



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



**The International Treaty**  
**ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE**

**E**

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

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

**Rome, Italy, 2 October 2015**

**Draft Annotated Provisional Agenda and Timetable**

**OVERVIEW**

1. The Governing Body, in establishing this Working Group, agreed that it will draft and prepare for consideration and decision of the Governing Body the range of measures it proposes to enhance the functioning of the Multilateral System.
2. The Working Group, in the report of the third meeting, which contains its conclusions and recommendations to the Governing Body, set out six *Proposed tasks for further work* and requested the Bureau of the Sixth Session of the Governing Body to consider the possibility of reconvening the Working Group just before the Sixth Session of the Governing Body.
3. The Bureau agreed to the Working Group's request to reconvene for its fourth meeting commencing on Friday, 2 October. The Bureau proposed the Working Group to undertake a first reading of the revised SMTA and the elements of a Subscription Model/System and then elaborate a plan on how it would finalize the presentation of the package of measures, and not any individual measures within such package, and the process to follow during the next biennium to finalize the package, as embodied in Resolution 1/2015. Such plan will be undertaken by meeting on the evenings of 5 and 6 October, and possibly 7 October, so that the Governing Body can consider for adoption the relevant Resolutions.
4. The six *Proposed tasks for further work* agreed by the Working Group, at its third meeting, are as follows. Task (a) foresees the incorporation into a revised SMTA of the Subscription Model/System, primarily through revision of Article 6.11, for consideration by the Governing Body at its Sixth Session. Task (b) requires that payment rates be considered at the same time. Task (c) foresees the preparation of a draft amendment of, or Protocol to, the Treaty, to extend its crop coverage, in harmony with enhanced benefit-sharing provisions. Task (d) foresees the development of a mechanism of contributions by Contracting Parties that will ensure sustained and predictable income to the Benefit-sharing Fund. Task (e) and (f) relate to developing a target and a long-term investment strategy for the Benefit-sharing Fund.
5. The Working Group requested the Secretariat to prepare a revised SMTA, a Registration Form, and other relevant materials. As guidance for the Secretariat in this task, the Working Group appended to its report:

---

*This document is printed in limited numbers to minimize the environmental impact of FAO's processes and contribute to climate neutrality. Participants are kindly requested to bring their copies to meetings and to avoid asking for additional copies.*

- A list of elements that could be part of a Subscription Model/System and identified alternative features still to be resolved (*Appendix 2*);
  - A list of elements that should be considered, in order to improve the SMTA, and to enhance user-based payments to the Benefit-sharing Fund, including by making the SMTA more user-friendly (*Appendix 3*).
6. On the basis of this guidance, and following consultations with the Co-chairs, these documents have been prepared:
- *Draft revised Standard Material Transfer Agreement*;<sup>1</sup>
  - *Commentary on Structural Elements for the Development of a Subscription Model/System*;<sup>2</sup>
  - *Possible objectives and elements of a Protocol to the International Treaty*;<sup>3</sup>
  - *Exploring a proposal to develop a mechanism of contributions by Contracting Parties to the Benefit-Sharing Fund*.<sup>4</sup>
7. The document *Draft revised Standard Material Transfer Agreement*, provides a fully articulated text of those parts of the SMTA, where it appeared possible to do so. When there was a diversity of opinions regarding a particular matter, and the range of opinions could be reduced to clear options, expressible in alternative text, this has been done. When the diversity of opinions could not be reduced to clear alternatives, this is noted. A number of technical formulations have been proposed, which would allow the various options still under consideration to be taken into account within the overall SMTA, in coherent manner. These relate, in particular, to the way in which mandatory and voluntary payments may be structured, and the way in which payment rates in the different options under consideration can be established, through a consistent methodology.
8. The document *Commentary on Structural Elements for the development of a Subscription Model/System* analyses in detail the changes needed to finalize the SMTA, and reflects the areas in which substantive agreement appears to have already been reached, and those matters where there is still no agreement. The major decisions that need to be taken regarding the structure of the SMTA, and, indeed, the Treaty's user-based benefit-sharing system, are identified. These relate, in particular, to: (a) the relationship of the Subscription Model/System to possible access on an individual accession basis; (b) whether the Subscription Model/System should function on a crop-by crop-basis, or apply to all crops; (c) those product categories that should be subject to mandatory payments; (d) the level and inter-relationship of payments under the various options, for different product categories; and (e) the possibility of exempting certain categories of users from payment.
9. This approach has made it possible to prepare full draft text for the Subscription Model/System, in so far as this can be encompassed in an SMTA, which was the priority expressed by the Working Group.

