



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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Item 17 of the Provisional Agenda
INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE
FOURTH SESSION OF THE GOVERNING BODY
Bali, Indonesia, 14 – 18 March 2011
RELATIONSHIP WITH THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Secretary

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- i) *The Treaty provides, in Article 1.2, that the objectives of the Treaty are to be attained by closely linking it with the Convention on Biological Diversity (CBD).*
- ii) *In accordance with Article 19.3 (g) of the Treaty, the Governing Body shall establish and maintain cooperation with other relevant international organizations and treaty bodies, in particular with the Conference of the Parties to the CBD on matters covered by the Treaty; the Governing Body shall also take note of the relevant decisions of the Conference of the Parties to the CBD.*
- iii) *At its tenth meeting, held in Nagoya, Japan, in October 2010, the Conference of Parties to the CBD took a number of decisions that refer directly to the Treaty or are of direct relevance to the Treaty.*
- iv) *Consequently, the Bureau of the Fourth Session of the Governing Body, at its third meeting in November 2010, requested the Secretariat to prepare a working document on the relationship between the Treaty and the CBD.*
- v) *This document contains a summary of certain aspects of the relationship between the Treaty and the CBD, and a selection of the most relevant outcomes of the tenth Conference of the Parties to the CBD, for consideration and guidance by the Governing Body. In this regard, possible elements of a Resolution are provided.*
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I. INTRODUCTION

1. Article 1.2 of the Treaty provides that the objectives of the Treaty “will be attained by closely linking this Treaty to the Food and Agriculture Organization of the United Nations and to the Convention on Biological Diversity”. There is, therefore, a close and direct constitutional link between the Treaty and the Convention.
2. At its third meeting in November 2010, the Bureau of this Fourth Session of the Governing Body noted that the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity (COP-10), which took place in October 2010, referred to the Treaty in several aspects and that the outcomes would have significant implications and opportunities for the Treaty. The Bureau, therefore, recommended that an additional document be prepared for the Governing Body, highlighting the relevant outcomes of COP-10, in the context of the harmonious relationship between the Treaty and the Convention on Biological Diversity (the Convention), and their respective governing bodies and Secretariats. The key areas for consideration include the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization* (Nagoya Protocol); *the Strategic Plan for Biodiversity, 2011-2020* (Strategic Plan); sustainable use of biodiversity; biodiversity and climate change; agricultural biodiversity; and cooperation with other conventions, organizations and initiatives.
3. Taking note of the recently concluded Memorandum of Cooperation between the two Secretariats, the Bureau expressed its view that the adoption of the Nagoya Protocol presents an opportunity for the Treaty to further enhance its already existing collaboration in harmony with the Convention, and requested the Secretary to explore with the Secretariat of the Convention, practical means and activities to give effect to this cooperation.
4. This document responds to the recommendation of the Bureau, and outlines some of the key aspects and major milestones in the ongoing close relationship with the Convention. It highlights, in particular, the outcomes of COP-10 that are relevant to the Treaty.

II. BASIS AND BRIEF HISTORY OF THE RELATIONSHIP BETWEEN THE TREATY AND THE CONVENTION ON BIOLOGICAL DIVERSITY

5. The Treaty and the Convention have had a long-standing close relationship since the beginning of the processes that led to negotiation and adoption of the Treaty, which began with the adoption by the Conference of FAO of the International Undertaking on Plant Genetic Resources in 1983. Then, with the adoption of the Convention in 1993, it became clear that precise measures were needed to address the specific issues of plant genetic resources for food and agriculture. Negotiations were initiated in 1994, terminating seven years later with the adoption of the Treaty in 2001.
6. The Nairobi Conference, at which the Convention was adopted, had recognized the need to seek solutions to outstanding matters concerning plant genetic resources within the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Agriculture established by FAO. It called, in particular, for solutions to be found to the question of access to *ex situ* collections not acquired in accordance with the Convention and to the question of farmers' rights. The invitation by the Nairobi Conference was taken up in November 1993 by the FAO Conference, which requested the Director-General of FAO to provide a forum for negotiations among governments for the adaptation of the International Undertaking, in harmony with the Convention, the consideration of the issue of access on mutually agreed terms to plant

genetic resources, including *ex situ* collections not addressed by the Convention, and the issue of the realization of farmers' rights.

7. The close relationship between the Treaty and the Convention is established in the text of the Treaty itself. According to its Article 1, the objectives of the Treaty are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention, for sustainable agriculture and food security. These objectives are to be attained by closely linking the Treaty to the FAO and the Convention.

