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| <b>Item 5.1(a) of the Draft Provisional Agenda</b>  |
| <b>COMMISSION ON GENETIC RESOURCES<br/>FOR FOOD AND AGRICULTURE</b>   |
| <b>First Meeting of the Commission on Genetic Resources for Food and<br/>Agriculture acting as Interim Committee for the International Treaty<br/>on Plant Genetic Resources for Food and Agriculture</b> |
| Rome, 9 – 11 October 2002   |
| <b>DRAFT FINANCIAL RULES FOR THE GOVERNING BODY<br/>OF THE INTERNATIONAL TREATY ON PLANT GENETIC<br/>RESOURCES FOR FOOD AND AGRICULTURE</b>   |

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**DRAFT FINANCIAL RULES FOR THE GOVERNING BODY OF  
THE INTERNATIONAL TREATY ON PLANT GENETIC  
RESOURCES FOR FOOD AND AGRICULTURE**

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**I. INTRODUCTION**

1. The Conference at its Thirty-first Session in November 2001 adopted Resolution 3/2001 adopting the International Treaty on Plant Genetic Resources for Food and Agriculture, and mandating interim arrangements for the implementation of the Treaty. As part of these interim arrangements, the Conference requested the Commission acting as Interim Committee for the Treaty to prepare, for consideration at the first session of the Governing Body, draft Financial Rules for the Governing Body.

2. The Draft Financial Rules set out in *Annex I* to this document are based on those currently in force for the European Commission for the Control of Foot and Mouth Disease, taking into account the provisions of the Treaty and elements of the financial rules adopted by the Conference of Parties of multilateral environmental agreements such as the Convention to Combat Desertification and the Convention on Biological Diversity. The Financial Rules adopted by the Conference of Parties to the Convention to Combat Desertification are reproduced as *Annex II* to this document for ease of reference. In this context, it should be pointed out that the Financial Regulations of the European Commission for the Control of Foot and Mouth Disease, like the draft Financial Regulations for the Indian Ocean Tuna Commission, another body established under Article XIV of the FAO Constitution, reflect the fact that financial contributions from Parties are mandatory under the respective agreements. Contributions under the Convention to Combat Desertification as well as those on Climate Change and Biodiversity, as under the Treaty have no mandatory basis in the constituent agreements. For these matters, the relevant provisions of the suggested draft rules draw more on the model provided by the multilateral environmental agreements, and specifically the Convention to Combat Desertification.

3. It will, of course, be difficult for the Interim Committee for the Treaty, and indeed the Governing Body, to take decisions with respect to the content and structure of the Financial Rules without addressing certain questions. The most fundamental questions are how contributions to the budget of the Treaty are to be made, whether a scale of contributions is to be adopted by the Governing Body, as in the case of the multilateral environmental agreements cited above, and if so, what that scale of contributions should be based upon. The next section reviews some of the practice under other international agreements in this regard.

**II. THE PRACTICE OF OTHER INTERNATIONAL AGREEMENTS  
REGARDING FINANCING OF THE BUDGET**

***THE FAO***

4. Paragraph 33 of Part R of the Basic Texts of the FAO provides that bodies established under Article XIV of the Constitution fall into one of the three following categories:

- (a) bodies entirely financed by the FAO;
- (b) bodies, that, in addition to being financed by the FAO, may undertake cooperative projects financed by members of the body;

(c) bodies that, in addition to being financed by the FAO, have autonomous budgets.

5. In practice, **eight bodies set up under Article XIV have autonomous budgets**. These are the **European Commission for the Control of Foot and Mouth Disease**, the **Indian Ocean Tuna Commission**, the **Regional Commission for Fisheries (RECOFI)**, the **Regional Animal Production and Health Commission for Asia and the Pacific**, and the four **Desert Locust Commissions** for North-West Africa, South-West Asia, the Central Region and the Western Region respectively. In all cases the autonomous budgets are fed by mandatory contributions in accordance with the constituent agreements. Amendments have also been adopted to two other agreements, namely the **Agreement for the Establishment of a General Fisheries Commission for the Mediterranean**, and the **Plant Protection Agreement for the Asia and Pacific Region**, providing for autonomous budgets fed by mandatory contributions. These amendments have not yet entered into force.

