

September 2015



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

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Item 6 of the Provisional Agenda
SIXTH SESSION OF THE GOVERNING BODY
Rome, Italy, 5 – 9 October 2015
Report of the Secretary¹

Excellencies,

Dear Delegates,

Ladies and Gentlemen,

1. Only a few days ago, the United Nations General Assembly adopted the Sustainable Development Goals, or SDGs, through which the international community has committed itself to the bold task of eradicating poverty, hunger and malnutrition by 2030. This most comprehensive international consensus on key issues of common concern has for the first time included goals and targets for seeds and agricultural plants, in its target 2.5:

“By 2020, maintain the **genetic diversity of seeds**, cultivated plants ... and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and **promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources** and associated traditional knowledge, **as internationally agreed.**”²

2. Target 15.6 on the protection of biodiversity specifically stipulates to “Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed.” In order to measure progress made with this Target, one indicator which has been proposed is the “number of Standard Material Transfer Agreements, as communicated to the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture”

3. There can be no stronger endorsement from the international community for your Treaty as *the* internationally agreed framework for access and benefit-sharing of cultivated plants. For you, its Governing Body, there can be no stronger endorsement of your responsibility for, and your governance role over, the global genetic diversity of seeds.

¹ At the time of issuance of this document, one critical inter-sessional process of the current biennium had not been completed, namely the fourth meeting of the *Ad Hoc* Open-ended Working Group on the Enhancement of the Functioning of the Multilateral System, which directly precedes this session of the Governing Body. The Secretary’s analysis in this Report, regarding the state of implementation of the Treaty, cannot yet reflect the crucial outcomes of this meeting. The Secretary’s Report may therefore need to *change*, to reflect the outcomes. Accordingly parts of this advance version of the Report may be altered at the time of delivery. As has been customary, the final valid version delivered at the Session will be reproduced as an Annex to the Report of the Session of the Governing Body.

² A/69/L.85. *Draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda*. 12 August 2015. Emphasis added.

4. The targets 2.5 and 15.6 underline FAO and its Treaty's commitment to, and core mandate in, implementing the United Nation's Sustainable Development Agenda. FAO has been the pathfinder and the leader on these matters. Its achievement, in adopting the Treaty, with its balanced recognition of the roles of the science of breeding and Farmers' Rights, was an early implementation of our Director-General, Dr José Graziano da Silva's, vision of bringing science and farmers together. This recipe can optimise the use of the plant genetic diversity of seeds to achieve the SDGs, and the Organization's mandate to ensure food security through its strategic objectives.

5. As Contracting Parties of this Treaty, and in order to achieve the development goals set by the UN General Assembly, it is your responsibility this week to safeguard the achievements of the Treaty, in the face of several major challenges ahead. In my report two years ago, I tried to identify major trends that I felt pose existential challenges to your Treaty. These were: the dematerialization of the use of genetic material; the financing of the Treaty Benefit-sharing Fund within the Funding Strategy; and the place of the Treaty in the post-Nagoya era.

6. I should like to pick up from where we left off, and briefly describe each of these: what we have done about it; how the ground — and thus the nature of these challenges — has shifted under your feet, with every step you took to address them in this biennium; and further steps needed to overcome relevant risks on the route towards full Treaty implementation.

Accelerating 'dematerialization'

7. The subject matter of your Treaty is "plant genetic resources.", i.e. "*functional units of heredity*" of plant origin with actual or potential value for food and agriculture. This definition of what you govern combines at its very heart two dimensions embedded in plant genetic resources: "function" and "units" of heredity. With decreasing cost and increasing speed, new characterization techniques in genomics, phenomics, metabolomics, and other "omics", are translating both function and the physical units of genetic material into digital data sets.

8. Following your guidance at the Fifth Session to prioritize the development and implementation of the Article 17 of the Treaty, we have been proactive in engaging this relatively new environment for the Treaty by developing a vision and a first set of facilities and activities of the Global Information System. Your Bureau has created an innovative financing Window in the Benefit-sharing Fund, which supports farmers and scientists to work together to address this historical and technological shift, to the benefit of farmers who conserve and sustainably use plant genetic resources. We also have expanded the community and advanced the implementation of the Co-development and Transfer of the Technology Platform. Most importantly, we have *connected and combined* all these Treaty delivery mechanisms into a unique global infrastructure that can harness the potential of these new techniques into accelerated genetic gain for breeding climate-resilient crops by breeders and plant scientists; increase benefit-sharing and self-governed knowledge management by farmers; support a more informed policy debate on the implications of new technologies and their optimal use for food security; and maintain a global public good in the digital environment.

