to Rule 4.7**

This rule simply restates Article 19.8 of the Treaty. The Governing Body may therefore wish to consider deleting it.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
4.7 In accordance with Article 19.8, the presence of delegates representing a majority of the Contracting Parties shall be necessary to constitute a quorum at any session of the	<b>DELETION</b>

Governing Body.	
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### Rule V Agenda and documents

5.1 The Secretary shall prepare the provisional agenda on the request of the Chairperson and under the guidance of the Bureau of the Governing Body.

5.2 Any Contracting Party may request the Secretary to include specific items in the ~~Provisional Agenda~~ **provisional agenda** before it is dispatched.

#### Annotation to Rules 5.3 and 5.4

For consistency with Rule 4.5 which refers to the “opening of the session”, Rules 5.3 and 5.4 should also refer to “the opening” of the session.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
5.3 The Provisional Agenda shall be circulated by the Secretary at least eight weeks in advance of the Session to all Contracting Parties and observers invited to attend the Session.	5.3 The <del>Provisional Agenda</del> <b>provisional agenda</b> shall be circulated by the Secretary at least eight weeks <del>in advance of the Session</del> <b>before the opening of the session</b> to all Contracting Parties and observers invited to attend the <del>Session</del> <b>session</b> .
5.4 Any Contracting Party may, after the despatch of the Provisional Agenda, propose the inclusion of specific items on the Agenda with respect to matters of an urgent or unforeseen nature, if possible not later than two weeks prior to the Session. These items should be placed on a supplementary list, which, if time permits before the opening of the Session, shall be despatched by the Secretary to all Contracting Parties, failing which the supplementary list shall be communicated to the Chairperson for submission to the Governing Body. Any Contracting Party may propose to include, before the adoption of the Agenda, any other item that it considers to be of relevance.	5.4 Any Contracting Party may, after the despatch of the <del>Provisional Agenda</del> <b>provisional agenda</b> , propose the inclusion of specific items on the <del>Agenda</del> <b>agenda</b> with respect to matters of an urgent or unforeseen nature, if possible not later than two weeks <del>prior to the Session</del> <b>before the opening of the session</b> . These items should be placed on a supplementary list, which, if time permits before the opening of the <del>Session</del> <b>session</b> , shall be despatched by the Secretary to all Contracting Parties, failing which the supplementary list shall be communicated to the Chairperson for submission to the Governing Body. Any Contracting Party may propose to include, before the adoption of the <del>Agenda</del> <b>agenda</b> , any other item that it considers to be of relevance.

5.5 After the ~~Agenda~~ **agenda** has been adopted, the Governing Body may, by consensus, amend the ~~Agenda~~ **agenda** by the deletion, addition or modification of any item.

#### Annotation to Rule 5.6

In line with Rules 4.5 which refers to the “opening” of the session, it is suggested to replace “beginning” by opening.

5.6 Documents to be submitted to the Governing Body at any ~~Session~~ **session** shall be furnished by the Secretary to the Contracting Parties at the time the ~~Agenda~~ **agenda** is despatched or as soon as possible thereafter, but always at least six weeks prior to the ~~beginning~~ **opening** of the session.

5.7 Formal proposals relating to items on the ~~Agenda~~ **agenda** and amendments thereto introduced during a ~~Session~~ **session** of the Governing Body shall be made in writing and handed to the Chairperson, who shall arrange for copies to be circulated to all representatives of Contracting Parties.

**Rule VI**  
**Decision-making [and voting procedures]**

**Annotation to Option 1 for Rules 6.1, 6.1bis, and 6.1ter**

1. Option 1 foresees votes by simple majority on all matters of procedure, and votes by two-thirds majority on specified matters of substance.
2. It may be necessary to clarify that Rules 6.1 and 6.1bis of Option 1 respect the majorities required by Articles 19.2, 19.5, and 19.10 of the Treaty: A “without prejudice” provision is therefore suggested in Option 1 for Rules 6.1 and 6.1bis.  
Article 19.2 of the Treaty sets the general requirements regarding decision-making by the Governing Body and requires (irrespective of whether the matter is considered as procedural or substantive) consensus decisions in relation to Articles 23 and 24. Article 19.5 of the Treaty specifies that observers to the Governing Body may be admitted unless at least one third of the Contracting Parties present object. According to Article 19.10 of the Treaty special sessions of the Governing Body shall be held at the written request of any Contracting Party, provided that the request is supported by at least one third of the Contracting Parties.
3. In order to ensure consistency with FAO’s administrative rules and procedures it is suggested that the Chairperson shall rule on the question whether a matter is of procedural or substantive nature, in consultation with the FAO Legal Counsel as appropriate.

