

August 2013



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

**E**

Item 8 of the Provisional Agenda

FIFTH SESSION OF THE GOVERNING BODY

Muscat, Oman, 24-28 September 2013

**REPORT ON THE IMPLEMENTATION OF THE MULTILATERAL
SYSTEM OF ACCESS AND BENEFIT SHARING**

Draft Resolution

Note by the Secretary

This document contains the addendum referred to in document IT/GB-5/13/5, Report on the implementation of the multilateral system of access and benefit sharing, and comprises elements of a draft Resolution on the number of issues before the Governing Body for consideration, under the relevant agenda item.

DRAFT RESOLUTION */2013
IMPLEMENTATION OF THE MULTILATERAL SYSTEM

THE GOVERNING BODY,

Convinced of the urgency of bringing all elements of the Multilateral System of Access and Benefit-sharing into full and effective operation;

Convinced of the need to address all the elements of the Multilateral System as an integrated whole, both to provide access to plant genetic resources for food and agriculture, and to share the benefits arising from the utilization of these resources, in a fair and equitable manner;

Recognizing that significant progress has been made in the implementation of the Multilateral System, and the importance of maintaining current efforts and momentum in its implementation;

**I. DEVELOPMENTS IN THE INTERNATIONAL ENVIRONMENT OF IMPORTANCE
FOR THE IMPLEMENTATION OF THE MULTILATERAL SYSTEM**

Noting the continuing work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization (WIPO) towards an instrument or instruments on the protection of traditional knowledge and on the intellectual property aspects of genetic resources;

Welcoming the acknowledgement, by the Conference of the Parties to the Convention on Biological Diversity during the adoption of the Nagoya Protocol, in Decision X/1, of the fundamental role of the International Treaty on Plant Genetic Resources for Food and Agriculture, and the recognition of the interdependence of all countries with regard to 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;

Recognizing that the International Treaty, with its Multilateral System of Access and Benefit-sharing, is a constituent element of the International Regime on Access to Genetic Resources and Benefit-sharing, along with the Convention on Biological Diversity and its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization;

Noting the important work underway within the FAO Commission on Genetic Resources for Food and Agriculture;

Acknowledging the important role of the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions in the implementation of the Multilateral System, and *welcoming* the recent reforms of the Consultative Group on International Agricultural Research;

Noting the growing role of the Global Crop Diversity Trust in providing support to the International Agricultural Research Centres;

Noting the range of collaborative activities with, and support from a number of international organizations and their Secretariats;

1. *Requests* the Secretary to continue to follow the processes of relevance to the Treaty and its Multilateral System in other international Organizations, and to continue enhancing cooperation and coordination with relevant international Organizations;

2. *Warmly thanks* the Council of the Union for the Protection of New Varieties of Plant for the practical support that has been provided to the International Treaty in the context of non-monetary benefit-sharing initiatives by the Office of the International Union for the Protection of New Varieties of Plants (UPOV), following the decision of its Council;
3. *Welcomes* the re-affirmation by the Conference of the Parties to the Convention on Biological Diversity that “international instruments related to access and benefit-sharing should be mutually supportive”; and *requests* the Secretary to continue and expand cooperation with the Secretariat of the Convention on Biological Diversity, in particular in relation to the mutually supportive implementation of the International Regime on Access to Genetic Resources and Benefit-sharing, the Nagoya Protocol, and the Treaty, at international and at national level;
4. *Welcomes* the invitation of the Fourteenth Session of the FAO Commission on Genetic Resources for Food and Agriculture, to the Governing Body of the Treaty, in its continued governance of plant genetic resources for food and agriculture, to continue to closely coordinate with the Commission, in order to address in a complementary way the distinctive features and specific uses of plant genetic resources for food and agriculture, especially in light of the development of access and benefit-sharing measures at both national and international levels;
5. *Urges* the Global Crop Diversity Trust to integrate the obligations of International Institutions having signed agreements with the Governing Body, in accordance with Article 15 of the Treaty, into their ongoing work with these bodies, and with the Consortium Board of the Consultative Group;
6. *Requests* the International Agricultural Research Centres to continue to provide reports to sessions of the Governing Body, in accordance with their commitments under their agreements and, for this purpose and to the extent possible, prepare a collective or integrated report;
7. *Reiterates* that the scope of the Treaty is all plant genetic resources for food and agriculture, and in this context, *notes* that, by Resolution ***, it has established an *Ad Hoc* Open-ended Working Group to Expand Benefit-sharing and the Scope of the Multilateral System, to prepare for its consideration a packet of measures that will further accomplish its governance of Plant Genetic Resources for Food and Agriculture;

