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منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
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des
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Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

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Item 6 of the Draft Provisional Agenda

**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

FIRST SESSION OF THE GOVERNING BODY

Madrid, Spain, 12-16 June 2006

**ANNOTATED DRAFT FINANCIAL RULES
OF THE GOVERNING BODY**

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ANNOTATED DRAFT FINANCIAL RULES OF THE GOVERNING BODY

INTRODUCTION

1. The First Meeting of the Open-Ended Working Group on the Rules of Procedure and the Financial Rules of the Governing Body, Compliance, and the Funding Strategy (14-17 December 2005), reviewed and revised the *Draft Financial Rules of the Governing Body*, and recommended that these be submitted to the Governing Body for consideration.

2. The Open-Ended Working Group also

“requested the Interim Secretariat, with the assistance of the relevant FAO administrative services, to review these revised draft Financial Rules in detail, and prepare an annotated text, with suggestions as to how they might be harmonized with the administrative terms normally used in FAO and good accounting practice. FAO’s practices with regard to managing different kinds of funding for such agreements, should also be clarified in such an annotated text, and FAO’s administrative experience with Conventions and Agreements established under Article XIV of the FAO Constitution should be taken into account. This task should be limited to structural and editorial improvements without substantive modification”.

3. The present document responds to that request. The Governing Body is invited to consider this document in conjunction with the *Draft Financial Rules of the Governing Body*, which are contained in document IT/GB-1/06/4.

Methodology

4. In preparing the annotated text, the various budgetary elements described in Rule V, and the various funds foreseen in Rule VI, have been analysed, including in order to ensure consistency of cross-reference and of terminology within the document.

5. A number of conclusions could be drawn from this review, regarding Rule V:

- There is some confusion regarding references in Rule V to the various sources of funds in the Treaty’s Core Administrative Budget, particularly in relation to any amount provided for the Treaty’s Core Administrative Budget within the FAO Regular Programme. In the annotations to the Draft Financial Rules, attention is drawn systematically to such questions, and a correct reference suggested.
- The current formulations of Rule V(c) and Rule V(d) deal, within the single rules, with voluntary contributions (1) for purposes other than those foreseen under the core administrative budget, and (2) to support the participation of developing countries in the meetings of the Treaty. For administrative simplicity, it is suggested that it would be simpler to separate between these two purposes, and the text is annotated accordingly.
- It is therefore proposed to renumber the relevant sections of Rule V as in *Table 1* below.

6. Rule VI.2, as currently formulated, foresees the establishment of three funds:¹

(a) a General Fund, “from which shall be met all expenditure chargeable against the annual Administrative Budget”, comprising contributions by Contracting Parties, non-Contracting Parties, non-governmental organizations and other entities;

¹ In FAO administrative practice, all such accounts would be Trust Funds.

(b) a Special Fund, to which shall be contributed “other contributions” from the same sources; and

(c) a Trust Account “to receive and use the funds foreseen in Article 13.2d of the Treaty”.

7. Rule VI.3 also foresees a working capital reserve, in the form of a reserved amount within the General Fund, carried forward from one financial period to another. There is no difficulty with this.

8. As currently formulated, Rule VI.2(a) would appear to foresee that the amount provided for the Treaty’s Core Administrative Budget in the FAO Regular Programme of Work and Budget would also be credited to the General Fund. However, this would not be normal FAO administrative practice, as the funds in question would be directly available to the secretary of the Treaty, without needing to go through the Trust Fund. This is assumed to be the case in the annotations.

9. For administrative simplicity, it is suggested that the General Fund (together with the amount provided for the Treaty’s Core Administrative Budget in the FAO Regular Programme of Work and Budget) be dedicated solely to the programme of work for the financial period (Rule III.2), and that the General Fund receive all contributions for this purpose by Contracting Parties, non-Contracting Parties, non-governmental organizations and other entities, as well as the uncommitted balance of voluntary contributions carried forward (Rule V.1(e)), and interest (“miscellaneous income”) accruing from moneys held in trust by FAO (Rule V.1(f) and Rule V.8).

10. The Special Fund comprises additional contributions from any source for specific agreed purposes (in addition to those foreseen in the programme of work) that are agreed with the contributor. Where the contributor so agrees, these can be attributed to the multi-donor Special Fund, which can greatly facilitate administration. However, it must be borne in mind that some donors insist on separate donor-denominated trust funds, and this needs to be allowed for.