6. Meanwhile both the **General Fisheries Commission for the Mediterranean** and the **Asia and Pacific Plant Protection Commission**, together with the **Asia and Pacific Fishery Commission**, and the **International Rice Commission** fall into the category of bodies that, in addition to being financed by the FAO, undertake **cooperative projects** financed by members of the body.

7. Other agreements, such as the **International Plant Protection Convention** and the **Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas**, make no provision at all for budgets or cooperative projects, and their **expenses are met entirely by the FAO**.

8. Where autonomous budgets are established, the apportionment of expenses is normally in accordance with a **scale of contributions** to be adopted by the Commission or other body concerned, usually on the basis of a two thirds majority vote. The scale of contributions can be based on that in force for the FAO, adapted for differences in membership between the FAO and the body concerned. In some cases, specially designed scales of contributions are used. In the case of the Indian Ocean Tuna Commission, the scale of contributions is to be based on a scheme adopted by consensus, in which assessments are based on an equal basic fee and a variable fee based *inter alia* on catch and landings and the per capita income of each Member. For the Commission for Controlling the Desert Locust in South-West Asia, the contributions are to be calculated initially on the basis of financial contributions under the UN Special Fund Desert Locust Project.

9. In accordance with **Part R of the Basic Texts of the FAO**, contributions for cooperative projects and autonomous budgets are to be remitted to the FAO. The FAO will establish in each case a trust or special fund into which the contributions are to be paid, to be administered in accordance with the Financial Regulations and Rules of the FAO. Non-member nations of the FAO that become members of bodies established by Article XIV agreements, must contribute towards the expenses incurred by the FAO with respect to the activities of these bodies.

### ***Convention to Combat Desertification***

10. The Convention provides for the designation of an existing financial mechanism as the Global Mechanism for the Convention. The Conference of Parties itself is to approve the programme and budget for its activities and adopt its own financial rules. The Convention does not provide for mandatory contributions by the Parties. Financial Rules were adopted by the Conference of the Parties at its first session in 1997. The Rules provide for the preparation and adoption of the biennial budget and the establishment of a General Fund into which regular contributions from the Parties are to be paid and which is to be used for funding the core budget of the Convention. The Rules also provide for Supplementary and Special Funds to receive additional and other contributions for support for the participation of developing countries at

sessions of the Conference of Parties and facilitation of assistance to affected developing countries.

11. Regular contributions are to be based on an indicative scale adopted by the Conference of Parties by consensus and based on the scale of assessments of the United Nations. Parties are free to make additional contributions, as are States not party to the Convention and governmental, intergovernmental and non-governmental organizations. Regular contributions are expected to be made for each calendar year on or before 1 January and each Party is to inform the Secretary of the contribution it intends to make and its projected timing. The rules also include normal provisions relating to accounts and audit.

#### ***Framework Convention on Climate Change***

12. The Convention also provides for a financial mechanism under the guidance of the Conference of Parties. It does not make specific provisions regarding the budget of the Convention, or contributions by Parties, but does provide for the Conference of Parties to adopt financial rules by consensus. Financial procedures were accordingly adopted by the first session of the Conference of Parties in 1995. The Financial Procedures provide for the preparation and adoption, by consensus, of a biennial administrative budget. The Procedures also provide for regular contributions to be made by Parties on the basis of an indicative scale to be adopted by the Conference of Parties by consensus, based on the scale of assessments of the United Nations. An indicative scale of contributions is attached to the Financial Procedures. Voluntary contributions in addition to the regular contributions can be made by Parties, and provision is also made for voluntary contributions to support the participation of developing country Parties and Parties with economies in transition in sessions of the Conference of Parties and subsidiary bodies. Parties are to inform the Secretary of the contribution they intend to make and the projected timing before 1 January each year. The Procedures make similar provisions regarding the establishment of a Fund and a Special Fund as the Financial Rules under the Convention to Combat Desertification, as well as provisions regarding accounts and audit.

