



**Food and Agriculture
Organization of the
United Nations**



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

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

**SIXTH MEETING OF THE *AD-HOC* OPEN-ENDED WORKING GROUP TO
ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM**

Rome, Italy, 14–17 March 2017

**ANNOTATED DRAFT PROVISIONAL AGENDA AND
PROVISIONAL INDICATIVE TIMETABLE**

INTRODUCTION

1. The *Ad-Hoc* Open-Ended Working Group to Enhance the Functioning of the Multilateral System (the Working Group) was established by Resolution 2/2013, with the mandate to develop a range of measures that will (1) increase user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner; and (2) enhance the functioning of the Multilateral System by additional measures.
2. When extending, at its Sixth Session, the mandate of the Working Group for this biennium, the Governing Body made further specific requests to the Working Group, relating to a draft revised Standard Material Transfer Agreement, including provision for a Subscription System that reduces transaction costs and provides legal certainty; options for adapting the coverage of the Multilateral System; issues regarding genetic information associated with the material accessed from the Multilateral System; and the link between increased user-based payments and proposals to develop a mechanism of Contracting Party contributions, by liaising with the *Ad Hoc* Advisory Committee on the Funding Strategy.¹
3. This meeting will be the second meeting of the Working Group during this biennium; no other meeting of the Working Group is currently planned.
4. These Annotations to the Draft Provisional Agenda have been prepared after consultation with the Co-chairs of the Working Group, Mr. Bert Visser and Mr. Javad Mozafari.

ITEM 1. OPENING OF THE MEETING

5. The sixth meeting of the Working Group will be held at FAO headquarters (Red Room) in Rome, Italy, from 14 to 17 March 2017. Arrangements have been made to allow delegates and stakeholders to hold regional and interregional consultations on Monday, 13 March 2017.
6. The opening session will begin at 10.00 a.m. on Tuesday, 14 March 2017.

¹ Resolution 1/2015.

ITEM 2. ADOPTION OF THE AGENDA AND TIMETABLE

7. This document annotates the *Draft Provisional Agenda*² and contains a provisional indicative timetable, for the consideration of the Working Group, so that it could adopt its Agenda for this meeting.

8. The provisional indicative timetable specifies that afternoon sessions will generally start at 14:30 and end at 17:30, whereas the morning sessions will be, as in the previous Working Group meetings, from 10:00 to 13:00. The afternoon session on Wednesday 15 March 2017 will, however, start at 15:00, as a side event relevant to Agenda Item 6, *Genetic Information associated with material accessed from the Multilateral System*, has been organized during the lunch break.

9. Arrangements have been made so that the Co-Chairs can call for evening sessions on Wednesday and Thursday, 15 and 16 March 2017. The evening sessions will start one and a half hours after the end of the afternoon sessions, meaning at 19:30 on Wednesday, 15 March, and at 19:00 on Thursday, 16 March.

10. The list of documents is contained in document IT/OWG-EFMLS-6/17/Inf.1, *List of Documents*. The documents are available on the Treaty website at <http://www.fao.org/plant-treaty/meetings/meetings-detail/en/c/414992/>.

ITEM 3. COVERAGE OF THE MULTILATERAL SYSTEM VIS-À-VIS THE SCOPE OF THE INTERNATIONAL TREATY

11. By Resolution 1/2015, the Governing Body requested the Working Group to elaborate options for adapting the coverage of the Multilateral System based on different scenarios and income projections.

12. The Working Group, at its fifth meeting, decided to have a further discussion on the expansion of the access and benefit-sharing provisions of the Treaty at its sixth meeting.

13. As proposed by the Working Group, the Co-chairs established, *inter alia*, a Friends of the Co-chairs Group on the Scope of the Multilateral System to map options for adapting the coverage of the Multilateral System. The report of this group is contained in the document, IT/OWG-EFMLS-6/17/Inf. 5, *Report of the Friends of the Co-Chairs on the Scope of the Multilateral System*. The Co-chairs also established the Standing Group of Legal Experts (SGLE) to provide legal opinions on questions arising from the meetings of the Working Group and from the work of the various Friends of the Co-chairs groups. In its second report, the SGLE provides several legal opinions regarding the coverage of the Multilateral System, as contained in the document, IT/OWG-EFMLS-6/17/Inf.3 Add.1, *Report of the Standing Group of Legal Experts: outcomes of the second meeting*.