---

<sup>1</sup> IT/OWG-EFMLS-4/15/3

<sup>2</sup> IT/OWG-EFMLS-4/15/4

<sup>3</sup> IT/OWG-EFMLS-4/15/Inf. 4

<sup>4</sup> IT/OWG-EFMLS-4/15/Inf.5.

10. It should be noted, however, that the analysis undertaken shows that a fully functional Subscription Model/System, which is able to attract users, by reducing transaction costs and providing legal certainty to plant breeders, cannot be provided through the SMTA alone, for legal reasons. This is because the SMTA is a commercial contract between two private persons (the Provider and Recipient), which governs only the specific materials transferred under that SMTA, and cannot deal with more general matters, such (1) the right to exchange materials between subscribers, without SMTAs, and (2) legal certainty regarding the Treaty and the CBD and its Nagoya Protocol, in this context.

11. Careful consideration of the legal and practical aspects of creating a Subscription System/Model, including the need for a subscribers' Register, in a separate legal instrument, in addition to the SMTA, leads to the conclusion that an amendment of, or Protocol to, the Treaty would be the most appropriate forms of completing such a system, and would need to be addressed, at the same time that a revised SMTA is adopted. This is item (c) of the *Proposed tasks for further work*, and the document, *Possible objectives and elements of a Protocol to the International Treaty*, provides information on the structural elements that might be needed in a Protocol.

12. The document, *Exploring a proposal to develop a mechanism of contributions by Contracting Parties to the Benefit-Sharing Fund*, addresses item (d) of the *Proposed tasks for further work* and therefore reviews the discussions to date of this subject, and the structural elements that a proposal for exploring such mechanism may contain.

13. The wide range of submissions to the Working Group from Contracting Parties and stakeholders regarding the development of the Subscription Model/System and the revised SMTA are available in document *Submissions received by the Working Group during the biennium, in preparation for the Subscription System and the Draft Revised Standard Material Transfer Agreement*.<sup>5</sup>

---

<sup>5</sup> IT/OWG-EFMLS-4/15/Inf.3.

### **ITEM 1. OPENING OF THE MEETING**

14. The Co-chairs will briefly outline how they propose to structure the deliberations of the Working Group during its fourth meeting, and during the Sixth Session of the Governing Body, if it agrees that the Working Group may meet in parallel.

15. The Chairman of the Governing Body will briefly describe how he proposes to deal with the request of the Working Group for such a meeting, where he will schedule the presentation of the verbal report of the Co-chairs, and how he proposes to handle item 8 of the Governing Body's Draft Provisional Agenda, *Enhancement of the Functioning of the Multilateral System of Access and Benefit-sharing*, and in particular the importance of making progress to enable decision-making by the Governing Body, and in particular the adoption of its Resolutions.

### **ITEM 2. ADOPTION OF THE AGENDA AND TIMETABLE**

16. In deciding its agenda and timetable, the Working Group may wish to note that provision has been made not only for two sessions of three hours during the day, but, should it be necessary, an evening session as well.

### **ITEM 3. FIRST READING OF THE REVISED STANDARD MATERIAL TRANSFER AGREEMENT AND CONSIDERATION OF THE ELEMENTS THAT WOULD NEED TO BE ADDRESSED TO COMPLETE A SUBSCRIPTION MODEL/SYSTEM**

17. Under this agenda item, the Working Group will review the documents prepared for this meeting, and undertake a first summary reading of the *Draft Revised Standard Material Transfer Agreement* as well as the other relevant documents, with an eye, in particular, to (1) the adoption of the relevant enabling resolutions by the Governing Body, and (2) the Working Group's role in this context, should it meet during the Session, as well as to (3) the preparations for its work in the 2016–2017 biennium.

### **ITEM 4. DRAFT RESOLUTIONS FOR THE CONSIDERATION OF THE GOVERNING BODY**

18. The Secretary is required to provide the Governing Body with such a draft resolution for all substantive items of its agenda about which decisions need to be taken. At its third meeting, the Working Group briefly reviewed a draft resolution on the enhancement of the Multilateral System, and submissions were made on some of the text. The Secretariat has since reworked that draft resolution, in particular to reflect the *Proposed tasks for further work*.