11. As noted in paragraph 5 above, it would be administratively preferable to keep contributions from all sources for the purpose of supporting the participation of developing countries and countries with economies in transition in a separate trust fund.

12. The results of this analysis are presented schematically in *Table 1*, below. The annotations to the Rules, and the suggested rewordings, follow the scheme outlined there.

- *In the annotated text of the Draft Financial Rules, which follows, annotations to individual Rules are given in single-outline boxes, and in italics, thus.*

Where text is suggested, this is given in double-outline boxes, and in bold, thus.

13. For clarity, *Appendix 1* provides, for whatever use the Governing Body may wish to make of it, a consolidated text reflecting all the comments and suggestions made in reviewing the *Draft Financial Rules*.

Table 1: Source and use of moneys and possible Trust Fund Structure

REFERENCE IN RULE V	CORE ADMINISTRATIVE BUDGET	POSSIBLE TRUST FUND STRUCTURE: RULE VI
Rule V(a)	The amount provided for the Treaty's Core Administrative Budget in the FAO Regular Programme of Work and Budget	
Rule V(b)	Voluntary contributions by Contracting Parties for the purposes of administration and implementation of the Treaty ¹	GENERAL TRUST FUND (see Rule VI.2(a)) <i>Income in the biennium</i>
Rule V(e) becomes Rule V(g)	The uncommitted balance of voluntary contributions carried forward	
Rule V(f) becomes Rule V(h)	Interest derived from the investment of funds held in trust (See also Rule V.8.)	
	SPECIAL FUNDS	
Rule V(c)	Additional voluntary contributions by Contracting Parties, for agreed purposes ²	SPECIAL TRUST FUND <i>where agreed with donor</i>
Rule V(d)	Voluntary contributions by States that are not Contracting Parties, NGOs, IGOs or other entities for agreed purposes ²	SEPARATE TRUST FUNDS <i>where required by donor</i>
Rule V(c) becomes Rule V(e)	Voluntary contributions by Contracting Parties, to support the participation of developing countries ²	TRUST FUND TO SUPPORT THE PARTICIPATION OF DEVELOPING COUNTRIES
Rule V(d) becomes Rule V(f)	Voluntary contributions by States that are not Contracting Parties, NGOs, IGOs or other entities, to support the participation of developing countries ²	
	BENEFIT-SHARING IN ACCORDANCE WITH ARTICLE 13.2D OF THE TREATY	
Rule V(g) becomes Rule V(i)	Mandatory and voluntary contributions pursuant to Article 13.2d	BENEFIT-SHARING TRUST FUND (see Rule VI.2(c))
Rule V(h) becomes Rule V(j)	Contributions from relevant international mechanisms, funds and bodies	

Footnotes:

1. There are two drafting texts for Rule V.1(b); option 1 foresees voluntary contributions "based on [an] indicative scale of contributions"; option 2 does not foresee such a scale of contributions.
2. Rules V.1(c) and V.1(d), as drafted, also mention support for the participation of developing countries. For the purposes of this analysis, support for the participation of developing countries is dealt with separately.

ANNOTATIONS TO, AND SUGGESTED TEXT FOR, THE DRAFT FINANCIAL RULES

[GOVERNING BODY FOR THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**DRAFT FINANCIAL RULES***Annotation to the title*

- *The following wording is suggested for consistency with the draft Rules of Procedure.*

[INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**Financial Rules of the Governing Body****Rule I
Applicability**

- 1.1 These rules shall govern the financial administration of the Treaty.
- 1.2 The Financial Regulations of the FAO shall apply *mutatis mutandis* to all matters not specifically dealt with under the present rules [, unless these contradict the provisions of the Treaty].

Annotation to Rule I.2

- *Obviously, all financial rules applied under the Treaty need to comply with the Treaty (Article 19.7). The phrase, “unless these contradict the provisions of the Treaty”, should therefore be deleted. However, the Governing Body may wish to make clear that the General Rules of the Organization shall apply, mutatis mutandis, only to those matters not specifically dealt with under the Treaty’s Financial Rules or the Treaty itself, as in the suggested text below.*

Suggested text for Rule I.2

- 1.2 The Financial Regulations of the FAO shall apply, *mutatis mutandis*, to all matters not specifically dealt with under the Treaty or the present Rules.**

**Rule II
The Financial Period**

2.1 The financial period shall be two calendar years, coinciding with the financial period of FAO.

**Rule III
The Budget**

3.1 The Budget shall cover income and expenditures for the financial period to which it relates, and shall be presented in United States dollars.