14. The document, IT/OWG-EFMLS-6/17/6, *Expansion of the Access and Benefit-sharing Provisions of the Treaty*, provides an overview of the options for expanding the Treaty's crop coverage and of the legal modalities for implementing the expansion, building on the recommendations of the Friends of the Co-chairs on the Scope of the Multilateral System and on the advice of the Standing Group of Legal Experts, as well as taking into account a number of documents that were prepared for previous meetings of the Working Group on this matter.

15. Under this agenda item, the Working Group is invited to decide which of the options to expand the benefit-sharing provisions of the Treaty, and which of the legal modalities, it wishes to recommend to the Governing Body for its consideration. The Working Group is also invited to provide guidance on any additional documents it may wish to be prepared for the consideration of the Governing Body at its Seventh Session.

² IT/OWG-EFMLS-6/17/1.

**ITEM 4. REVISED STANDARD MATERIAL TRANSFER AGREEMENT
WITH A FOCUS ON THE SUBSCRIPTION SYSTEM**

16. The Governing Body requested the Working Group to elaborate a full draft revised Standard Material Transfer Agreement, focusing especially on the development of a Subscription System. It also requested the Working Group to work on the basis of text proposals to be prepared by the Co-chairs, including a full draft revised Standard Material Transfer Agreement for its first meeting.³

17. At its fifth meeting, the Working Group considered the document, IT/OWG-EFMLS-5/16/3, *Second Draft Revised Standard Material Transfer Agreement: Co-Chairs' Proposal* and agreed to work on the basis of this text.⁴

18. The Working Group also provided recommendations to the Co-chairs, with a view to finalizing the revised Standard Material Transfer Agreement, which includes a Subscription System, at this meeting. It invited Contracting Parties and stakeholders to submit inputs.

19. The Co-chairs accordingly identified a number of key questions that arose from the Working Group's guidance, and addressed these, for advice, to the Friends of the Co-chairs Groups, and to the Standing Group of Legal Experts. Their reports are contained in the following documents:

IT/OWG-EFMLS-6/17/Inf.3, *Report of the Standing Group of Legal Experts: outcomes of the first meeting;*

IT/OWG-EFMLS-6/17/Inf.3. Add.1, *Report of the Standing Group of Legal Experts: outcomes of the second meeting;*

IT/OWG-EFMLS-6/17/Inf.4, *Second Report of the Friends of the Co-Chairs on Access Mechanisms and Payment Rates;*

IT/OWG-EFMLS-6/17/Inf.5, *Report of the Friends of the Co-Chairs on the Scope of the Multilateral System;*

IT/OWG-EFMLS-6/17/Inf.6, *Report of the Friends of the Co-Chairs on a Termination Clause.*

20. The submissions received from Contracting Parties and stakeholders are compiled in the document, IT/OWG-EFMLS-6/17/Inf.7, *Submissions from Contracting Parties and Stakeholders on Matters to be discussed in the Sixth Meeting of the Working Group.*

21. In the document, IT/OWG-EFMLS-6/17/7, *Enhancing the Functioning of the Multilateral System: Note by the Co-Chairs on the outcome of the Friends of the Co-Chairs Groups and the Standing Group of Legal Experts*, the Co-chairs summarize the work of these expert groups and present their conclusions and recommendations to the Working Group.

22. The Co-chairs have considered all inputs and advice received, as well as the guidance of the Working Group, in revising the *Second Draft Revised Standard Material Transfer Agreement*.

23. The Co-chairs have accordingly prepared the *Third Draft Revised Standard Material Transfer Agreement*, as contained in the document, IT/OWG-EFMLS-6/17/3.1. The document, IT/OWG-EFMLS-6/17/3.2, *Third Draft Revised Standard Material Transfer Agreement: Methodology Used in its Preparation*, contains further information and explanations on the methodology and on how the guidance of the Working Group was implemented.

24. Some elements of possible implementing procedures for the Subscription System are explored in the document, IT/OWG-EFMLS-6/17/4, *Implementing Procedures for the Subscription System*. These elements relate to the functioning and implementation of the

³ Resolution 1/2015.

⁴ IT/OWG-EFMLS-5/16/Report, para. 5.

Subscription System, but go beyond the rights and obligations of the Provider and the Recipient. Therefore, they are to be addressed outside the Standard Material Transfer Agreement.

25. The Working Group is invited to review these working documents and to agree on the text of the draft revised Standard Material Transfer Agreement it will submit to the Governing Body for consideration and adoption. It is also invited to provide guidance on any further documents and draft procedures it may wish to be brought to the attention of the Governing Body.