8. Article 19.3 (g) and (l) of the Treaty provides that the Governing Body shall maintain cooperation, in particular with the Conference of the Parties to the Convention, on matters covered by the Treaty, as well as take note of the relevant decisions of the Conference of the Parties to the Convention.

9. Furthermore, Article 17.1 provides that in developing the Global Information System on Plant Genetic Resources for Food and Agriculture, "cooperation will be sought with the Clearing House Mechanism of the Convention on Biological Diversity".

10. In accordance with Article 20.5 of the Treaty, the Secretary of the Governing Body shall cooperate with other organizations and treaty bodies, including in particular with the Secretariat of the Convention, in achieving the objectives of the Treaty.

11. The Governing Body has also repeatedly emphasized the need to maintain a close relationship with the Convention, and called for the strengthening of the collaboration between their two Secretariats, as have the Conference of Parties to the Convention

12. At its First Session, the Governing Body

emphasized the need to continue cooperation with the Convention on Biological Diversity... [It] welcomed, in particular, the invitation of the Eighth Conference of the Parties to collaborate in the implementation of the cross-cutting initiative on biodiversity for food and nutrition, and the invitation to its Secretariat to participate in the Liaison Group of the Biodiversity-Related Conventions.¹

13. At its Second Session, the Governing Body

called for continued collaboration with the Convention on Biological Diversity, especially in regard to the conservation and sustainable use of agricultural biological diversity, and access and benefit sharing.²

14. At its Third Session, the Governing Body requested the Secretary

"to continue enhancing the collaboration with other international organizations, especially the Convention on Biological Diversity in regard to the conservation and sustainable use of agricultural biological diversity, access to plant genetic resources and benefit-sharing; stressing the importance of collaboration during forthcoming negotiations on the International Regime on Access and Benefit-sharing which are to be completed at the earliest possible time before the 10th Meeting of the Conference of Parties in 2010 in Japan".

15. In accordance with the several requests of the Governing Body and based on the provisions of the Treaty, the Secretary has continued collaborating closely with the Secretariat of the Convention, including through exchange of information, participation of the Secretariat in the relevant meetings and processes of the Convention, as well as participation in the Liaison Group of Biodiversity-related Conventions being coordinated by the Secretariat of the Convention.

¹ IT/GB-1/06/Report, paragraph 49.

² IT/GB-2/07/Report, paragraph 85.

16. In this context, the Secretaries of the Governing Body and the Convention have recently signed a Memorandum of Cooperation where both Secretariats undertake to cooperate in areas of mutual interest and within their respective mandates, including capacity-building regarding access and benefit-sharing in plant genetic resources for food and agriculture.

17. The Secretariat of the Treaty has also been actively involved in the Liaison Group of the Biodiversity-Related Conventions coordinated by the Secretariat of the Convention. A number of initiatives to promote synergies and cooperation are under discussion, including increased coordination among national focal points of the various conventions. In this context, the Conference of Parties to the Convention, at its tenth meeting, invited the Liaison Group of the Biodiversity-related Conventions

*to address at their future meetings options for enhanced cooperation, inter alia, with regard to work on cross-cutting issues, such as climate change, scientific criteria for the identification of ecologically or biologically significant areas in need of protection, and invasive alien species, in a manner consistent with their respective mandates, governance arrangements and agreed programmes of work and with a view to developing a coherent approach on these matters.*³

III. OUTCOMES OF THE TENTH CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY OF RELEVANCE TO THE TREATY

18. The tenth meeting of the Conference of Parties to the Convention was held in Nagoya, Aichi Prefecture, Japan, from 18 - 29 October 2010. COP-10 adopted a number of decisions of immediate relevance to the Treaty. The most significant outcomes of the meeting are the adoption of the Nagoya Protocol and the Strategic Plan.

The Nagoya Protocol

19. The objectives of the Nagoya Protocol are to promote fair and equitable benefit-sharing, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components. In adopting the Nagoya Protocol, the Conference of Parties, *inter alia*, recognized:⁴

- i) the International Treaty as one of the complementary instruments that constitute the International Regime;
- ii) that the objectives of the International Treaty are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention, for sustainable agriculture and food security.

20. The text of the Nagoya Protocol further recognizes:

- i) the importance of genetic resources for food security, public health, biodiversity conservation, and the mitigation and adaptation to climate change;
- ii) the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions;
- iii) the interdependence of all countries with regard to genetic resources for food and agriculture as well as their special natures and importance for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change and acknowledging the fundamental role of the

³ Decision X/20, *Cooperation with other conventions and international organizations and initiatives*.