Option 1

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
[6.1 Decisions of the Governing Body on matters of procedure shall be taken by a majority of the Contracting Parties present and voting.	[6.1 <b><i>Without prejudice to Articles 19.2, 19.5 and 19.10 of the Treaty</i></b> , decisions of the Governing Body on matters of procedure shall be taken by a majority of the Contracting Parties present and voting.
6.1bis Without prejudice to Article 19.2 of the Treaty, decisions on matters of substance shall be taken by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall only be taken as a last resort by a two-thirds majority of the Contracting Parties present and voting on the matters dealt in Articles 12.3h, 15.1b(i), 15.5, 18.4f, 19.3a, 19.3b, 19.3f, 19.3g, 19.3j, 19.3l, 19.3m, 19.10, 19.11 and 20.1.	6.1bis Without prejudice to <del>Article</del> <b><i>Articles 19.2, 19.5 and 19.10</i></b> of the Treaty, decisions on matters of substance shall be taken by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall only be taken as a last resort by a two-thirds majority of the Contracting Parties present and voting on the matters dealt in Articles 12.3h, 15.1b(i), 15.5, 18.4f, 19.3a, 19.3b, 19.3f, 19.3g, 19.3j, 19.3l, 19.3m, <del>19.10</del> , 19.11 and 20.1.
6.1ter If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the Secretary’s legal counsel, shall rule on the question. [If the ruling is that the issue is procedural, then any Contracting Party is entitled to oppose the ruling. Upon the voicing of the concern, the issue shall be deemed substantive and thereafter treated as such.] [An appeal against this ruling shall be put to the vote immediately and the Chairperson’s ruling shall stand unless overruled by a two-thirds majority of the Parties present and	6.1ter If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the <del>Secretary’s legal counsel</del> <b><i>FAO Legal Counsel as appropriate</i></b> , shall rule on the question. [If the ruling is that the issue is procedural, then any Contracting Party is entitled to oppose the ruling. Upon the voicing of the concern, the issue shall be deemed substantive and thereafter treated as such.] [An appeal against this ruling shall be put to the vote immediately and the Chairperson’s ruling shall stand unless overruled by a two-thirds

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
voting.]]	majority of the Parties present and voting.]]

#### **Annotation to Option 2 for Rule 6.1**

1. Option 2 exactly reflects Article 19.2 of the Treaty.
2. However, as Option 2 does not reflect the specific majorities specified in Article 19.5 and 19.10 (see the annotation to Option 1), a “without prejudice” provision is suggested in Option 2 for Rule 6.1.

#### Option 2

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
[6.1 All decisions of the Governing Body shall be taken by consensus unless by consensus another method of arriving at a decision on certain measures is reached, except that consensus shall always be required in relation to Articles 23 and 24 of the Treaty.]	[6.1 <b><i>Without prejudice to Articles 19.5 and 19.10 of the Treaty</i></b> , all decisions of the Governing Body shall be taken by consensus unless by consensus another method of arriving at a decision on certain measures is reached, except that consensus shall always be required in relation to Articles 23 and 24 of the Treaty.]

#### **Annotation to Option 3 for Rule 6.1**

1. Option 3 requires consensus on all matters of substance and allows decisions on matters of procedure by a two-thirds majority vote.
2. For the reasons explained in the annotation to option 1, a “without prejudice” provision is suggested.
3. In order to ensure consistency with FAO’s administrative rules and procedures it is suggested that the Chairperson shall rule on the question whether a matter is of procedural or substantive nature, in consultation with the FAO Legal Counsel as appropriate.

