

December 2012

E



منظمة الأغذية  
والزراعة للأمم  
المتحدة

联合国  
粮食及  
农业组织

Food and  
Agriculture  
Organization  
of the  
United Nations

Organisation des  
Nations Unies  
pour  
l'alimentation  
et l'agriculture

Продовольственная и  
сельскохозяйственная  
организация  
Объединенных  
Наций

Organización  
de las  
Naciones Unidas  
para la  
Alimentación y la  
Agricultura

# COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

## Item 11 of the Provisional Agenda

### Fourteenth Regular Session

Rome, 15 – 19 April 2013

## THE COMPOSITION OF THE COMMISSION'S INTERGOVERNMENTAL TECHNICAL SECTORAL WORKING GROUPS

### Table of Contents

	Paragraphs
I. Introduction.....	1-2
II. Background .....	3-5
III. Geographical balance of Sectoral Working Groups .....	6-13
IV. Geographical balance of other bodies.....	14
V. Change in the composition of Sectoral Working Groups .....	15-16
VI. Guidance sought .....	17

## I. INTRODUCTION

1. At its Thirteenth Regular Session, the Commission on Genetic Resources for Food and Agriculture (Commission) agreed to consider at its next session, the composition of its intergovernmental technical sectoral working groups (Sectoral Working Groups). It requested the Secretary to provide relevant background information to the Commission for its consideration.<sup>1</sup>
2. This document gives some background information on the existing Sectoral Working Groups, briefly summarizes their legal basis, including composition, and provides information on other bodies which aim to include in the membership of their subsidiary bodies a balanced geographical representation of their Members. The document also explains how the composition of Sectoral Working Groups may be changed.

## II. BACKGROUND

3. According to Article 3 of its Statutes,<sup>2</sup> the Commission may establish intergovernmental technical sectoral working groups ("Sectoral Working Groups"), with appropriate geographical balance, to assist it in the areas of plant, animal, forestry and fisheries genetic resources. The purpose of the Sectoral Working Groups shall be to review the situation and issues related to agrobiodiversity in the areas under their respective competences, to advise and make recommendations to the Commission on these matters and to consider the progress made in implementing the Commission's programme of work, as well as any other matters referred to them by the Commission. The composition and terms of reference for each Sectoral Working Group shall be established by the Commission.
4. The Commission, at its Seventh Regular Session in 1997, established two Sectoral Working Groups: the Intergovernmental Technical Working Group on Animal Genetic Resources for Food and Agriculture and the Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture.<sup>3</sup> At its Twelfth Regular Session in 2009, the Commission established the Intergovernmental Technical Working Group on Forest Genetic Resources.<sup>4</sup>
5. The Members of the Sectoral Working Groups are elected at each regular session of the Commission and serve until the next regular session of the Commission. Each Working Group is composed of twenty-seven Member Nations from the following regions:
  - 5 from Africa
  - 5 from Europe
  - 5 from Asia
  - 5 from Latin America and the Caribbean
  - 3 from the Near East
  - 2 from North America
  - 2 from Southwest Pacific.<sup>5</sup>

## III. GEOGRAPHICAL BALANCE OF SECTORAL WORKING GROUPS

6. By the Commission's Statutes, Sectoral Working Groups are required to have an "appropriate geographical balance." However, as the Statutes do not provide any guidance as to what an appropriate geographical balance is, they leave a large margin of interpretation to the Commission in deciding on

---

<sup>1</sup> CGRFA-13/11/Report, paragraph 122.

<sup>2</sup> See also Rule VIII of the Commission's Rules of Procedure.

<sup>3</sup> CGRFA-7/97/REP, paragraph 10.

<sup>4</sup> CGRFA-12/09/Report, paragraph 55.

<sup>5</sup> See Article II of the Statutes of the three existing Sectoral Working Groups.

the composition of its Sectoral Working Groups. Ultimately, the decision on the composition of the Working Group lies with the Commission.

7. Unfortunately, little information is available as to the criteria the Commission applied in the past when it decided on the composition of its Sectoral Working Groups. Neither the reports of the Seventh and the Twelfth Regular Sessions, at which the Commission established its Sectoral Working Groups, nor the pre-session documentation prepared for these sessions provide any conducive information regarding the composition of the Sectoral Working Groups.

8. While a look back into the history of the Commission demonstrates that the establishment of working groups has been part of the Commission's *modus operandi* since its early years, official documents do not reveal the underlying rationale for the geographical balance accepted for them.

9. In 1985, the then Commission on Plant Genetic Resources established a Working Group of the Commission on Plant Genetic Resources with the mandate "to consider the progress made in implementing the Commission's programme of work and any other matters referred to it by the Commission."<sup>6</sup> This Working Group of the Commission on Plant Genetic Resources was made up of a Chair<sup>7</sup> and 23 members of the Commission with the following regional distribution:

- 5 representatives from Africa
- 5 representatives from Europe
- 4 representatives from Asia
- 4 representatives from Latin America and the Caribbean
- 3 representatives from the Near East
- 1 representative from North America
- 1 representative from Southwest Pacific.<sup>8</sup>

10. At its Fifth Regular Session in 1993, the Commission reviewed the terms of reference of its Working Group. While the Commission stressed the need to provide observer status to members of the Commission that were not members of the Working Group, it reaffirmed the composition of the Working Group without, however, providing an explanation in the report of the meeting.<sup>9</sup> The Working Group itself reviewed draft terms of reference and procedures for the Working Group, at its Ninth Session. While the meeting report states that the procedure for electing Working Group members was discussed at some length, there is no indication that that the geographical balance as such played a role in the discussions.<sup>10</sup>

11. The Commission, at its Sixth Regular Session, decided to allow members of the Commission who were not members of the Working Group to participate in sessions of the Working Group, in an observer capacity. But the report of the meeting does not indicate any discussions with regard to the Working Group's geographical balance.