9. This will achieve Dr Graziano da Silva's vision, which he summed up as follows: "in the 1980s, FAO was requested to hold in trust humanity's pooled genetic material for food and agriculture. With technological innovation, FAO's custodian role will go beyond the safeguarding of crop genetic material, to include also the related digital information. Under your guidance and vision, the Treaty needs to ensure that this new public good will be available for future food security³."

10. As an example of this role, I am pleased to announce our partnership with the International Rice Research Institute,⁴ which has just placed 3000 high-density genome maps of

³ Video-message of the Director-General to the Sixth Session of the Governing Body.

⁴ IRRI. See: www.irri.org;

rice within the Global Information System. IRRI's data sets represent a scientific breakthrough in many respects – just to mention one, they have already led to the discovery of 18.9 million single nucleotide polymorphisms (SNPs) in rice.⁵ The dataset contains millions of genomic sequences which, when combined with phenotyping observations, gene expression, and other information, provide an important resource for establishing gene-trait associations, building predictive models, and applying these models for breeding new rice varieties needed by farmers under changing climatic and agronomic conditions. The Treaty's Global Information System will facilitate the development and upgrading of the International Rice Informatics Consortium (IRIC), which is targeted specifically at scientists in the field of rice genomics, and provides a sophisticated set of data analysis tools. Substantial development is needed to make the data more readily intelligible, accessible, and useable by other communities, including farmers, genebanks, breeders, National Focal Points and other policy makers in the Governing Body. The upgraded versions of IRIC and IRRI's International Rice Information System will serve as elements of the Global Information System, which will make available the 3000 rice genome maps as part of the Global Information System.

11. But, as I mentioned earlier, once we engage these new areas of implementation, we have realized that novelty comes with evolving challenges, and I would like to flag a few which, I believe, need to be tackled with priority to sustain the process. What has changed is the distance you have come to engage with new actors and new technological processes, which take place in a so far unregulated, inherently transnational space of exchange, production and distribution of data outside existing frameworks.

12. Concepts such as network governance and collaborative governance regimes, which, once filtered through the lenses of program-based intergovernmental cooperation, I would foresee, will prove tremendously useful, as we move forward with Treaty implementation, including but not limited to the Global Information System. By applying these models, the Treaty will be able to reach out to the new stakeholders, create continuity in all communities that operate along the value chain of plant breeding, and create new policy frameworks for these actors and farming communities. To deal with these questions in a practical manner, the Treaty will establish a Scientific Advisory Committee with participation of all stakeholders to advise on the development of the Global Information System.

Financing in the Benefit-sharing Fund and the Funding Strategy

13. One of the hardest challenges for you to solve is how to appropriately finance the Benefit-sharing Fund in a balanced, sustainable and predictable implementation of your Funding Strategy. In the current biennium, you have discussed extensively among Contracting Parties, users and other stakeholders, the *sources* from which this funding should come and what you might call 'the sources of their *absence*'. At times this discussion appeared reminiscent of the story, where a customer enters a store and asks: "You probably don't have butter, or do you?" The shopkeeper answers: "No, sorry, we are not the store which doesn't have butter. We are the store which does not have sausages. The one which does not have butter is across the street." This is rather like discussing whether the Benefit-sharing Fund should be fed by user-based income or non-user-based income, when you have neither.

14. There is a somewhat similar situation in Ernst Lubitsch's beautiful film *Ninotchka*, with Greta Garbo and Melvyn Douglas: the protagonist visits a cafeteria and orders a coffee without cream. The waiter replies: "I'm sorry, we have run out of cream. We only have milk. Can I then bring you coffee without milk?"⁶ So far, in terms of income for the Benefit-sharing Fund, you have not yet been able to identify sustainable and predictable income from either users or Contracting Parties, it is rather like discussing whether you do not have milk or do not have cream

⁵ See, *GigaScience*. 'The 3000 Rice Genomes Project.' 28 May 2014: <http://www.gigasciencejournal.com/content/3/1/7>

⁶ At <https://www.youtube.com/watch?v=WFoI83Jwaig> or <http://www.imdb.com/video/screenplay/vi860227353>

for your black coffee. Now you will need to have a more positive discussion and decide how, then, you will put together your *caffè latte*.

15. In this context, it is important to recall that the discussion on the shortfall began in the context of the Funding Strategy. From the Funding Strategy, your *Ad Hoc Committee on the Funding Strategy* embarked on the enhancement exercise of the *Multilateral System*, on the assumption that it would be possible to increase user-based income to the Benefit-sharing Fund, as a Funding Strategy element, through measures to enhance the Multilateral System.