19. Two separate but related draft resolutions have been prepared, and forwarded to the Governing Body:

- IT/GB-6/15/6 Add 1, Draft Resolution 1/2015, *Measures to enhance the functioning of the Multilateral System of Access and Benefit-Sharing*;

- IT/GB-6/15/11, *Report on the Funding Strategy* (Appendix), *Draft Resolution 2/2015, Implementation of the Funding Strategy of the International Treaty*.
20. This is because the report of the Working Group not only covered matters of its immediate mandate, but also proposed further work regarding the Funding Strategy that are relevant to benefit-sharing and will be in support of enhancing the Multilateral System, which could be more properly addressed during the next biennium by the *Ad Hoc* Advisory Committee on the Funding Strategy, if reconvened.
21. Draft Resolution 1/2015 therefore covers the following of the *Proposed tasks for further work*: (a) the revision of the SMTA and the Subscription Model/System; (b) payment rates; (c) a draft amendment of, or Protocol to, the Treaty; and (d) a mechanism of contributions by Contracting Parties. It also foresees the further postponement of the reviews foreseen under Articles 11.4 and 13.2d(ii) of the Treaty, and measures to increase the availability of plant genetic resources for food and agriculture through the Multilateral System.
22. Draft Resolution 2/2015 covers (e) the target for the income to the Benefit-sharing Fund for the 2018–2023 period; and (f) a long-term investment strategy for the Benefit-sharing Fund, as well as matters specific to the Funding Strategy that are not the main concern of the Working Group.
23. These draft resolutions will be discussed and, if necessary, amended, in the light of discussions during the Governing Body, and it is likely that the Working Group will be requested to finalize them, for consideration for adoption with the Report of the Sixth Session. The Working Group may wish to discuss how to programme such work, if it does in fact meet during the Sixth Session. The Working Group may wish in particular to explore and elaborate on these or other proposals to support the work of the Governing Body, at its Sixth Session, if so agreed:
- The Working Group will finalize Resolution 1/2015 and 2/2015, as they have been prepared based on the recommendations and conclusions made by the Working Group, at its third meeting;
  - The Working Group will concentrate in finalizing Resolution 1/2015, which contains, if reconvened, the proposed tasks for further work of the Working Group for the next biennium, and will just acknowledge that Resolution 2/2015 contains recommendations from the Working Group on further work on the Funding Strategy and emphasize the importance of coordinating the work during next biennium on the enhancement of the functioning of the Multilateral System and of the Funding Strategy.

**ITEM 5. ADOPTION OF THE CONSOLIDATED REPORT ON THE  
DELIBERATIONS OF THE AD HOC OPEN-ENDED WORKING GROUP  
TO ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM,  
DURING THE 2014–2015 BIENNIUM**

24. The Working Group's current meeting is being held immediately preceding the session of the Governing Body. For this reason, there will be very little time in which to prepare, translate, and send documents to the Governing Body, as the rules of procedure provide. For that reason, the two documents, IT/OWG-EFMLS-4/15/3: *Commentary on Structural*

*Elements for the Development of a Subscription Model/System*, and IT/OWG-EFMLS-4/15/3: *Draft revised Standard Material Transfer Agreement*, have been prepared as if they are addressed by the Working Group to the Governing Body, for consideration at this session. They have also already been translated into all Treaty languages.

25. The report of the Working Group's third meeting was translated and has been submitted to the Governing Body, as the working document, IT/GB-6/15/6, so that, in order to comply with the Rules of Procedure, it be at the disposal of the Contracting Parties well before the meeting.

26. However, full reporting on the deliberations of the Working Group during the biennium means that the fourth meeting also needs to be covered. The cover page of document IT/GB-6/15/6 therefore states that a *Consolidated Final Report* will be issued as IT/GB-6/15/6 rev. 1, to take into account the outcome of the current meeting. Given the very tight schedule for preparation of *Consolidated Final Report*, and translation of any additional text into all Treaty languages, Appendix 2 of this document contains the framework of such a draft consolidated report, prepared in consultation with the Co-Chairs, for the consideration of the Working Group. It is substantially the same, with a few deletions of text that no longer applies, and the following new elements, **washed in colour, for easy identification**:

- A statement of the Working Group's mandate, and of the election of the Co-chairs (paragraphs 1 to 4);
- A statement of the documents prepared for, and reviewed at this meeting (paragraph 10);
- Transmission of the working documents to the Governing Body, and a recommendation that its mandate be extended for the 2016-2017 biennium (paragraphs 18 and 19);
- The proposal that the Working Group meet during the Sixth Session.