3.2 The Budget shall include the programme of work for the financial period, and such information, annexes or explanatory statements as may be requested by the Governing Body.

3.3 The Budget shall comprise:

a)

Option 1 for III.3(a)

[The Core Administrative Budget, relating to the contributions of Contracting Parties under Rule V.1(a) and other contributions made to the Core Administrative Budget under Rule V.1(b) and (c), as well as contributions from FAO under Rule V.1 (f)];

Annotations to option 1 for Rule III.3(a)

- *Rule V.1(a) refers not to “the contributions of Contracting Parties”, but to the “amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO”. This is not currently included as part of the budget under this option. The correct reference to Contracting Parties’ contributions to the Core Administrative Budget is Rule V.1(b).*
- *Rule V.1(c) refers to Contracting Parties’ contributions for purposes other than the Core Administrative Budget.*
- *Rule V.1(d) refers to contributions by States that are not Contracting Parties, Non-governmental Organizations, Inter-Governmental Organizations or other entities for agreed purposes, presumably not to the Core Administrative Budget.*
- *Rule V.1(f) refers to interest derived from the investment of funds held in trust (“miscellaneous income”).*

A text covering both options 1 and 2 for Rule III.3(a) is suggested below.

OR

Option 2 for III.3(a)

[The Core Administrative Budget, relating to the amount reserved for the Treaty under Rule V.1(a) and contributions made to the Core Administrative Budget under Rule V.1 (b) and (c)];

Annotation to option 2 for Rule III.3(a)

- Rule V.1(c) refers to Contracting Parties' contributions for purposes other than the Core Administrative Budget.
- As suggested in the annotation to Rule V.1(a), "provided" would, in FAO administrative usage, be more usual than "reserved".
- In accordance with the annotation to Rule V.1(f), "miscellaneous income" would be replaced by "interest derived from the investment of funds held in trust".

Suggested text for Rule III.3(a)

- a) **[The Core Administrative Budget, relating to the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO under Rule V.1(a), the contributions of Contracting Parties under Rule V.1(b), as well as funds carried over under Rule V.1(g), and interest derived from the investment of funds held in trust under Rule V.1(h)];**
- Rules V.1(g) and (h) refer to the new numbering.

- b) Support to the Core Administrative Budget, relating to other funds made available during the financial period from contributions paid under Rule V.1.

Annotation to Rule III.3(b)

- "Support to the Core Administrative Budget" (called "Special Funds" in Table 1), relates to additional voluntary contributions by Contracting Parties (Rule V(c)), and voluntary contributions by States that are not Contracting Parties, Non-Governmental Organizations, Inter-Governmental Organizations and other entities, for agreed purposes (Rule V(d)).
- In accordance with paragraph 11 of the introduction to this paper and Table 1, it is suggested that contributions to support the participation of developing countries be mentioned separately, and held in a separate Trust Fund.

Suggested text for Rule III.3(b)

- b) **Special Funds, relating to additional voluntary contributions by Contracting Parties under Rule V(c), and voluntary contributions by States that are not Contracting Parties, Non-Governmental Organizations, Inter-Governmental Organizations and other entities for agreed purposes, under Rules V(c) and (d), as well as to support the representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, under Rules V(e) and (f);**
- Rules V.1(e) and (f) refer to the new numbering.

3.4 The draft Budget shall be prepared by the Secretary and shall be circulated to Contracting Parties not less than six weeks before a regular session of the Governing Body.

3.5 The **Core** Administrative Budget for the financial period shall consist of:

- a) Provisions for Administrative Expenditures under the Treaty including expenses of the Secretariat; and
- b) Contingencies.

3.6 The Secretary may make transfers within each of the main appropriation lines of the approved **Core** Administrative Budget. The Secretary may also make transfers between such appropriation lines up to limits that the Governing Body may set as appropriate.

3.7 The Core Administrative Budget shall be disbursed for the purposes specified in the contributions made under Rule V.1 (c) and (d);

Annotation to Rule III.7

- *Contributions under Rule V.1 (c) and (d) are for purposes other than those specified in Rule III.5, and are thus separate from the Core Administrative Budget, forming part of the Special Funds.*

Suggested text for Rule III.3(b)

3.7 Special Funds under Rule V.1(c) and (d) shall be disbursed for the purposes agreed with those making these contributions.

**Rule IV
Appropriations**

4.1 After the Administrative Budget has been adopted, the appropriations therein will be the authority for the Secretary to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted, provided that commitments shall be covered by related income.