II. COVERAGE OF THE MULTILATERAL SYSTEM

PLANT GENETIC RESOURCES HELD BY CONTRACTING PARTIES AND INTERNATIONAL INSTITUTIONS

Welcoming the increasingly detailed information on the share of world *ex situ* collections of plant genetic resources for food and agriculture that is now available through the Multilateral System;

1. *Thanks* those Contracting Parties and International Institutions that have notified the Secretary of the plant genetic resources for food and agriculture that are in the Multilateral System and urges them to continue to update their information as it becomes available;
2. *Notes* that delays in making their resources available both hinders plant breeding and slows the build-up of use-based income to the Benefit-sharing Fund, through the SMTA;
3. *Accordingly requests* all Contracting Parties that have not yet done so to urgently notify the Secretary on their plant genetic resources for food and agriculture that are in the Multilateral System, in accordance with Article 11.2 of the Treaty;

4. *Requests* the Secretary to take necessary steps to encourage further inclusion of plant genetic resources for food and agriculture in the Multilateral System by relevant international institutions.

*PLANT GENETIC RESOURCES HELD BY LEGAL AND NATURAL PERSONS
WITHIN THE JURISDICTION OF CONTRACTING PARTIES*

Regretting that there is still extremely little information on plant genetic resources for food and agriculture that may have been included in the Multilateral System by natural and legal persons;

1. *Urges* natural and legal persons to take steps to include plant genetic resource for food and agriculture in the Multilateral System, and to inform the Secretary accordingly;
2. *Urges* Contracting Parties to take, as appropriate, legal, administrative, fiscal and other measure to encourage natural and legal persons within their jurisdictions to include plant genetic resources for food and agriculture in the Multilateral System, and to inform the Secretary accordingly.

III. LEGAL AND OTHER APPROPRIATE MEASURES TO PROVIDE ACCESS TO PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE WITHIN THE MULTILATERAL SYSTEM

1. *Urges* Contracting Parties that have not yet done so, to take legal and other appropriate measures necessary to provide access to plant genetic resources for food and agriculture through the Multilateral System in accordance with Article 12.2, and requests them to inform the Secretary accordingly;
2. *Urges* Contracting Parties who will be taking administrative and other appropriate measures to implement access and benefit-sharing regimes, including the Convention on Biological Diversity and its Nagoya Protocol, within their jurisdiction to ensure that, pursuant to the obligations established by the International Treaty on Plant Genetic Resources for Food and Agriculture, access to and the transfer of plant genetic resources for food and agriculture covered by the Treaty, and the sharing of the benefits arising from their utilization, are subject only to the conditions set out in or consistent with the said Treaty.

IV. THE ROLE OF INFORMATION IN THE MULTILATERAL SYSTEM

Emphasizing that, under Article 11.2 of the Treaty, the Multilateral System shall include all plant genetic resources for food and agriculture that are under the management and control of the Contracting Parties and in the public domain, and that real availability of these resources is crucial both for plant breeding and food security and for the generation of monetary benefits from commercialization of plant genetic resources for food and agriculture, through the use of materials governed by the Standard Material Transfer Agreement;

Recognizing that, for the Multilateral System to be effective, it is essential that information on the plant genetic resources for food and agriculture that are available be made available in a manner that is accessible and usable by potential users;

Acknowledging the fundamental importance of the participation of the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions in the Multilateral System, and their contribution both to access and to benefit-sharing through the Multilateral System;

Welcoming the information on the use of SMTAs now becoming available through the *Easy-SMTA*, on-line SMTA formation and reporting system;