27. Given the very tight translation schedule, the Working Group is requested to be succinct in any text it may wish to add to the *Consolidated Final Report*, which will be made available in all languages during the morning of Saturday 3 October, for use during the meetings of the Regional Groups.

## APPENDIX 1

## DRAFT PROVISIONAL TIMETABLE

Friday, 2 October 2015

Time	Agenda Item	Title	Documents
10:00 – 13:00	1	Opening of the meeting	
	2	Adoption of the Agenda and Timetable	IT/OWG-EFMLS-4/15/1 IT/OWG-EFMLS-4/15/2
	3	First Reading of the Revised Standard Material Transfer Agreement, and consideration of the elements that would need to be addressed in a Subscription Model/System	IT/OWG-EFMLS-4/15/3 IT/OWG-EFMLS-4/15/4 IT/OWG-EFMLS-4/15/Inf.4 IT/OWG-EFMLS-4/15/Inf.5 IT/OWG-EFMLS-4/15/Inf.3
15:00 – 18:00	4	Draft Resolutions of the Governing Body, reflecting the outcome of the Working Group's work, and preparations for:  (a) A possible meeting of the Working Group during the Sixth Session of the Governing Body, and  (b) Proposed work during the 2016-2017 biennium, to finalize all necessary instruments for consideration for adoption by the Governing Body, at its Seventh Session	IT/GB-6/15/6 Add. 1 IT/GB-6/15/11 (Appendix)
19:30 – 22:30 (if necessary)	5	Adoption of The Consolidated Report on the Deliberations of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System, during the 2014–2015 biennium	IT/OWG-EFMLS-4/15/2 (Appendix 2) = IT/GB-6/15/6 Rev.1



**APPENDIX 2**

**DRAFT CONSOLIDATED REPORT ON THE DELIBERATIONS  
OF THE *Ad Hoc* OPEN-ENDED WORKING GROUP  
TO ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM,  
DURING THE 2014–2015 BIENNIUM**





Food and Agriculture  
Organization of the  
United Nations



**The International Treaty**  
ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE

**E**

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

**SIXTH SESSION OF THE GOVERNING BODY**

**ITEM 8 OF THE PROVISIONAL AGENDA  
ENHANCEMENT OF THE FUNCTIONING OF THE MULTILATERAL SYSTEM  
OF ACCESS AND BENEFIT-SHARING**

**Rome, Italy, 2 October 2015**

**CONSOLIDATED REPORT ON THE DELIBERATIONS OF  
THE *AD HOC* OPEN-ENDED WORKING GROUP TO ENHANCE THE  
FUNCTIONING OF THE MULTILATERAL SYSTEM,  
DURING THE 2014–2015 BIENNIUM**

**Executive Summary**

The Working Group met four times during the biennium, with its fourth meeting on 2 October, immediately preceding the Sixth Session of the Governing Body.

Given the time required for translation and document processing, and in order to provide the Governing Body, in good time, with the Working Group's conclusions and recommendations resulting from its deliberations during the 2014–2015 biennium, the Report of the third meeting (1–5 June 2015) was submitted to the Governing Body, as document IT/GB-6/15/6.

However, in the light of the substantial progress that was achieved in the third session, the Bureau decided that a fourth meeting of the Working Group should be held on 2 October 2015, to take advantage of the presence of most of its members at the session of the Governing Body, and the current *Consolidated Report* has been updated to reflect the outcome of this fourth meeting. It replaces the earlier of document IT/GB-6/15/6.

## I. INTRODUCTION

1. At its Fifth Session, the Governing Body established the Working Group, by Resolution 2/2013, with the mandate :

*To develop a range of measures for consideration and decision by the Governing Body at its Sixth Session that will:*

- (a) *Increase user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner, and*
- (b) *Enhance the functioning of the Multilateral System by additional measures.*

2. Line (a) and line (b) were to be addressed in subsequent meetings, respectively.

3. The Governing Body requested the preparation of a number of short, preliminary studies,<sup>6</sup> on the basis of which the Working Group would:

- (a) *Review the functioning of the Multilateral System and the SMTA, in particular, the benefit-sharing provisions of the SMTA;*
- (b) *Analyse the options to enhance the functioning of the Multilateral System;*
- (c) *Consult with relevant Stakeholder Groups; and*
- (d) *Draft and prepare for consideration and decision of the Governing Body the range of measures that it proposes.*