Annotation to Rule IV.1

- *This text does not foresee the authority of the Secretary to make transfers between the lines provided under Rule III.6.*
- *Authority would also need to be given to the Secretary to disburse Special Funds provided under Rules V(c) and (d), and under Rules V(e) and (f) (new numbering) in support for the participation of developing countries. Separate Rules are therefore suggested below.*
- *The concept of "income" is less clear than "contributions received or funds available in the Working Capital Reserve and interest earned on funds held in trust", and it is therefore suggested that the latter formulation be used.*
- *It is also suggested that "incur obligations and make payments" be used, instead of "disburse contributions".*

Suggested texts for Rule IV.1

4.1 After the Core Administrative Budget has been adopted, the appropriations therein shall, subject to Rule III.6, constitute the authority for the Secretary to disburse funds, incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted, provided that commitments shall be covered by related contributions received or funds available in the Working Capital Reserve and interest earned on funds held in trust.

4.2 The Secretary may incur obligations and make payments for agreed purposes under Rules V(c) and V(d) for those agreed purposes from the date at which the contributions are received.

4.3 The Secretary may incur obligations and make payments under Rules V(e) and (f) to support the representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, in accordance with relevant decisions of the Governing Body.

- *Rules V.1(e) and (f) refer to the new numbering.*

4.2 Any unliquidated prior year obligation relating to voluntary contributions shall at the end of the financial period be cancelled or where an obligation remains a valid charge, retained for future disbursement.

- *Rule IV.2 would need to be renumbered Rule IV.4.*

**Rule V
Provision of Funds**

- [5.1 The resources of the Treaty shall comprise:
- a) Upon approval by the Governing Bodies of FAO, the amount reserved for the Treaty in the Regular Programme of the FAO;

Annotations to Rule V.1(a)

- *In Rule V.1(a), the term, “the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO” would be more usual in FAO administrative usage that “the amount reserved for the Treaty in the Regular Programme of the FAO”.*

Suggested text for Rule V.1(a)

- a) **Upon approval by the Governing Bodies of FAO, the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO;**

b)

Option 1 for V.1(b)

[Voluntary contributions from Contracting Parties based on such indicative scale of contributions as shall be adopted by the Governing Body by consensus, based on the scale of contributions adopted from time to time by the United Nations, adjusted so as to ensure [that no developing country Contracting Party shall be required to pay more than any developed country Contracting Party ensuring] that no Contracting Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 25 per cent of the total and that no contribution from a least developed country Contracting Party exceeds 0.01 per cent of the total];

Annotations to option 1 for Rule V.1(b)

- *For clarity, in Rule V.1(b), it would be useful to state that such contributions relate to the Core Administrative Budget.*
- *Rule V.1(b) reflects the basis of the assessments made on FAO's Members for purposes of the budget. However, FAO's – and the UN's - methodology does not provide for adjustment to prevent any developing country from paying more than any developed country.*

Suggested text for option 1 for Rule V.1(b)

- b [Voluntary contributions to the Core Administrative Budget from Contracting Parties based on such indicative scale of contributions as shall be adopted by the Governing Body by consensus, based on the scale of contributions adopted from time to time by the United Nations, adjusted so as to ensure [that no developing country Contracting Party shall be required to pay more than any developed country Contracting Party ensuring] that no Contracting Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 25 per cent of the total and that no contribution from a least developed country Contracting Party exceeds 0.01 per cent of the total];**

OR

Option 2 for V.1(b)

[Voluntary contributions from Contracting Parties for the purposes of administration and implementation of the Treaty in general;]

Annotation to option 2 for Rule V.1(b)

- *For clarity, it would be useful to state that such contributions relate to the Core Administrative Budget.*

Suggested text for option 2 for Rule V.1(b)

- [b Voluntary contributions to the Core Administrative Budget from Contracting Parties for the purposes of administration and implementation of the Treaty in general;]**
- c) Voluntary contributions made by the Contracting Parties in addition to those under (b) above [for the purposes specified by agreement between the contributor and the Secretary] [, in accordance with guidelines established by the Governing Body], including contributions to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;
- d) Other voluntary contributions made by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] [for the purposes specified by agreement between the contributor and the Secretary] [, in accordance with guidelines established by the Governing Body] including contributions to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;

Annotations to Rules V.1(c) and (d)