⁴ Decision X/1, *Access to genetic resources and the fair and equitable sharing of benefits arising from their utilization*.

International Treaty and the FAO Commission on Genetic Resources for Food and Agriculture in this regard; and

- iv) that international instruments related to access and benefit-sharing should be mutually supportive with a view to achieving the objectives of the Convention.

21. The Nagoya Protocol also recalls the Multilateral System on Access and Benefit-sharing established under the Treaty, developed in harmony with the Convention, and in its Article 4.3 declares that the Protocol

shall be implemented in a mutually supportive manner with other international instruments relevant to this Protocol. Due regard should be paid to useful and relevant ongoing work or practices under such international instruments and relevant international organizations, provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol.

The Strategic Plan for Biodiversity 2011-2020

22. The Strategic Plan is an overarching framework for action by all Convention partners, and includes 20 “Aichi Biodiversity Targets”.⁵ It is supported by a decision on the Strategy for Resource Mobilization.⁶ The Strategic Plan is articulated through four strategic goals, which are all relevant to the objectives and components of the Treaty. The four goals are the following:

- a) to address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society;
- b) to reduce the direct pressures on biodiversity and promote sustainable use;
- c) to improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity;
- d) to enhance the benefits to all from biodiversity and ecosystem services.

23. The establishment of national targets in line with the Aichi Biodiversity Targets, and their integration into updated national biodiversity strategies and action plans (NBSAPs), are tools for implementation of the Strategic Plan.

24. The targets of greatest relevance to the Treaty include: Target 16 Implementation of the Nagoya Protocol; Target 13 Maintaining the genetic diversity of cultivated plants and farmed and domesticated animals and of wild relatives; Target 7 Sustainable agriculture, aquaculture and forestry; and Target 1 awareness-raising.

25. It is to be noted, in connection with the Treaty, that the Strategic Plan recognizes that, for effective implementation, partnerships at all levels are required, including for finding synergies and promoting coherence in national implementation of multilateral agreements. Along the same lines, decision X/5 of the Conference of the Parties, on implementation of the Convention and the Strategic Plan, recognizes that implementing the Strategic Plan is facilitated by the coherent and synergistic implementation of biodiversity-related conventions and agreements at all levels.⁷

26. In adopting the Strategic Plan, the Conference of Parties invited Parties and other governments at the forthcoming meetings of the decision-making bodies of the other biodiversity-related conventions, including the International Treaty, and other relevant agreements to consider appropriate contributions to the collaborative implementation of the Strategic Plan and its Aichi Biodiversity Targets. The Executive Secretary of the Convention was requested to promote and facilitate, in partnership with relevant international organizations, activities to strengthen capacity for implementation of the Strategic Plan, including through regional and sub-regional workshops on updating and revising the NBSAPs.

⁵ Decision X/2, *The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets*.

⁶ Decision, X/3, *Strategy for resource mobilization in support of the achievement of the Convention’s three objectives*.

⁷ Decision X/5, *Implementation of the Convention and the Strategic Plan*.

Other decisions of relevance to the Treaty

27. COP-10 also took a number of other important decisions, and the Treaty is expressly referred to in two of them.

28. In the context of sustainable use of biodiversity,⁸ the Conference of Parties requested the Executive Secretary of the Convention to compile information on how to improve sustainable use of biodiversity in a landscape perspective, including on sectoral policies, international guidelines, and best practices for sustainable agriculture and forestry, including a review of relevant criteria and indicators, and report on the results to the Subsidiary Body on Scientific, Technical and Technological Advice at a meeting prior to the eleventh meeting of the Conference of the Parties. This work should be carried out in collaboration with relevant organizations, including the Secretariat of the Treaty.

29. In the context of agricultural biodiversity,⁹ the Conference of Parties stressed the importance of such biodiversity for food security and nutrition, especially in the face of climate change and limited natural resources, as recognized by the Rome Declaration of the 2009 World Food Summit. In that context, the Conference of Parties requested the Executive Secretary of the Convention to strengthen collaboration with the Secretariat of the Treaty in the implementation of the programme of work on agricultural biodiversity and the International Treaty, as appropriate. In the same context, the Conference of Parties invited the national focal points of the Convention and the Treaty to enhance their collaboration.

30. Although not expressly referring to the Treaty, the decision of the Conference of Parties on biodiversity and climate change¹⁰ contains some elements that are significant for Treaty processes, in particular for the processes under the Benefit-sharing Fund. The current Call for Proposals 2010 aims at assisting farmers with adapting to climate change through a set of high impact activities for the conservation and sustainable use of plant genetic resources for food and agriculture. In relation to that decision, it is to be noted that the Conference of Parties recognized the urgent need of developing countries, in particular the least developed countries and small island developing States, as well as countries with economies in transition, for the provision of financial support as well as technical assistance to address the challenges to biodiversity from climate change, especially with regards to vulnerability and adaptation.