#### Option 3

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
[6.1 Decisions of the Governing Body shall be taken on all matters by consensus[, with the exception of procedural matters, on which decisions may, when all efforts to reach consensus have been exhausted and no agreement has been reached, as the last resort be taken by a two-thirds majority of the Contracting Parties present and voting. If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the Secretary’s legal counsel, shall rule on the question].]	[6.1 <b><i>Without prejudice to Articles 19.2, 19.5 and 19.10 of the Treaty</i></b> , decisions of the Governing Body shall be taken on all matters by consensus[, with the exception of procedural matters, on which decisions may, when all efforts to reach consensus have been exhausted and no agreement has been reached, as the last resort be taken by a two-thirds majority of the Contracting Parties present and voting. If the question arises whether a matter is one of procedural or substantive nature, the Chairperson, in consultation with the <del>Secretary’s legal counsel</del> <b><i>FAO Legal Counsel as appropriate</i></b> , shall rule on the question].]
[6.2 For the purpose of these Rules, the phrase, “Contracting Parties present and voting”, means <del>Members</del> <b><i>Contracting Parties</i></b> casting an affirmative or negative vote. [Contracting Parties who abstain from voting or cast a defective ballot are considered as not voting.]]	
[6.3 Upon the request of any Contracting Party, voting shall be by roll-call vote, in which case the vote of each Contracting Party shall be recorded.]	
[6.4 When the Governing Body so decides, voting shall be by secret ballot.]	

## Rule VII Observers

### Annotation to Rules 7.1 and 7.2

1. As Rules 7.1 and 7.2 deal with the same category of observer, it is suggested that they be merged in a single Rule.
2. Furthermore, Rule 7.1 should specify that the deadline for notifying this category of observer is determined by the opening of the session.

<i>Text submitted to the Governing Body</i>	<i>Text amended in line with the annotation</i>
7.1 The Secretary shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not a Contracting Party to the Treaty, of sessions of the Governing Body so that they may be represented as observers, at least eight weeks before the Session.	7.1 The Secretary shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not a Contracting Party to the Treaty, of sessions of the Governing Body so that they may be represented as observers, at least eight weeks before the <del>Session</del> <b>opening of the session</b> . Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body.
7.2 Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body.	

### Annotation to Rule 7.3 and 7.4

1. As Rules 7.3 and 7.4 deal with the same category of observer, it is suggested that they be merged in a single Rule. The phrase, “so that they may be represented as observers unless at least one third of the Contracting Parties present at the session object”, in the first sentence (current Rule 7.3) is redundant.
2. Since the second sentence (current Rule 7.4) refers to “such observers” it is suggested to insert in the first sentence (current Rule 7.3) “as observer” after “represented”.
3. While Rule 7.1 sets a deadline for the notification of observers, Rule 7.3 does not. But as Rule 5.3 does not distinguish between the different groups of observers, for the circulation of the draft agenda, the Governing Body may wish to stipulate the eight-week deadline for the notification of all observers.
4. For the insertion of the “opening” of the session, see the annotation to Rule 7.1.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
7.3 The Secretary shall notify any other body or agency, whether governmental or non-governmental, qualified in fields relating to the subject-matter of the Treaty, which has informed the Secretary of its wish to be represented, of the sessions of the Governing Body so that they may be represented as observers unless at least one third of the Contracting Parties present at the session object.	7.3 The Secretary shall notify any other body or agency, whether governmental or non-governmental, qualified in fields relating to the subject-matter of the Treaty, which has informed the Secretary of its wish to be represented <b>as observer</b> , of the sessions of the Governing Body <b>at least eight weeks before the opening of the session</b> . <del>so that they may be represented as observers unless at least one third of the Contracting Parties present at the session object.</del> Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body on matters of direct concern to the body or agency they represent unless at least one third of the Contracting Parties present at the session object.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
7.4 Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body on matters of direct concern to the body or agency they represent unless at least one third of the Contracting Parties present at the session object.	