- *It would be administratively simpler to treat voluntary contributions for support to the participation of developing countries and countries with economies in transition, under separate rules. New Rules (e) and (f) are therefore suggested. Subsequent paragraphs within Rule V would need to be renumbered as in Table 1.*

Suggested text for Rules V.1(c) and (d)

- c) **Voluntary contributions made by the Contracting Parties in addition to those under (b) above [for the purposes specified by agreement between the contributor and the Secretary] [, in accordance with guidelines established by the Governing Body];**
- d) **Other voluntary contributions made by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] [for the purposes specified by agreement between the contributor and the Secretary];**
- e) **Voluntary contributions made by the Contracting Parties to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;**
- f) **Voluntary contributions made by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] to support the participation of representatives of developing country Contracting**

**Parties and of Contracting Parties with economies in transition in the
Governing Body and its subsidiary bodies;**

- e) The uncommitted balance of voluntary contributions from previous financial periods carried forward;

- *Rule V.1(e) would need to be renumbered as V.1(g), as in Table 1.*

- f) Miscellaneous income derived from voluntary contributions;

Annotations to Rules V.1(f)

- *In the FAO administrative procedures, the only miscellaneous income would be interest on funds held in trust. These are invested in short-term securities, for an average for less than six months. The interest so earned is credited to the project (or donor) on the basis of the closing monthly cash balance, the effective rate of earnings in that month, and the application of a factor (currently 0.8) to reflect the need for some part of available funds to be retained for disbursement in the next month.*
- *Rule V.1(f) would need to be renumbered as V.1(h), as in Table 1.*

Suggested text for Rules V.1(f)

- h) Interest derived from the investment of funds held in trust, in accordance with Rule V.8;**

- [g) Mandatory and voluntary contributions pursuant to Article 13.2d;], and

- *Rule V.1(g) would need to be renumbered as V.1(i), as in Table 1.*

- [h) Predictable and agreed contributions from relevant international mechanisms, funds and bodies for the implementation of the plans and programmes of the Treaty, pursuant to Article 18.4^[a].]

Annotations to Rules V.1(h)

- *Any contributions from relevant international mechanisms, funds and bodies would presumably be held in the Trust Fund for Benefit-sharing (see Table 1). It would also be possible to hold them under the provisions for Special Funds.*
- *Rule V.1(h) would need to be renumbered as V.1(j), as in Table 1.*

[5.2 In respect of contributions made pursuant to Rule V.1 (b):

- a) Contributions for each calendar year are expected on or before 1 January of that year;
- b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the Secretary of the contribution it intends to make and of the projected timing of that contribution.]

[5.3 Contracting Parties that are not Members of FAO [may] [shall] [are expected to] contribute towards the amount **provided** for the Treaty in the **FAO Regular Programme of Work and Budget** in a proportionate amount to be determined by the Governing Body.]

Annotation to Rule V.3

- *The boxed changes are suggested, for clarity*
- *The proportionate share would be calculated on the basis of the apportionment of amounts due towards the total provided in the Regular Programme of Work and Budget of FAO, as though the Contracting Party concerned were a member of FAO, that is, by dividing the total provision in proportion to the relative assessments, including the FAO non-member.*

[5.4 Pending receipt of annual contributions, the Secretary is authorized to finance budgeted expenditures **in accordance with Rule IV.1** from the **Working Capital Reserve**.]

Annotation to Rule V.4

- *The boxed texts above are suggested, for clarity.*

[5.5 For determining the indicative annual contributions of each Contracting Party, the assessed contribution for such Contracting Party for the financial period pursuant to paragraph **V.1(b)** above, shall be divided into two equal instalments, one of which is payable in the first calendar year and the other in the second calendar year of the financial period.]

Annotation to Rule V.5

- *The boxed change above corrects the cross-reference.*

[5.6 At the beginning of each calendar year the Secretary shall inform Contracting Parties of their indicative annual contributions to the budget.]

Annotation to Rule V.6

- *Attention is drawn to the need for consistency in the timing of actions between Rule V.2(a) and Rule V.6. In their current formulation, if read together, the Secretary would be required to inform Contracting Parties of the level of their contributions on the same date that they are to pay them.*

5.7 All contributions to the Administrative Budget shall be paid in United States dollars or its equivalent in a convertible currency. Where a contribution is paid in a convertible currency other than United States dollars, the applicable rate shall be the bank currency conversion rate in effect on the day the payment is made.

5.8 Contributions not immediately required shall be invested at the discretion of the Director-General of FAO. The resulting income shall be credited to the relevant fund or funds referred to in Rule 6.2.