The high-level segment

31. The Secretary participated in the high-level segment of COP-10, where discussions encompassed a wide range of issues. It was emphasized, *inter alia*, that, with respect to the overall policy direction on conservation and sustainable use of biodiversity, integrating such policies into poverty reduction, sustainable development and promotion of green economy is vital. Regarding sustainable use of biological resources, it was pointed out that it is important to improve livelihoods through the sustainable use of biological resources.

IV. COOPERATION BETWEEN THE TWO SECRETARIATS

32. The Secretariat of the Treaty has since its establishment maintained close cooperation with the Secretariat of the Convention including through exchange of information, participation in relevant meetings and, in particular, the negotiations that led to the adoption of Nagoya Protocol.

⁸ Decision X/32, *Sustainable use of biodiversity*.

⁹ Decision X/34, *Agricultural Biodiversity*.

¹⁰ Decision X/33, *Biodiversity and climate change*.

33. In the course of the cooperative activities, the two Secretaries agreed to explore the possibility of entering into a memorandum of cooperation as a framework to continue the ongoing collaboration and interaction, in particular in the area of capacity building and exchange of information.
34. On the occasion of COP-10, the Executive Secretaries of the Governing Body and the Convention signed a Memorandum of Cooperation. The Memorandum of Cooperation, which was reviewed by the Bureau of the Fourth Session of the Governing Body prior to signature, establishes a new foundation for institutional cooperation between the two Secretariats in areas of mutual interest and within their respective mandates.
35. The Memorandum of Cooperation primarily focuses on capacity building in particular, in the area of access and benefit-sharing, as related to plant genetic resources for food and agriculture, including the co-organization of workshops, seminars and other events, coordination of technical assistance as well as the exchange of information.
36. The Memorandum of Cooperation is also intended to cover significant technical activities, such as those for the updating and revision of the NBSAPs, which respond to the request of the Conference of Parties to the Convention with respect to the Strategic Plan. In that regard, practical steps are already being taken to include Treaty components in some capacity building activities that are being organized by the Secretariat of the Convention. Additionally, other practical joint activities are considered in the context of the Nagoya Protocol, in order to ensure due complementarity with the Treaty at the multilateral level and harmonious implementation at the national level.
37. Towards the practical realization of objectives of the Memorandum of Cooperation, the two Secretariats are considering jointly organizing capacity-building workshops on access and benefit-sharing for the harmonious national implementation of both the Multilateral System and the Nagoya Protocol.
38. The Memorandum of Cooperation foresees that any ordinary expenditure relating to implementation shall be borne by each of the Secretariats within their respective agreed budgets.
39. Under the Memorandum of Cooperation, the Secretariats are obliged to report to their governing and other competent bodies on progress made with implementation, and seek further guidance on their institutional cooperation.

V. CONCLUSIONS

40. Taking into account the existing harmonious relationship between the Treaty and the Convention, the adoption of the Nagoya Protocol and the Strategic Plan presents clear opportunities for further cooperation, synergies and mutual supportiveness.
41. However, in order to ensure the realization of these opportunities, capacity-building and awareness-raising are immediate priorities. The recently concluded Memorandum of Cooperation between the Secretariats of the Treaty and the Convention provides a useful existing framework for joint capacity and awareness-raising programmes.
42. There is also the need to enhance coordination at the national level, in particular between respective national focal points, as requested by the Conference of Parties to the Convention, and other relevant national authorities. At the intergovernmental level, cooperation between the respective governing bodies of both the Treaty and Convention could be further enhanced through, for instance, the establishment of a working or other group that could further explore synergies, and articulate possible areas of joint programmes and initiatives.
43. Provision is made within the draft Work Programme (document IT/GB-4/11/27), for related activities, including capacity building, information gathering, awareness-raising, and possible joint activities with the Secretariat of the Convention.

VI. POSSIBLE ELEMENTS OF A RESOLUTION BY THE GOVERNING BODY

44. Possible elements of a draft Resolution on the relationship with the Convention and the relevant outcomes of COP-10 are contained in the *Appendix* to this document, for consideration by the Governing Body.