ITEM 5. LAUNCH MECHANISM FOR AN ENHANCED MULTILATERAL SYSTEM

26. The Working Group decided, at its fifth meeting, to explore launch mechanisms that would support building commitment and trust among Contracting Parties and with stakeholder groups, including by increasing user-based income to the Benefit-sharing Fund.⁵

27. The Friends of the Co-chairs on Access Mechanisms and Payment Rates accordingly considered the Launch Mechanism, as is reflected in the report of their second meeting, contained in the document, IT/OWG-EFMLS-6/17/Inf.4, *Second Report of the Friends of the Co-Chairs on Access Mechanisms and Payment Rates*.

28. Drawing mainly on the work of the Friends of the Co-chairs on Access Mechanisms and Payment Rates, the document, IT/OWG-EFMLS-6/17/5, *The Launch Mechanism*, analyses the objectives and key elements of the launch mechanism, as well as the predictability of user-based income. It also provides a brief overview of the main issues that might need further clarification, as identified by the Friends of the Co-chairs on Access Mechanisms and Payment Rates.

29. Under this agenda item, the Working Group is invited to consider the objectives and key elements of the launch mechanisms and provide guidance on its further development.

ITEM 6. GENETIC INFORMATION ASSOCIATED WITH MATERIAL ACCESSED FROM THE MULTILATERAL SYSTEM

30. At its Sixth Session, the Governing Body requested the Working Group “to consider the issues regarding genetic information associated with the material accessed from the Multilateral System.”⁶

31. The Working Group, at its fifth meeting, had an initial exchange of views on this matter and requested preparation of an information document for its next meeting.

32. The Co-chairs have prepared document IT/OWG-EFMLS-6/17/Inf.8, *Consideration of issues regarding genetic information associated with material accessed from the Multilateral System: Note by the Co-chairs*.

33. Under this agenda item, the Working Group is invited to consider this matter and develop any recommendations that it may wish to make to the Governing Body.

ITEM 7. PREPARATIONS FOR THE SEVENTH SESSION OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY

34. By Resolution 1/2015, the Governing Body requested the Working Group to submit the results of the Working Group discussions at least six months in advance of the Seventh Session of the Governing Body, to allow for the necessary consultations and preparations for the Seventh Session within Contracting Parties.

⁵ IT/OWG-EFMLS-5/16/Report, para. 16.

⁶ Resolution 1/2015, para. 3.

35. Under this agenda item, the Working Group may wish to agree on any further work it wishes to be undertaken in preparation for the Seventh Session of the Governing Body, including to request or recommend:

- the Co-Chairs to prepare, in collaboration with the Secretary, any additional documentation that it may wish to be prepared for the consideration of the Governing Body, at its Seventh Session;
- the Regional Groups to enable consultations among Contracting Parties during the intersessional period in preparation for the Seventh Session of the Governing Body, including through support by the Secretariat, if needed;
- the Co-Chairs to continue conducting informal consultations among Regions and stakeholder groups, in order to further prepare for the negotiation of the package of measures to enhance the functioning of Multilateral System at the Seventh Session of the Governing Body;
- the Co-Chairs, in line with Resolutions 1/2015 and 2/2015, to liaise closely with the Co-Chairs of the *Ad Hoc* Advisory Committee on the Funding Strategy, in preparation for the Seventh Session of the Governing Body;
- the Co-Chairs to report on the outcomes of the work of the Working Group to the Bureau of the Seventh Session of the Governing Body;
- the Bureau of the Seventh Session of the Governing Body, together with the Secretary, to develop measures to facilitate decision-making and positive outcomes on the enhancement of the Multilateral System at the Seventh Session of the Governing Body, including by informing Contracting Parties of the importance of carrying out the necessary consultations and preparations before the meeting;
- the Bureau of the Seventh Session of the Governing Body to consider the possibility of reconvening the Working Group, for one day, prior to and back-to-back with the Seventh Session of the Governing Body, subject to the availability of financial resources.

ITEM 8. OTHER BUSINESS

36. Under this agenda item, the Working Group may wish to discuss any other relevant matters that may be requested by its members.

ITEM 9. ADOPTION OF THE REPORT

37. Under this agenda item, the Working Group is invited to consider and adopt the report of its meeting.

38. As agreed by the Working Group and following the practice at its last meetings, the draft report section on matters discussed on Friday morning will be available in English only, while interpretation into the other languages will be provided during the report adoption. This will optimize the use of time on the last day, as no time for the translation process needs to be scheduled.