4. At its first meeting, the Working Group elected Mr Modesto Fernandez (Cuba) and Mr Bert Visser (The Netherlands) as its two Co-Chairpersons. It held four meetings, during the biennium.<sup>7</sup>

5. The Working Group reviewed the progress that has been made during the biennium, in the development of the measures by which the functioning of the Multilateral System could be enhanced. These are:

- I. Increase the availability of plant genetic resources for food and agriculture through the Multilateral System;*
- II. Strengthen non-monetary benefit-sharing mechanisms, such as capacity-building, technology transfer and information exchange;*

---

<sup>6</sup> IT/OWG-EFMLS-2/14/3. Synoptic Study 1: Estimating Income To Be Expected From Possible Changes In The Provisions Governing The Functioning Of The Multilateral System. IT/OWG-EFMLS-2/14/4. Synoptic Study 2: Policy And Legal Study On The Feasibility And Effects Of Changes To The Multilateral System.

IT/OWG-EFMLS-2/14/5. Synoptic Study 3: An Analysis On How To Enhance Mechanisms For Capacity-Building, Technology-Transfer And Information-Exchange.

IT/OWG-EFMLS-2/14/6. Synoptic Study 4 : Consultation with Stakeholder Groups.

All these documents are available on line at <http://www.planttreaty.org/content/second-meeting-ad-hoc-open-ended-working-group-enhance-functioning-multilateral-system-access>.

<sup>7</sup> First meeting, 14–16 May 2014; second meeting, 8–11 December 2014; third meeting, 1–5 June 2015; fourth meeting, 2 October 2015.

III. *Develop a Subscription Model/System for users of plant genetic resources for food and agriculture under the Treaty;*

IV. *Other improvements to the SMTA to increase user-based payments and make it more user-friendly;*

V. *Other ways to enhance income to the Benefit-sharing Fund in a sustainable and predictable long-term manner; and,*

VI. *Expand the access and benefit-sharing provisions of the Treaty.*

6. The Working Group noted that not all tasks under the mandate had been finalised, and agreed to recommend that the Governing Body complete the package of measures, as described below. The Working Group welcomed the submissions received from Members of the Working Group, regional groups, and stakeholders, which, for ease of reference are contained in IT/OWG-EFMLS-4/15/Inf.3, *Submissions received by the Working Group during the biennium, in preparation for the subscription system and the Draft Revised Standard Material Transfer Agreement.*

7. The Working Group accordingly concentrated on the further development of a possible Subscription Model/System, as all Regions expressed substantial support for such a measure. It therefore developed a list of elements that could be part of a Subscription Model/System and identified alternative features yet to be resolved.

8. The Working Group discussed ways in which a Subscription Model/System could be developed and implemented, and agreed that a step-by-step approach should be followed. The first step would be the incorporation of the Subscription Model/System into a revised SMTA.

9. To enable the adoption by the Governing Body, at its Sixth Session, of a revised SMTA that includes provision for the Subscription Model/System, the Secretariat was requested to prepare a revised SMTA, a Registration Form, and other relevant materials.

10. At its final session, held on 2 October 2015, back-to-back with the Sixth Session of the Governing Body, the Working Group reviewed the documents that had been prepared:

- *Draft revised Standard Material Transfer Agreement;*<sup>8</sup>
- *Commentary on Structural Elements for the Development of a Subscription Model/System;*<sup>9</sup>
- *Possible objectives and elements of a Protocol to the International Treaty;*<sup>10</sup>
- *Exploring a proposal to develop a mechanism of contributions by Contracting Parties to the Benefit-Sharing Fund.*<sup>11</sup>

<sup>8</sup> IT/OWG-EFMLS-4/15/3

<sup>9</sup> IT/OWG-EFMLS-4/15/4

<sup>10</sup> IT/OWG-EFMLS-4/15/Inf. 4

<sup>11</sup> IT/OWG-EFMLS-4/15/Inf.5.

## II. CONCLUSIONS AND RECOMMENDATIONS

11. The Working Group has discussed in considerable detail a number of elements that need to be addressed in the final package of measures to be prepared for the consideration and decision by the Governing Body.

12. While there is substantial agreement on a number of elements — in particular the interest in establishing a Subscription Model/System, as the primary payment mechanism in the Treaty's access and benefit-sharing system — consensus has not yet been reached on certain elements, where various options remain for consideration.