Annotation to Rule V.8

- *As the income from investment would be credited to the General Trust Fund referred to in Rule VI.2 (a), it would be better to state this.*

Suggested text for Rules V.8

5.8 Contributions not immediately required shall be invested at the discretion of the Director-General of FAO. The resulting income shall be credited to the General Trust Fund referred to in Rule VI.2(a).

**Rule VI
Funds**

6.1 All contributions and other receipts shall be placed in **Trust Funds** administered by FAO.

Annotation to Rule VI.1

- *In accordance with the possible trust fund structure given in Table 1, "a Trust Fund" was revised in the boxed change above to "Trust Funds".*

[6.2 With respect to the Trust Fund referred to in paragraph 6.1, FAO shall maintain the following Funds:

- a) A General Fund to which shall be credited receipts of all contributions paid under Rule V.1(a), along with any additional contributions to offset administrative budget expenditures that are made by Contracting Parties, non-Contracting Parties, non-governmental organizations and other entities pursuant to Rule V.1(b) and (c), and other moneys accruing in respect of the General Fund under Rule V.1(d) and (e), from which shall be met all expenditure chargeable against the annual Administrative Budget;
- b) A Special Fund to which shall be credited other contributions paid under Rule V.1 (b) and (c) and other moneys accruing in respect of the Special Fund under Rule V.1(d) and (e);
- c) [A Trust Account, as provided for in Article 19.3f of the Treaty, to receive and use the funds foreseen in Article 13.2d of the Treaty, in the framework of the Multilateral System.]

Annotation to Rule VI.2

- *In the suggested text below, cross-references are numbered as in Table 1, and the provision is made for the various Trust Funds listed there.*

Suggested text for Rules V.2

[6.2 With respect to the Trust Funds referred to in Rule VI.1, FAO shall maintain the following Funds:

- a) A General Fund, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1(b), the uncommitted balance of voluntary contributions carried forward under Rule V.1(g), and miscellaneous income derived from voluntary contributions under Rule V.1(b);**
- b) A Special Fund, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1(c), and by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] [for the purposes specified by agreement between the contributor and the Secretary, except that such contributions may be held, should the contributor so require, in separate trust funds;**
- c) A Fund to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, to which shall be credited all contributions made by Contracting Parties under Rule V.1(e) and by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] in accordance with Rule V(f);**
- d) [A Fund, as provided for in Article 19.3f of the Treaty, to receive and use the funds foreseen in Article 13.2d of the Treaty, in the framework of the Multilateral System.]**

6.3 Within the General Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Governing Body by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

**Rule VII
Reimbursement**

7.1 The Trust Funds referred to in Rule VI.1 shall make provision for Project Servicing Costs to reimburse FAO for the administrative and operational support services provided to the Governing Body, its subsidiary bodies, and the Treaty Secretariat, under such terms as may, from time to time, be established by the Governing Bodies of the FAO.

Annotation to Rule VII

- *In accordance with the possible trust fund structure given in Table 1, “a Trust Fund” was revised in the boxed change above to “Trust Funds”.*

Rule VIII Accounts and Audit

8.1 The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external audit process of FAO.

Annotation to Rule VIII.1

- *The suggested text below is drafted in line with other instruments already in force*

Suggested text for Rule VIII.1

8.1 The accounts and financial management of all funds governed by the present Rules shall be subject exclusively to the internal and external auditing procedures of FAO.

8.2 During the second year of the financial period FAO shall provide the Contracting Parties with an interim statement of accounts for the first year of the financial period. FAO shall also, as soon as practicable, provide to the Contracting Parties a final certified statement of accounts for the full financial period.

Rule IX Amendments

9.1 These Rules may be amended by the Governing Body [by consensus [. The review of amendments will be governed by Article V of the Rules of Procedure, and the documents relevant to these proposals will be circulated in conformity with Article V.6 of the Rules of Procedure]] [in accordance of Rule XII of the Rules of Procedure {pending decision on the Rule of Procedure}].

Annotation to Rule IX

- *Draft Rule of Procedure XII reads as follows. The suggested text below ensures consistency with that Rule.*

Amendments to these Rules

12.1 *Amendment of or additions to these Rules may be adopted by consensus. Consideration of proposals of amendments of 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 of the rules may only be proposed by one quarter of Contracting Parties acting together.]