**Annotation to Rule 7.5**

See the previous annotation.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
7.5 International institutions that have signed agreements with the Governing Body under Article 15 of the Treaty shall be invited to attend all Sessions of the Governing Body as observers. Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body on matters of direct concern to the international institutions they represent.	7.5 International institutions that have signed agreements with the Governing Body under Article 15 of the Treaty shall be invited to attend all <del>Sessions</del> <b>sessions</b> of the Governing Body as observers, <b>at least eight weeks before the opening of the session.</b> Such observers may, upon invitation of the Chairperson, participate without the right to vote in sessions of the Governing Body on matters of direct concern to the international institutions they represent.

**Annotation to Rule 7.6**

See annotation to Rule 5.6.

7.6 Before the ~~beginning~~ **opening** of a session of the Governing Body the Secretary will circulate a list of observers who have requested approval to be represented at the session.

**Rule VIII  
Records and Reports**

8.1 At each ~~Session~~ **session**, the Governing Body shall approve a report embodying its decisions, views, recommendations and conclusions. Such other records, for its own use, as the Governing Body may on occasion decide, shall also be maintained.

**Annotation to Rule 8.2**

1. It is suggested to reflect in this Rule Article 20.3 of the Treaty.
2. As states which are not Contracting Parties as well as international organizations qualify as observers, the Governing Body may wish to change the text accordingly.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
8.2 The report of the Governing Body shall be circulated by the Secretary to all Contracting Parties, to other nations and international organizations that were represented at the Session, for their information, and, upon request, to other Members and Associate Members of the FAO. It shall also be transmitted at the close of each Session, by the Secretary, to the Director-General of the FAO.	8.2 The report of the Governing Body shall be circulated by the Secretary <b>within sixty days of approval</b> to all Contracting Parties, observers <del>to other nations and international organizations</del> that were represented at the <del>Session</del> <b>session</b> , for their information, <b>the Director-General of the FAO</b> , and, upon request, to other Members and Associate Members of the FAO. <del>It shall also be transmitted at the close of each Session session, by the Secretary, to the Director-General of the FAO.</del>

8.3 Recommendations and decisions of the Governing Body having policy, programme or financial implications for the FAO shall be brought by the Secretary, through the Director-General of the FAO, to the attention of the Conference or Council of the FAO for appropriate action.

8.4 Subject to the provisions of the preceding paragraph the Secretary may request Contracting Parties to supply the Governing Body with information on action taken on the basis of recommendations made by the Governing Body.

### Rule IX Subsidiary Bodies

#### Annotation to Rule 9.1 and 9.3

1. As Rule 9.1 deals with the establishment of subsidiary bodies and Rule 9.3 imposes a condition on this, it is suggested to merge these rules.
2. It should be noted that Part R of the Basic Texts of the FAO (*see* para. 20 of the *Appendix* of Part R) requires a report from the Director-General on the administrative and financial implications before a decision on the establishment of a subsidiary body can be taken. When the related expenses are to be borne by the FAO, the determination of the availability of the necessary funds shall be made by the Director-General.
3. The reference to the “relevant chapter” of the approved budget should be deleted as the Draft Financial Rules do not require the budget to be divided into chapters.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
9.1 The Governing Body may establish such subsidiary bodies as it deems necessary for the accomplishment of its functions.	9.1 The Governing Body may establish such subsidiary bodies as it deems necessary for the accomplishment of its functions. The establishment of subsidiary bodies shall be subject to the availability of the necessary funds in the <del>relevant chapter of the</del> approved budget of the Treaty. <b>When the related expenses are to be borne by the FAO, the determination of such availability shall be made by the Director-General of the FAO.</b> 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 <b>or the Director-General of the FAO, as appropriate,</b> on the administrative and financial implications thereof.

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

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
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.	<b>DELETION, IF MERGED WITH RULE 9.1, AS ABOVE</b>

**Annotation to Rule 9.4**

In line with the terminology of Rule 2.1, it is suggested to replace the term “officers” by “Bureau”.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
9.4 Each subsidiary body shall elect its own officers, unless appointed by the Governing Body.	9.4 Each subsidiary body shall elect its own <del>officers</del> <b>Bureau</b> , unless appointed by the Governing Body.