16. Advancing the enhancement of the Multilateral System has been our first priority in this biennium and I am delighted to report to you that we have made extensive progress in the Open-ended Working Group which you created for this purpose. At its third meeting in Brasilia⁷, the Working Group developed a package of ‘*Proposed Tasks for Further Work*’ which contains the building blocks to implement the following full enhancement package,⁸ which you would need to finalize and adopt this week:

- the *Standard Material Transfer Agreement* (SMTA) will be revised to elaborate elements of a Subscription System/Model for user-based payments;
- within such revision, *payment rates* within the Treaty’s access and benefit-sharing mechanism will be reconsidered;
- a draft *amendment of, or Protocol to, the Treaty will be prepared* to extend its crop coverage, in conjunction with enhanced benefit-sharing provisions;
- a *mechanism of contributions by Contracting Parties* will be developed to ensure sustained and predictable income to the Benefit-sharing Fund;
- the *target for income to the Benefit-Sharing Fund* for the 2018–2023 period will be set.

The Treaty in the post-Nagoya era

17. This enhancement package has allowed the Treaty to make substantial progress on the third challenge that I had raised two years ago, that is the Treaty in the post-Nagoya era. The process you are following is self-explanatory but I would just like to add that it has been shaped by the concrete and operational needs expressed by the Treaty community and not by an isolated legal reading of the interface between the Treaty and the Nagoya Protocol. This is an encouraging approach, one that this Governing Body may reconfirm and take further.

18. With the entry into force of the Protocol, several Contracting Parties that are also Parties to the Protocol are in the process of or contemplating the establishment of legislative, administrative or policy measures for its implementation. There is a certain risk that if a comprehensive approach to access and benefit-sharing is not taken in so doing, countries could establish duplicative or even contradictory measures, which would be counterproductive and costly. Such a situation would certainly not aid legal certainty for users, which is a fundamental principle of both instruments.

19. Nevertheless, as has been previously noted by the Governing Body, I have been working very closely with the Executive Secretary of the Convention on Biological Diversity and with other partners to promote the harmonious implementation of the Nagoya Protocol and the Multilateral System of the Treaty. However, there is only so much that we as your Secretariats can do in this regard. The preponderance of substantive work needs to be done by governments at the national level where the actual implementation takes place. Consequently, in order to build on the process already begun through the recognition of the Treaty in the text of the Protocol and the capacity building initiatives undertaken by the Secretariats and other partners, governments need take similarly positive steps to put in place policies and mechanisms that ensure mutually supportive implementation of both agreements.

⁷ [IT/OWG-EFMLS-3/15/Report](#)

⁸ [Ibid.](#), page 4

20. In this context, it bears repeating by the Governing Body to urge Contracting Parties to continue to be conscious of the relationship between the Nagoya Protocol and the Treaty and to take proactive steps to ensure mutual supportiveness in their implementation, and correspondingly, to invite the Conference of Parties to the CBD to call on the Parties to the Protocol for a similar approach.

21. The choice you made was to try to fix the shortfall in the Benefit-sharing Fund through an enhancement of the Multilateral System and user-based income. As you have pursued this course and found that user-based income alone will not meet your targets, your Working Group has “*recommended* that all ... sources be addressed together in a package of measures, taking into account that the Benefit-Sharing Fund is part of the broader Funding Strategy of the Treaty”⁹. As your exercise thereby returns to the Funding Strategy, it is now becoming clear that there can be no sustainable and successful enhancement of the Multilateral System without an enhancement of the Funding Strategy. In very plain words, this is your challenge for the next biennium. The Working Group has flagged the need that “this will require some far-reaching decisions by the Governing Body, on the basis of which new mechanisms can be developed.”¹⁰ A holistic and comprehensive approach to the revision of Funding Strategy may be a solution that this Governing Body will follow, for instance by including resources not under the direct control of the Governing Body. In this context, there has been much progress in our collaboration and joint work with the Crop Trust, which is an essential element of the Funding Strategy. This is encouraging and should be continued. With your guidance, we will now have a good basis to promote synergy in the implementation of your Treaty.

Farmers’ Rights

22. This biennium has not only been all about the enhancement process or the Global Information System. It has marked significant progress on another fundamental pillar of the Treaty, for many stakeholders the most fundamental pillar, namely Farmers’ Rights. Let me say that, in this regard, the Treaty community has made a quantum leap, initiated by your forward-looking Resolution on Farmers’ Rights at the last session in Oman.