Recognizing Genesys as an important element of the Global information System, that will be increasingly important for both access and benefit-sharing, and information exchange, in the context of Articles 13 and 17 of the Treaty;

1. *Appeals* to all Contracting Parties and their national plant genetic resources systems, International Institutions, and all other relevant persons, to ensure that all available information be made publicly and easily available, so that they may be accessed for the purpose of utilization and conservation for research, breeding and training for food and agriculture using the FAO/IPGRI Multicrop Passport Descriptor List, and to inform the Secretary accordingly;
2. *Stresses* the need to document exchanges under the Multilateral System through Standard Material Transfer Agreement operations, including through adequate reporting on concluded Standard Material Transfer Agreements in accordance with Resolution 5/2009;
3. *Thanks* providers who have used *Easy-SMTA* to report on SMTAs that they have concluded;
4. *Recommends* that providers, including the IARCS, report on SMTAs they conclude, through *Easy-SMTA*;
5. *Requests* the Treaty Secretariat, the Secretariat of the Global Crop Diversity Trust, and Bioversity International, to continue and expand their collaboration for the development of *Genesys*, including through efficient and transparent governance arrangements, and *further requests* them to report to the Sixth Session on progress;
6. *Appeals* to relevant institutions, and to donors, to make available the resources necessary to strengthen *Genesys*, and expand its coverage;

[Note by the Secretary: *Elements of a possible Resolution on the Global Information System, provided for in Article 17 of the Treaty, are contained in document IT/GB-5/13/17. The Governing Body may either maintain these as a separate resolution, or, if it so decided, consolidate them into the present resolution.*]

V. BENEFIT-SHARING IN THE MULTILATERAL SYSTEM

Noting the studies in the publication entitled *Identifying Benefit Flows: Studies on the Potential Monetary and Non-monetary Benefits Arising from the International Treaty on Plant Genetic Resources for Food and Agriculture*, which contribute to a clearer understanding of the likely build-up of use-based income in the Benefit-sharing Fund;

Recognizing that, in addition to monetary benefits, the Treaty provides for the sharing of non-monetary benefits arising from the use of plant genetic resources through the mechanisms of information exchange, access to and transfer of technology, and capacity-building;

Recalling the requests set out in Resolution 4/2011 for Contracting Parties and stakeholders to explore and implement the non-monetary benefit-sharing mechanisms provided for in Article 13.2a, b and c;

1. *Thanks* the Government of Australia for having supported the project to prepare the studies in *Identifying Benefit Flows*;
2. *Reiterates* the need to identify regular and predictable sources of funding for the Benefit-sharing Fund, and *emphasizes* the need to further explore innovative approaches in engaging voluntary donors to the Benefit-sharing Fund, in particular various private sector prospects such as the seed and the food processing industry;

3. *Reiterates* the request to Contracting Parties and other relevant stakeholders to explore and take measures to implement the non-monetary benefit-sharing mechanisms of Articles 13.2a, b and c, and *requests* the Secretary to facilitate such measures and exploration.

V. SUPPORT TO CONTRACTING PARTIES AND USERS OF THE MULTILATERAL SYSTEM

Recognizing that there continues to be an urgent need to support the relevant authorities and entities, particularly in developing countries, in improving their capacity to provide, manage or access information in respect of the Multilateral System, in order to fully participate in the Multilateral System;

Convinced of the importance of such support, where Governments are preparing legislative and administrative measures to implement access and benefit-sharing regimes, especially the Convention on Biological Diversity and its the Nagoya Protocol;