13. The fact that many actors are involved in the process — governments of Contracting Parties to the Treaty, as well as the seed sector and farmers organizations— requires the development of sound mechanisms, able to attract more providers and users and to enhance the functioning of the Multilateral System, which take into account the many developments over the fourteen years since the adoption of the Treaty.

14. The Working Group recalls that the Multilateral System has not achieved all objectives for which it was constructed. While it has made good improvement regarding access with an increasing number of SMTAs, it has not achieved its monetary benefit-sharing functions, and availability under the MLS. To date, there has been no SMTA-based payment to the Benefit-sharing Fund. A failure to overcome the structural problems in the current working of the Multilateral System will put the future of the Treaty as a whole at risk.

15. It further agrees that these structural problems, such as transaction costs, the avoidance of SMTA material and the problem of voluntary payments, alternative sources of materials, the variation of the levels of payment, and different categories of recipient, cannot be overcome by revision of the SMTA alone, but recognizes some immediate changes could be done to make early progress on this.

16. The Working Group accordingly *recommends* to the Governing Body at its Sixth Session that it consider how the remaining work can best be concluded. Elements of the remaining work are identified below.

17. The Working Group *recommends* to the Governing Body that the following documents would constitute the basis for continuing its work during the next biennium:

- *Draft revised Standard Material Transfer Agreement*,<sup>12</sup> which is contained in *Appendix 1* of this Report;
- *Commentary on Structural Elements for the Development of a Subscription Model/System*,<sup>13</sup> which is contained in *Appendix 2* of this Report;
- *Possible objectives and elements of a Protocol to the International Treaty*,<sup>14</sup> which is contained in *Appendix 3* of this Report;
- *Exploring a proposal to develop a mechanism of contributions by Contracting Parties to the Benefit-Sharing Fund*,<sup>15</sup> which is contained in *Appendix 4* of this Report;

---

<sup>12</sup> IT/OWG-EFMLS-4/15/3

<sup>13</sup> IT/OWG-EFMLS-4/15/4

<sup>14</sup> IT/OWG-EFMLS-4/15/Inf. 4

18. The Working Group *draws attention* to the textbox that follows, which contains the *Proposed tasks for further work* that it proposes undertaking in the 2016-2017 biennium. The Working Group believes that, on the basis of these documents and these proposed tasks, a coherent packet of measures could be prepared for consideration for adoption by the Governing Body, at its Seventh Session. It therefore *recommends* to the Governing Body that its mandate be extended for the forthcoming biennium.

19. In this context, the Working Group notes that, as the Funding Strategy adopted by the Governing Body provides, the resources under its direct control— that is, the Benefit-sharing Fund — include both user-based income and contributions by Contracting Parties and stakeholders, and *recommends* that all such 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.

20. The Working Group *recommends* a further process, to address current concerns regarding structural components of the Treaty, such as: the Funding Strategy, the Global Information System, the promotion of sustainable use, and Farmers' Rights, as well as the relationship with the implementation of the Nagoya Protocol. The strengthening of such components will support the of the Multilateral System. This will require some far-reaching decisions by the Governing Body, on the basis of which new mechanisms can be developed in a more complete form.

#### **Proposed tasks for further work**

- a. As a first step, to elaborate the elements for a Subscription Model/System for user-based payments within the Multilateral System, which encourages the extensive use of the plant genetic resources for food and agriculture it contains, and therefore ensures sustainable and predictable income to the Benefit-sharing Fund, by revising the current SMTA.
  - i. [To design the Subscription Model/System as the benefit-sharing mechanism following access to the plant genetic resources for food and agriculture in the Multilateral System.]
  - ii. [To also explore an alternative benefit-sharing mechanism for occasional access to, and use of, individual samples from the Multilateral System. To design this alternative mechanism in such a way that:
    1. [all commercialization of products derived from materials received will lead to mandatory benefit-sharing, as in the current SMTA Article 6.7, possibly against different rates.] OR
    2. [voluntary benefit-sharing is retained as the payment option for products freely available for further research, breeding and training, as in the current SMTA Article 6.8.]]
  - iii. For each benefit-sharing mechanism proposed, to overcome the stumbling blocks to use of germplasm from the Multilateral System that have been identified, including the lack of termination provisions in the SMTA.