**Rule X**  
**Expenses**

**Annotation to Rule 10.1**

1. If the Governing Body decides, in line with the annotation to Rule 2.1, to define “representatives” as “delegates, alternates, experts and advisers” this Rule should be amended accordingly, as in the amended text below.
2. According to Part R of the Basic Texts of the FAO (see para. 32.i of the *Appendix* of Part R), the expenses of members of Article XIV bodies or of experts attending sessions of these bodies as government representatives are to be borne by the respective governments. Only the expenses of experts attending in their individual capacity are to be borne either by the budget, if any, of the body concerned, or by the organization. Should the Governing Body nonetheless decide that expenses of representatives of developing countries should be met by the budget, these expenses - in the absence of a decision of the FAO Conference to the contrary - would need to be met out of the autonomous budget of the Treaty.
3. With regard to the reference to “observers” in the second, bracketed sentence of this Rule, it should be noted that Article 19.5 of the Treaty provides for potentially a large number of various bodies and agencies to attend sessions as “observers”. The second, bracketed sentence of Rule 10.1, if agreed by the Governing Body, has implications for the budget of the Treaty, and might more appropriately be considered under the *Financial Rules of the Governing Body*.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
10.1 Expenses incurred by representatives of Contracting Parties and by their alternates and their advisers, when attending Sessions of the Governing Body or subsidiary bodies, as well as the expenses incurred by observers at Sessions, shall be borne by their respective governments or organizations. [Nevertheless, the expenses of Contracting Parties who are developing countries, especially least developed countries, and countries with economies in transition, and their advisers, alternates and observers, invited to attend sessions of the Governing Body and its subsidiary bodies, shall be met by the core administrative budget of the Treaty.]	10.1 Expenses incurred by representatives of Contracting Parties <del>and by their alternates and their advisers</del> , when attending <del>Sessions</del> <b>sessions</b> of the Governing Body or subsidiary bodies, as well as the expenses incurred by observers at <del>Sessions</del> <b>sessions</b> , shall be borne by their respective governments or organizations. [Nevertheless, the expenses of <b>representatives of</b> Contracting Parties <del>who</del> <b>which</b> are developing countries, especially least developed countries, and countries with economies in transition, <del>and their advisers, alternates and observers</del> , invited to attend sessions of the Governing Body and its subsidiary bodies, shall be met by the core administrative budget of the Treaty.]

[10.1bis Should experts be invited by the Secretary to attend ~~Sessions~~ **sessions** of the Governing Body and its subsidiary bodies in their individual capacity, their expenses, unless otherwise determined by the Governing Body, shall be borne by the budget of the Treaty or by extra-budgetary funds.]

**Annotation to Rule 10.2**

As no decision has been taken yet as to the exact title of the financial rules, it is suggested to refer in line with Article 19.7 of the Treaty simply to the “financial rules”.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
10.2 Any financial operations of the Governing Body and its subsidiary bodies shall be governed by the appropriate provisions of the Financial Rules of the Treaty.	10.2 Any financial operations of the Governing Body and its subsidiary bodies shall be governed by the appropriate provisions of the <del>Financial Rules of the Treaty</del> <b>financial rules</b> .