1. *Requests* the Secretary, subject to the availability of financial resources and capacity, to provide assistance to those Contracting Parties that may require support in the implementation of the Multilateral System, especially in identifying and reporting their plant genetic resources for food and agriculture that are in the Multilateral System;
2. *Thanks* Bioversity International for assisting a number of countries to improve their capacity to fully participate in the Multilateral System, through the Joint Capacity-building Programme;
3. *Stresses* the need to further enhance the close cooperation between the Secretariats of the Treaty and the Convention on Biological Diversity, for the coherent implementation of the International Regime on Access to Genetic Resources and Benefit-sharing, including through direct support to the Parties to both instruments;
4. *Requests* the Secretary to continue to promote partnerships and coordinate with other international Organizations and institutions engaged in capacity-building on access and benefit-sharing in order to maximize synergies and enhance the complementarity of their respective activities, and further *requests* the Secretary, subject to the availability of resources and capacity, to convene the meeting of the Capacity Building Coordination Mechanism to exchange information and coordinate capacity building initiatives for implementation of the Treaty by relevant organizations and institutions;
5. *Urges* Contracting Parties and Donors to contribute financial resources for the provision of assistance to those Contracting Parties that may require support in fulfilling the requirements of the Multilateral System;

VII. THE WORK OF THE AD HOC TECHNICAL ADVISORY COMMITTEE ON THE MULTILATERAL SYSTEM AND THE STANDARD MATERIAL TRANSFER AGREEMENT

Having considered the reports of the *Ad Hoc* Technical Advisory Committee on the Multilateral System and the Standard Material Transfer Agreement;

Taking into account the Terms of Reference established by the Governing Body for the Committee by Resolution 4/2011;

1. *Thanks* the Committee and its Co-Chairs for the important work undertaken during the biennium, which has contributed to the positive development of the Multilateral System and the implementation of the Standard Material Transfer Agreement;

2. *Thanks* the government of India for generously hosting and supporting the third meeting of the *Ad Hoc* Technical Advisory Committee;
3. *Takes note* of the advice given and the opinions expressed by the Committee on the number of matters brought before it, for its consideration, and *approves* the said opinions;
4. [*Decides to approve* the updates to the text of the SMTA as contained in the *Annex* to this Resolution]; [*requests* the Committee to further narrow the options for updating the SMTA in the coming biennium and to present the output for approval by the Governing Body at its Sixth Session];
5. *Decides* to reconvene the Committee during the forthcoming biennium, with the same mandate and Terms of Reference;
6. *Further requests* the Committee to continue to explore ways to advance the dialogue, cooperation and the harmonious interfaces between the Treaty and the Convention on Biological Diversity and its Nagoya Protocol, especially at the expert or technical level, in so far as they relate to the Multilateral System and the Standard Material Transfer Agreement, and advise the Secretary accordingly, so that he may take any actions necessary;
7. *Requests* the Committee to consider the relationship between Article 12h of the Treaty, the other provisions of Article 12, and the implications for access to *in situ* plant genetic resources, and specifically to those resources that are part of the Multilateral System, and make recommendations to the Governing Body at its Sixth Session on how these provisions of the Treaty may be effectively implemented;
8. *Requests* the Committee to make available the report or reports of its work during the inter-sessional period, including any recommendations it might have, to the Governing Body at its Sixth Session;
9. *Requests* the Committee and its Co-Chairs to follow the work of the *Ad Hoc* Working Group to Expand Benefit-sharing and the Scope of the Multilateral System, and provide such support as may be requested.

**VIII. REVIEW OF THE MATERIAL TRANSFER AGREEMENT
BEING USED BY THE INTERNATIONAL AGRICULTURAL RESEARCH CENTRES OF
THE CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL RESEARCH
AND OTHER RELEVANT INTERNATIONAL INSTITUTIONS, FOR PLANT GENETIC
RESOURCES FOR FOOD AND AGRICULTURE NOT INCLUDED IN ANNEX I TO THE
TREATY**

Recalling that at its Second Session it endorsed the inclusion of an interpretative footnote or series of footnotes to relevant provisions of the SMTA for transfers of non-*Annex I* material collected before the entry into force of the International Treaty to be used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions;

[*Taking into account* the updates to the text of the SMTA approved at this session;]

1. *Commends* the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions for their continued successful use of the SMTA for the transfer and exchange of plant genetic resources for food and agriculture not included in *Annex I* to the Treaty in accordance with its terms and conditions of the Multilateral System;
2. *Decides* to further review such use of the Standard Material Transfer Agreement at its Sixth Session.