Suggested text for Rule IX

9.1 Amendments to these Rules shall be governed in accordance with Rule XII of the Rules of Procedure.

[Rule X

Entry into force

10.1 These rules and any amendments thereto shall come into force upon their approval by the Governing Body.]

Annotation to Rule X

- *It is suggested that a wording similar to draft Rule of Procedure XV be used, as given below.*

Suggested text for Rule IX

10.1 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.]

[Rule XI

Over-riding Authority of the Treaty

11.1 In the event of any conflict between any provision of these rules and any provision of the Treaty, the Treaty shall prevail.]

Annotation to Rule XI

- *It is suggested to delete Rule XI, as it is obvious that financial rules that are in conflict with the Treaty do not apply.*

Appendix 1

**CONSOLIDATED TEXT REFLECTING THE COMMENTS AND SUGGESTIONS
MADE IN REVIEWING THE DRAFT FINANCIAL RULES**

**[INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE****Financial Rules of the Governing Body****Rule I
Applicability**

- 1.1 These rules shall govern the financial administration of the Treaty.
- 1.2 The Financial Regulations of the FAO shall apply, *mutatis mutandis*, to all matters not specifically dealt with under the Treaty or the present Rules.

**Rule II
The Financial Period**

- 2.1 The financial period shall be two calendar years, coinciding with the financial period of FAO.

**Rule III
The Budget**

- 3.1 The Budget shall cover income and expenditures for the financial period to which it relates, and shall be presented in United States dollars.
- 3.2 The Budget shall include the programme of work for the financial period, and such information, annexes or explanatory statements as may be requested by the Governing Body.
- 3.3 The Budget shall comprise:
- a) [The Core Administrative Budget, relating to the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO under Rule V.1(a), the contributions of Contracting Parties under Rule V.1(b), as well as funds carried over under Rule V.1(g), and interest derived from the investment of funds held in trust under Rule V.1(h)];
 - b) Special Funds, relating to additional voluntary contributions by Contracting Parties under Rule V(c), and voluntary contributions by States that are not Contracting Parties, Non-Governmental Organizations, Inter-Governmental Organizations and other entities for agreed purposes, under Rules V(c) and (d), as well as to support the representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, under Rules V(e) and (f);
- 3.4 The draft Budget shall be prepared by the Secretary and shall be circulated to Contracting Parties not less than six weeks before a regular session of the Governing Body.

- 3.5 The Core Administrative Budget for the financial period shall consist of:
- a) Provisions for Administrative Expenditures under the Treaty including expenses of the Secretariat; and
 - b) Contingencies.
- 3.6 The Secretary may make transfers within each of the main appropriation lines of the approved Core Administrative Budget. The Secretary may also make transfers between such appropriation lines up to limits that the Governing Body may set as appropriate.
- 3.7 Special Funds under Rule V.1(c) and (d) shall be disbursed for the purposes agreed with those making these contributions.

Rule IV Appropriations

- 4.1 After the Core Administrative Budget has been adopted, the appropriations therein shall, subject to Rule III.6, constitute the authority for the Secretary to disburse funds, incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted, provided that commitments shall be covered by related contributions received or funds available in the Working Capital Reserve and interest earned on funds held in trust.
- 4.2 The Secretary may incur obligations and make payments for agreed purposes under Rules V(c) and V(d) for those agreed purposes from the date at which the contributions are received.
- 4.3 The Secretary may incur obligations and make payments under Rules V(e) and (f) to support the representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, in accordance with relevant decisions of the Governing Body.
- 4.4 Any unliquidated prior year obligation relating to voluntary contributions shall at the end of the financial period be cancelled or where an obligation remains a valid charge, retained for future disbursement.

Rule V Provision of Funds

- [5.1 The resources of the Treaty shall comprise:
- a) Upon approval by the Governing Bodies of FAO, the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO;
 - b)

Option 1 for V.1(b)

Voluntary contributions to the Core Administrative Budget from Contracting Parties based on such indicative scale of contributions as shall be adopted by the Governing Body by consensus, based on the scale of contributions adopted from time to time by the United Nations, adjusted so as to ensure [that no developing country Contracting Party shall be required to pay more than any developed country Contracting Party ensuring] that no Contracting Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 25 per cent of the total and that no contribution from a least developed country Contracting Party exceeds 0.01 per cent of the total];

OR

Option 2 for V.1(b)

Voluntary contributions to the Core Administrative Budget from Contracting Parties for the purposes of administration and implementation of the Treaty in general;]