*Appendix***PROVISIONAL INDICATIVE TIMETABLE**

Time	Agenda Item	Title	Documents
Tuesday, 14 March 2017			
Morning			
10:00-13:00	1	Opening of the meeting	Resolution 2/2013 Resolution 1/2015
	2	Adoption of the agenda and organization of work	IT/OWG-EFMLS-6/17/1 IT/OWG-EFMLS-6/17/2 IT/OWG-EFMLS-6/17/Inf.1
	3	Coverage of the Multilateral System vis-à-vis the scope of the International Treaty	Resolution 1/2015 IT/OWG-EFMLS-6/17/Inf. 5 IT/OWG-EFMLS-6/17/Inf.3 Add.1 IT/OWG-EFMLS-6/17/6
Tuesday, 14 March 2017			
Afternoon			
14:30-17:30	3 (cont'd)	Coverage of the Multilateral System vis-à-vis the scope of the International Treaty (cont'd)	Resolution 1/2015 IT/OWG-EFMLS-6/17/Inf. 5 IT/OWG-EFMLS-6/17/Inf.3 Add.1 IT/OWG-EFMLS-6/17/6
	4	Revised Standard Material Transfer Agreement with a focus on the Subscription System	Resolution 1/2015 IT/OWG-EFMLS-6/17/3.1 IT/OWG-EFMLS-6/17/3.2 IT/OWG-EFMLS-6/17/4 IT/OWG-EFMLS-6/17/7 IT/OWG-EFMLS-6/17/Inf.3 IT/OWG-EFMLS-6/17/Inf.3. Add.1 IT/OWG-EFMLS-6/17/Inf.4 IT/OWG-EFMLS-6/17/Inf.6 IT/OWG-EFMLS-6/17/Inf.7

Time	Agenda Item	Title	Documents
Wednesday, 15 March 2017			
Morning			
10:00-13:00	4 (cont'd)	Revised Standard Material Transfer Agreement with a focus on the Subscription System (cont'd)	Resolution 1/2015 IT/OWG-EFMLS-6/17/3.1 IT/OWG-EFMLS-6/17/3.2 IT/OWG-EFMLS-6/17/4 IT/OWG-EFMLS-6/17/7 IT/OWG-EFMLS-6/17/Inf.3 IT/OWG-EFMLS-6/17/Inf.3. Add.1 IT/OWG-EFMLS-6/17/Inf.4 IT/OWG-EFMLS-6/17/Inf.6 IT/OWG-EFMLS-6/17/Inf.7
Wednesday, 15 March 2017			
Afternoon			
15:00-18:00	4 (cont'd)	Revised Standard Material Transfer Agreement with a focus on the Subscription System (cont'd)	Resolution 1/2015 IT/OWG-EFMLS-6/17/3.1 IT/OWG-EFMLS-6/17/3.2 IT/OWG-EFMLS-6/17/4 IT/OWG-EFMLS-6/17/7 IT/OWG-EFMLS-6/17/Inf.3 IT/OWG-EFMLS-6/17/Inf.3. Add.1 IT/OWG-EFMLS-6/17/Inf.4 IT/OWG-EFMLS-6/17/Inf.6 IT/OWG-EFMLS-6/17/Inf.7
Time	Agenda Item	Title	Documents
Thursday, 16 March 2017			
Morning			
10:00-13:00	5	Launch mechanism for an enhanced Multilateral System	IT/OWG-EFMLS-6/17/Inf.4 IT/OWG-EFMLS-6/17/5
	6	Genetic information associated with material accessed from the Multilateral System	IT/OWG-EFMLS-6/17/Inf.8

Thursday, 16 March 2017			
Afternoon			
14:30-17:30	3, 4, 5, 6 (cont'd)	Consolidation of the full package of measures arising from agenda items 3, 4, 5 and 6.	
Friday, 17 March 2017			
Morning			
10:00-13:00	7	Preparations for the Seventh Session of the Governing Body of the International Treaty	Resolution 1/2015 IT/OWG-EFMLS-6/17/2 IT/OWG-EFMLS-6/17/3.1 IT/OWG-EFMLS-6/17/3.2 IT/OWG-EFMLS-6/17/4 IT/OWG-EFMLS-6/17/5 IT/OWG-EFMLS-6/17/6
Friday, 17 March 2017			
Afternoon			
15:00-18:00	9	Adoption of the Report	