12. No records of any negotiations preceding the establishment of the Sectoral Working Groups on plant and animal genetic resources in 1997 are available.

13. In 2009, when the Commission established the Intergovernmental Technical Working Group on Forest Genetic Resources, it accepted without further discussion the same geographical balance for this group as it applies to the other Sectoral Working Groups.<sup>11</sup> The same geographical balance was also accepted in 2011 when the Commission established, in accordance with Article 5 of its Statutes,

---

<sup>6</sup> CPGR/85/REP, paragraph 78.

<sup>7</sup> At its first session, the Commission decided that its Chair should chair the Working Group (CPGR/85/Rep, paragraph 80). At its second session, the Commission decided that its First Vice-Chair should chair the Working Group (CPGR/87/REP, paragraph 80). At its fourth session, "the procedures for selecting members of the Working Group, and its Chairman, were discussed, and the view was expressed that this should be done on the basis of a system of rotation " (CPGR/91/REP, paragraph 112).

<sup>8</sup> CPGR/85/REP, paragraphs 78-80.

<sup>9</sup> CPGR/93/REP, paragraph 86.

<sup>10</sup> CPGR-EX1/94/2, paragraphs 28-32.

<sup>11</sup> CGRFA-12/09/Report, paragraph 55.

the Ad Hoc Technical Working Group on Access and Benefit-sharing for Genetic Resources for Food and Agriculture.<sup>12</sup>

#### IV. GEOGRAPHICAL BALANCE OF OTHER BODIES

14. The Commission has been established under Article VI of the FAO Constitution. Many statutory bodies, established under Article VI or under Article XIV of the FAO Constitution, may establish subsidiary bodies which usually fall in one of two categories. They are advisory bodies composed of experts, serving in their personal capacity, or intergovernmental bodies composed of representatives of Members of the statutory bodies. The Commission's Sectoral Working Groups belong to the latter category. Among the subsidiary bodies of statutory bodies established under Articles VI or XIV of the FAO Constitution, the composition of the Commission's Sectoral Working Groups appears to be unique. Many subsidiary bodies of FAO's statutory bodies are open to all Members of the statutory body which established them. However, there are subsidiary bodies in the category of the Commission's Sectoral Working Groups with restricted membership and a specific regional distribution of seats:

- The Subsidiary Body on Dispute Settlement (SBDS) of the Commission on Phytosanitary Measures (CPM) consists, for example, of "7 members, one member drawn from each of the FAO Regions."<sup>13</sup>
- The Compliance Committee established by the Governing Body of the International Treaty consists of "a maximum of 14 members, being up to two from each of the FAO regions and not more than one from a Contracting Party."<sup>14</sup>
- The *Ad Hoc* Advisory Technical Committee on the Standard Material Transfer Agreement and the Multilateral System established by the Governing Body of the International Treaty, which comprises "up to two members, designated by each Region and up to five technical experts, including representatives of the CGIAR, serving as observers."<sup>15</sup>
- The Executive Committee of the FAO/WHO Codex Alimentarius Commission consists of the "Chairperson and the Vice-Chairpersons of the Commission, and the Coordinators appointed on the basis of Rule IV together with seven further Members elected by the Commission at regular sessions from among the Members of the Commission, one each coming from the following geographic locations: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, South-West Pacific".<sup>16</sup>

#### V. CHANGE IN THE COMPOSITION OF SECTORAL WORKING GROUPS

15. The Commission's authority to establish Sectoral Working Groups in line with Article 3 of the Commission's Statutes implies the right to change the composition of existing Sectoral Working Groups. Any change of the composition should be reflected in the Statutes of the Sectoral Working Groups which the Commission may amend by consensus.<sup>17</sup>

16. Under Article 6 of the Commission Statutes, the Commission before taking any decision involving expenditure in connection with the establishment of Subsidiary Bodies, shall have before it a report from the Director-General on the programme, administrative and financial implications thereof.

<sup>12</sup> CGRFA-13/11/Report, paragraph 60.

<sup>13</sup> Terms of Reference and Rules of Procedure for the Subsidiary Body on Dispute Settlement (CPM-1 (2006)/Report, *Appendix V*), Article 3.

<sup>14</sup> Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-Compliance (IT/GB-4/11/Report, Annex to Appendix A.2), Article III.2.

<sup>15</sup> Terms of Reference for the Ad Hoc Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System (IT/GB-4/11/Report, Appendix to *Appendix A.4*), paragraph 2.

<sup>16</sup> Rules of Procedures of the Codex Alimentarius, Article V.

<sup>17</sup> Rules of Procedure, Rule VII.

The establishment of any Sectoral Working Group shall be subject to the determination by the Director-General that the necessary funds are available in the relevant chapter of the budget of FAO or from extra-budgetary sources. In an analogous application of Article 6, these requirements might also apply to the change of the composition of an existing Sectoral Working Group. However, given that, according to Article 8iii of the Commission's Statutes, expenses incurred by representatives of members of Sectoral Working Groups, their alternates and advisers, when attending sessions of the Sectoral Working Groups, shall be borne by the respective governments, an increase or decrease of the number of members of the Sectoral Working Groups would not per se have financial implications.

## **VI. GUIDANCE SOUGHT**

17. The Commission is invited to express its views on the matter, taking into account the above background information.