23. We have now moved into the nitty-gritty of implementation at national level, and I believe this will now become a major task at national level for many Contracting Parties according to their own laws and policies. We have analyzed the numerous submissions gathered through a truly participatory process on views, experiences and best practices on each of the components of Farmers’ Rights that Article 9 suggests (traditional knowledge, benefit-sharing and participation in decision-making), which may now serve as the basis for deriving examples for national implementation, and as a basis for the agenda item on Farmers’ Rights of this session of the Governing Body. Moreover, we have animated discussions in relevant FAO fora, including the Committee on Food Security, and we have interacted with other Conventions. Countries such as Zambia, Ethiopia and Ecuador have advanced their domestic dialogues.

24. Finally, I am pleased to announce that we are about to create, with the Global Forum on Agricultural Research, a joint capacity building programme that will serve these domestic processes and connect them to the continuous intergovernmental discourse, building on the solid foundation laid by our work on Farmers’ Rights so far. The joint capacity building programme will support smallholder farmers, farmers’ organizations and governmental authorities in developing countries to improve the implementation of Farmers’ Rights at local and national levels. It will support and facilitate dialogue and networking to share experiences and underwrite the role of farmers as both custodians of plant genetic resources for food and agriculture and innovators of food crops relevant for food security. I am confident that the joint capacity building programme will become a cornerstone of the new phase of our work on Farmers’ Rights in the coming biennium.

⁹ IT/OWG-EFMLS-3/15/Report, para 20

¹⁰ Ibid., para 21

New governance

25. The importance given to the Treaty by the UN General Assembly, in targets 2.5 and 15.6 of the SDGs, shows that the international community looks to the Treaty for governance of plant genetic resources for food and agriculture. But the nature of the sector, of the science, and of farming societies, is changing so fast that the soil is perpetually shifting under your feet, and this even before you have put benefit-sharing on a sustainable and predictable basis.

26. At the last session, you asked the fundamental question of “what is the role and function of governance in our field?” As the last three words of the SDG targets 2.5 and 15.6 — “as internationally agreed” — sum up, I suggest that the Treaty provides the forum and mechanism where such agreement has been and can be reached. And there are huge challenges:

First, an inherently transnational space for the exchange, production and distribution of the tools for, and products of, plant breeding. Many of these products and tools are now dematerialized, and governance no longer relates to germplasm itself, but to the digital information about germplasm.

Second, the use of germplasm is no longer a simple question of interdependence: plant breeding and plant science now flow through inherently transnational utilization processes.

Third, the actors themselves are inherently and increasingly transnational.

Fourth, entirely new technological processes for the use of plant genetic resources for food and agriculture are emerging and evolving in a largely unregulated space, outside existing frameworks, and beyond your national control.

27. Each of these challenges invites you to reflect on your role as Governing Body. If you can maintain your momentum and address these questions collectively, “as internationally agreed”, your Treaty will retain and even enhance its relevance. But this, I suggest, will require the Governing Body to re-envision its governance role in a flexible and productive way, because you are no longer dealing with simple, exclusively state- and government-based processes.

28. I am convinced that effective governance in the future cannot be top-down, but must grow from the bottom up, through collaboration and partnerships. And there comes a point where the basic rules must be “internationally agreed”. The Treaty, if it is to survive, must provide the space for such agreement to be formed. This will keep it relevant to its clients and stakeholders, and provide frameworks for successful cooperation, real impacts and, most importantly, its adaptation to the next phase of changes in the use of plant genetic resources for food and agriculture that will unavoidably follow. Only *anticipating change*, and collectively *engaging* with it, will keep the Treaty alive and relevant. I believe the biggest challenges for your Treaty are also its biggest opportunities.

29. Above all, I would like to thank our Director-General, Mr José Graziano da Silva, for his support to the Treaty and the inspiring vision which I referred to above. I would also like to thank especially Dr Ren Wang, our Assistant Director-General of the Agricultural and Consumer Protection Department, for his constant support and facilitation as we are fortunate to be hosted in his department.

30. The Treaty benefits from a large and vibrant community of users and beneficiaries: 6,221 recipients have been reported already in the Multilateral System; more than 10.1 million farmers will have directly or indirectly benefitted from the three benefit-sharing cycles of the Benefit-sharing Fund. However, in practical day-to-day terms, the functioning of this Treaty relies on a very few individual human beings and their personal, daily commitment. For no one is this more true than for my staff, and, once more, I warmly thank them for their tireless dedication to the cause of the Treaty. In your Chair for this biennium, Mr. Matthew Worrell, you have found competence, commitment and professionalism, and I would like to thank him for his continuous efforts and guidance to keep the Treaty. He deserves all our thanks and full support during the

coming week. I would also like to thank the outstanding Vice-chairs of the Governing Body and the Bureau for their competence in guiding the inter-sessional progress and preparations for this Session of the Governing Body.