- c) Voluntary contributions made by the Contracting Parties in addition to those under (b) above [for the purposes specified by agreement between the contributor and the Secretary] [, in accordance with guidelines established by the Governing Body];
- d) Other voluntary contributions made by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] [for the purposes specified by agreement between the contributor and the Secretary];
- e) Voluntary contributions made by the Contracting Parties to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;
- f) Voluntary contributions made by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies;
- g) The uncommitted balance of voluntary contributions from previous financial periods carried forward;
- h) Interest derived from the investment funds held in trust, in accordance with Rule V.8;
- [i) Mandatory and voluntary contributions pursuant to Article 13.2d;], and
- [j) Predictable and agreed contributions from relevant international mechanisms, funds and bodies for the implementation of the plans and programmes of the Treaty, pursuant to Article 18.4a.]]

[5.2 In respect of contributions made pursuant to Rule V.1 (b):

- a) Contributions for each calendar year are expected on or before 1 January of that year;
- b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the Secretary of the contribution it intends to make and of the projected timing of that contribution.]

[5.3 Contracting Parties that are not Members of FAO [may] [shall] [are expected to] contribute towards the amount provided for the Treaty in the FAO Regular Programme of Work and Budget in a proportionate amount to be determined by the Governing Body.]

[5.4 Pending receipt of annual contributions, the Secretary is authorized to finance budgeted expenditures in accordance with Rule IV.1 from the Working Capital Reserve.]

[5.5 For determining the indicative annual contributions of each Contracting Party, the assessed contribution for such Contracting Party for the financial period pursuant to paragraph V.1(b) above,

shall be divided into two equal instalments, one of which is payable in the first calendar year and the other in the second calendar year of the financial period.]

[5.6 At the beginning of each calendar year the Secretary shall inform Contracting Parties of their indicative annual contributions to the budget.]

5.7 All contributions to the Administrative Budget shall be paid in United States dollars or its equivalent in a convertible currency. Where a contribution is paid in a convertible currency other than United States dollars, the applicable rate shall be the bank currency conversion rate in effect on the day the payment is made.

5.8 Contributions not immediately required shall be invested at the discretion of the Director-General of FAO. The resulting income shall be credited to the General Trust Fund referred to in Rule VI.2(a).

Rule VI Funds

6.1 All contributions and other receipts shall be placed in Trust Funds administered by FAO.

[6.2 With respect to the Trust Funds referred to in Rule VI.1, FAO shall maintain the following Funds:

- a) A General Fund, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1(b), the uncommitted balance of voluntary contributions carried forward under Rule V.1(g), and miscellaneous income derived from voluntary contributions under Rule V.1(b);
- b) A Special Fund, to which shall be credited receipts of all contributions made by Contracting Parties under Rule V.1(c), and by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] [for the purposes specified by agreement between the contributor and the Secretary, except that such contributions may be held, should the contributor so require, in separate trust funds;
- c) A Fund to support the participation of representatives of developing country Contracting Parties and of Contracting Parties with economies in transition in the Governing Body and its subsidiary bodies, to which shall be credited all contributions made by Contracting Parties under Rule V.1(e) and by States that are not Contracting Parties, [non-governmental organizations] [international organizations or other entities] in accordance with Rule V(f);
- d) [A Fund, as provided for in Article 19.3f of the Treaty, to receive and use the funds foreseen in Article 13.2d of the Treaty, in the framework of the Multilateral System.]]

6.3 Within the General Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Governing Body by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

**Rule VII
Reimbursement**

7.1 The Trust Funds referred to in Rule VI.1 shall make provision for Project Servicing Costs to reimburse FAO for the administrative and operational support services provided to the Governing Body, its subsidiary bodies, and the Treaty Secretariat, under such terms as may, from time to time, be established by the Governing Bodies of the FAO.

**Rule VIII
Accounts and Audit**

8.1 The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external auditing procedures of FAO.

8.2 During the second year of the financial period FAO shall provide the Contracting Parties with an interim statement of accounts for the first year of the financial period. FAO shall also, as soon as practicable, provide to the Contracting Parties a final certified statement of accounts for the full financial period.

**Rule IX
Amendments**

9.1 Amendments to these Rules shall be governed in accordance with Rule XII of the Rules of Procedure.

[Rule X

Entry into force

10.1 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.]

[Rule XI

Over-riding Authority of the Treaty

11.1 In the event of any conflict between any provision of these rules and any provision of the Treaty, the Treaty shall prevail.]