## Rule XI Languages

### Annotation to Rules 11.1 and 11.2

1. Neither Article 35 nor Article 20.4 of the Treaty establishes “official languages”. Article 35 of the Treaty merely provides that the Arabic, Chinese, English, French, Russian and Spanish texts of the Treaty are equally authentic. Article 20.4 of the Treaty requires the Secretary to provide “documentation in the six languages of the United Nations for sessions of the Governing Body”. The Treaty does not, however, address the issue of interpretation during sessions of the Governing Body or of its subsidiary bodies. In the absence of a rule on languages, Rule XLVII of the General Rules of the Organization would apply (cf. Rule XIII of these draft Rules); consequently, the languages of the FAO (all United Nations languages except Russian) would be the languages used for interpretation in the Governing Body. The Governing Body may (1) follow the General Rules of the Organization, or (2) establish Russian as language of the Governing Body in addition to the languages of the FAO. The phrase, “the official languages of the Treaty” should therefore be replaced either by “the languages of the FAO” or “the six languages of the United Nations”. Both alternatives are provided for in brackets in the amended text. An amendment to Rule 11.2 is suggested, which is compatible with both alternatives. It should be noted that in the absence of a decision of the FAO Conference to the contrary, the costs connected with the use of a non-FAO language (Russian) would need to be met out of the autonomous budget of the Treaty.<sup>2</sup> With regard to the budgetary implications, reference is made to the document, *Draft work programme and budget for the biennium 2006/2007*.<sup>3</sup>
2. It should be noted that Article 20.4 of the Treaty does not define the term, “documentation”. The Governing Body may therefore wish to specify what type of documents should be considered “documentation” and which therefore have to be provided in the six languages of the United Nations. It has been the practise of the Commission on Genetic Resources for Food and Agriculture to provide all working documents in the FAO languages, and to translate selected information documents. The Governing Body may wish to consider following this practice, as reflected in the proposed new Rule 11.3.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
11.1 The languages of the Governing Body shall be the official languages of the Treaty.	11.1 The languages of the Governing Body shall be <del>the official languages of the Treaty</del> <b>[the languages of the FAO] [the six languages of the United Nations]</b> .
11.2 Any representative using a language other than one of the languages of the Treaty shall provide for interpretation into one of the languages of the Treaty.	11.2 Any representative using a language other than one of the languages <b>referred to in Rule 11.1</b> shall provide for interpretation into one of the languages of the Treaty.

<sup>2</sup> See paragraph 34 of document CCLM 72/5, which reads: “It will be noted that Russian is one of the languages of the United Nations while not one of the languages of FAO. This has budgetary implications. In particular, in the absence of a decision of the Conference to the contrary, the costs connected with operating in Russian would need to be met out of the autonomous budget.”

<sup>3</sup> IT/GB-1/06/13.

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
	<b>11.3</b> <b>“Documentation” to be provided by the Secretary for sessions of the Governing Body, in accordance with Article 20.3 of the Treaty, shall comprise the working documents of sessions.</b>

#### **Annotation to Rule 12.1**

As any addition to the Rules would require an amendment, it is suggested to delete “of or additions” in this Rule.

### **Rule XII Amendments of the Rules**

12.1 Amendments ~~of or additions~~ to these Rules may be adopted by consensus. Consideration of proposals of amendments ~~of~~ to these ~~rules~~ **Rules** shall be subject to Rule 5 and documents on the proposals shall be circulated in accordance with Rule 5.7 [, as far as possible,] and in no case less than [24 hours] prior to their consideration by the Governing Body.

[12.1bis Amendments **to these** ~~of the~~ rules may only be proposed by one quarter of Contracting Parties acting together.]

#### **Annotation to Rule 13.1**

Obviously, all rules of procedure applied under the Treaty need to comply with the Treaty (Article 19.7). The Governing Body may therefore wish to consider deleting the phrase “provided that this does not conflict with the provisions of the Treaty”. However, the Governing Body may wish to clarify that the General Rules of the Organization shall apply *mutatis mutandis* only to those matters not specifically dealt with under the Treaty’s Rules of Procedure or the Treaty itself.

### **Rule XIII Application of the General Rules of the FAO**

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
13.1 The provisions of the General Rules of the FAO shall apply <i>mutatis mutandis</i> to all matters not specifically dealt with under the present rules, provided that this does not conflict with the provisions of the Treaty.	13.1 The provisions of the General Rules of the FAO shall apply <i>mutatis mutandis</i> to all matters not specifically dealt with under the <b>Treaty or the</b> present <del>rules</del> <b>Rules</b> , <del>provided that this does not conflict with the provisions of the Treaty.</del>

#### **Annotation to Rule 14.1**

The Governing Body may wish to consider deleting this Rule as it is obvious that rules of procedure which are in conflict with the Treaty do not apply.

### **Rule XIV Over-riding Authority of the Treaty**

<i>Text from the Open-ended Working Group</i>	<i>Text amended in line with the annotation</i>
14.1 In the event of any conflict between any provision of these rules and any provision of the Treaty, the Treaty shall prevail.	<b>DELETION</b>

**Rule XV****Entry into Force**

15.1 These Rules and any amendments thereto shall come into force upon their approval by consensus by the Governing Body unless, by consensus, the Governing Body decides otherwise.]