<sup>15</sup> IT/OWG-EFMLS-4/15/Inf.5.

- b. This first step should include consideration of payment rates within the Treaty's access and benefit-sharing, taking into account the role of the Contracting Parties.
- c. As a second step, to prepare a draft [amendment to the Treaty] / [Protocol to the Treaty] completing the Subscription Model/System and extending the crop coverage to [the scope of the Treaty itself, namely all plant genetic resources for food and agriculture,] [a defined list of crops], in harmony with enhanced benefit-sharing provisions.
- d. To explore a proposal to develop a mechanism of contributions by Contracting Parties that will ensure sustainable and predictable income to the Benefit-Sharing Fund and other elements of the Funding Strategy, such as an amendment to the Funding Strategy.
- e. To propose a target for the income to the Benefit-sharing Fund for the 2018–2023 period, that is meaningful and realistic, recognizing that the opinions of how to arrive at the target still show divergence. The target should be based on such factors as: the current amount needed for the project cycle, allowing for incremental growth, in each cycle; a needs analysis that takes into account information sources such as the FAO *The Global Plan of Action on Plant Genetic Resources for Food and Agriculture*.
- f. To explore the long-term investment strategy for the Benefit-sharing Fund.

21. The Working Group further notes that it has not yet been possible to provide reasoned estimates of the likely income to the Benefit-sharing Fund that could result from the various payment options, because user-based income will depend first and foremost upon the attractiveness of the revised Multilateral System and the actual willingness of users to access material from the Multilateral System. Reasoned estimates will support meaningful decision-making. It therefore **recommends** that, in further developing the payment options, users be requested to express their willingness to use such options, and in this context project the likely income to the Benefit-sharing Fund.

22. In the context of mobilizing donor support to activities under the Benefit-sharing Fund, the Working Group **recommends** that the Governing Body reconsider the current arrangements for projects carried out in the framework of the Benefit-sharing Fund, by strengthening the programmatic approach, in order to make support to the Benefit-sharing Fund more attractive:

1. By providing greater predictability to prospective donors, regarding the planned activities and targeted outputs and impacts of proposed projects, in order to enable them to make informed decisions regarding their potential contributions;
2. By improving thematic coherence between individual projects, and project cycles;
3. By developing a long-term investment strategy, with objectives and results;
4. By promoting synergy between the Benefit-sharing Fund and the Funding Strategy, of which the Benefit-sharing Fund is a part; and
5. By considering the feasibility and desirability of a donor council, or some similar body, to support the implementation of the Treaty.

23. The Working Group draws to the attention of the Governing Body that currently known income to the Benefit-sharing Fund is not adequate to maintain the forthcoming fourth project cycle at anything like the current levels. It therefore recommends that the Governing Body

call on Contracting Parties to contribute funds to the Benefit-Sharing Fund on an ad hoc interim basis, for the years 2015–2017, in order to maintain momentum in the reshaping of the Multilateral System.

### **III. PROPOSED MEETING OF THE WORKING GROUP DURING THE SIXTH SESSION OF THE GOVERNING BODY**

24. Provision has been made for the Working Group to be able to meet on three evenings during the session of the Governing Body. It *requests* the agreement of the Governing Body to doing so, with the object of preparing its work in the next biennium, and finalizing Draft Resolution 1/2105, *Measures to enhance the functioning of the Multilateral System of Access and Benefit-Sharing*, and Resolution 2/2105, *Implementation of the Funding Strategy of the International Treaty*, for the consideration of the Governing Body in the adoption of its report.

**DRAFT CONSOLIDATED REPORT ON THE DELIBERATIONS OF THE AD HOC  
OPEN-ENDED WORKING GROUP TO ENHANCE THE FUNCTIONING OF THE  
MULTILATERAL SYSTEM, DURING THE 2014–2015 BIENNIUM**

**LIST OF APPENDIXES**

---

*Appendix 1: Draft revised Standard Material Transfer Agreement (IT/OWG-EFMLS-4/15/3)*

*Appendix 2: Commentary on Structural Elements for the Development of a Subscription Model/System (IT/OWG-EFMLS-4/15/4)*

*Appendix 3: Possible objectives and elements of a Protocol to the International Treaty (IT/OWG-EFMLS-4/15/Inf. 4)*

*Appendix 4 Exploring a proposal to develop a mechanism of contributions by Contracting Parties to the Benefit-Sharing (OWG-EFMLS-4/15/Inf.5)*