APPENDIX

DRAFT RESOLUTION **/2011

RELATIONSHIP WITH THE CONVENTION ON BIOLOGICAL DIVERSITY

The Governing Body,

Recalling that the objectives of the Treaty are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security;

Recalling that Article 1.2 of the Treaty provides that the objectives of the Treaty will be attained by closely linking this Treaty to the Food and Agriculture Organization of the United Nations and to the Convention on Biological Diversity, and that Article 19.3(g) and (l) of the Treaty provides for the Governing Body to establish and maintain cooperation with, as well as take note of the relevant decisions of, the Conference of Parties to the Convention on Biological Diversity;

Further recalling that in developing the Global Information System on Plant Genetic Resources for Food and Agriculture, cooperation will be sought with the Clearing House Mechanism of the Convention on Biological Diversity, in accordance with Article 17.1 of the Treaty;

Taking into account the provisions of Article 20.5 of the Treaty that requires the Secretary to cooperate with the Secretariat of the Convention on Biological Diversity;

Cognizant of the interdependence of all countries with regard to plant genetic resources for food and agriculture as well as their special nature and importance for achieving food security worldwide, and for sustainable development of agriculture in the context of poverty alleviation and climate change, and **reaffirming**, in those respects, the fundamental role of the Treaty;

Noting the outcomes of the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity, in particular the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization (the Nagoya Protocol), and the Strategic Plan for Biodiversity 2011-2020 (the Strategic Plan);

Further noting the various decisions of the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity that are of relevance to the Treaty, including on the implementation of the Convention's work programme on Agricultural Biodiversity, Sustainable Use of Biodiversity, and Biodiversity and Climate Change, as well as the International Decade on Biodiversity;

Cognizant of the importance of further enhancing the cooperation and synergies between the Treaty and the Convention on Biological Diversity, as well as between their respective intergovernmental bodies and Secretariats;

Convinced of the potentials of the Nagoya Protocol and the Strategic Plan for enhancing the synergies and improving the coherent implementation of the Convention and the Treaty;

Noting that the Secretary of the Governing Body has recently concluded a Memorandum of Cooperation with the Executive Secretary of the Convention for institutional cooperation between the two Secretariats in areas of mutual interest and within their respective mandates;

1. **Congratulates** the Conference of the Parties to the Convention on Biological Diversity, on the adoption of the Nagoya Protocol that successfully concluded an important process of negotiations;

2. **Recognizes** the important role that the Nagoya Protocol will have, in harmony with the Treaty, for the conservation and sustainable utilization of genetic resources under the Convention, for the fair and equitable sharing of the benefits arising from their utilization;
3. **Appeals** to Contracting Parties and other States to give priority consideration to the signature and ratification of the Nagoya Protocol, so that it may enter expeditiously into force;
4. **Decides** to establish and maintain cooperation with the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol established by the Conference of Parties to the Convention, and, upon the entry into force of the Protocol, with the Conference of the Parties serving as the meeting of the Parties to the Protocol;
5. **Requests** the Secretary to convey the present Resolution to both the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol and, upon the entry into force of the Protocol, the Conference of the Parties serving as the meeting of the Parties to the Protocol;
6. **Takes note** of the Memorandum of Cooperation signed between the Secretary and the Executive Secretary of the Convention on Biological Diversity and commends the Secretary for the initiative, and **requests** the Secretary to explore with the Secretariat of the Convention on Biological Diversity, practical means and activities to give effect to this cooperation, in particular through capacity building for access and benefit-sharing, as related to plant genetic resources for food and agriculture, including through the organization of workshops, seminars and other events, coordination of technical assistance as well as the exchange of information;
7. **Requests** the Secretary to continue to participate in relevant meetings of the Convention on Biological Diversity, the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol, as well as the Liaison Group of Biodiversity-related Conventions;
8. **Requests** the Secretary to strengthen collaboration with the Secretariat of the Convention on Biological Diversity in the implementation of the Convention's programme of work on agricultural biodiversity, sustainable use of biodiversity, biodiversity and climate change, as well as on the United Nations Decade on Biodiversity and the integration of biodiversity into poverty eradication and development, in harmony with the work of the Treaty;
9. **Calls on** Contracting Parties to ensure that any legislative, administrative or policy measures taken for the implementation of both the Treaty and the Convention on Biological Diversity (or its Nagoya Protocol), are consistent and mutually supportive;
10. **Requests** the national focal points of the Treaty to enhance their collaboration and coordination with their counterpart national focal points for the Convention on Biological Diversity on all relevant processes, in particular on the Nagoya Protocol and the Strategic Plan;
6. **Requests** the Secretary to report on cooperation with the Secretariat of the Convention at each session of the Governing Body.