#### ***Convention on Biological Diversity***

13. The Convention, like the Conventions on Climate Change and Desertification, provides for a financial mechanism, to function under the authority and guidance of the Conference of Parties. The Convention makes provision for the adoption of a budget for the ensuing financial period, as well as for the adoption by consensus of financial rules governing the funding of the Secretariat. Financial Rules were accordingly adopted by the first session of the Conference of Parties in 1994. The Financial Rules provide for the establishment and management of the Trust Fund to be used for the administration of the Convention including the functions of the Secretariat. The Trust Fund is to be financed from contributions from the Parties based on a scale set out in the Appendix to the budget, additional contributions made by the Parties and Contributions from non-Party States as well as governmental, intergovernmental and nongovernmental organizations and other sources. The scale of contributions is to be determined by the Conference of Parties, based on the UN Scale of Assessments. Contributions are to be due on 1 January of each calendar year. Budget proposals are to be prepared by the Secretariat for each biennium, for adoption by the Conference of Parties. It is still not decided as to whether the adoption of the budget and scale of contributions is to be by consensus or failing consensus whether a two-thirds majority vote can be resorted to.

### III. CONCLUSIONS AND SUGGESTED ACTION BY THE INTERIM COMMITTEE FOR THE TREATY

14. The Interim Committee for the Treaty is invited to review the attached draft Financial Rules for the Governing Body of the Treaty with a view to recommending their consideration by the Governing Body at its first session as requested by the Conference.

15. In this connection, the Interim Committee for the Treaty may feel it appropriate, after an initial discussion on this matter, to establish an **open-ended working group of legal experts**, with appropriate technical support, to consider the wording of the Financial Rules as well as the Rules of Procedure for the Governing Body. Such a working group could be convened during the current session of the Interim Committee for the Treaty or immediately preceding its next session.

*ANNEX I***GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC  
RESOURCES FOR FOOD AND AGRICULTURE****DRAFT FINANCIAL RULES****Rule I  
Applicability**

- 1.1 These rules shall govern the financial administration of the Treaty.
- 1.2 The financial rules and procedures of the FAO shall apply to the activities of the Treaty unless otherwise provided.

**Rule II  
The Financial Period**

- 2.1 The financial period shall be two calendar years, coinciding with the financial period of the FAO.

**Rule III  
The Budget**

- 3.1 The Budget Estimates shall cover income and expenditures for the financial period to which they relate, and shall be presented in United States dollars.
- 3.2 The Budget Estimates shall include the programme of work for the financial period, and such information, annexes or explanatory statements as may be requested by the Governing Body.
- 3.3 The Budget shall comprise:
- (a) The Administrative Budget relating to the contributions of Parties under Rule 5.1 (a) and (f);
  - (b) The Special Budget relating to funds made available during the financial period from contributions paid under Rule 5.1 (b) and (c).
- 3.4 The Budget shall be prepared by the Secretary and submitted to the Governing Body.
- 3.5 The Budget of the Treaty shall be submitted to the Finance Committee of the FAO.
- 3.6 The Administrative Budget shall consist of
- provisions for Administrative Expenditures under the Treaty including expenses of the Secretariat; and
  - Contingencies.
- 3.7 The Special Budget shall be disbursed for the purposes specified in the contributions made under Rule 5.1 (b) and (c).

#### **Rule IV Appropriations**

4.1 After the Administrative Budget has been adopted, the appropriations therein will be the authority for the Secretary to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted.

4.2 Any unliquidated prior year obligation shall at the end of the financial period be cancelled or where an obligation remains a valid charge, retained for future disbursement.

#### **Rule V Provision of Funds**

5.1 The resources of the Treaty shall comprise:

- (a) Voluntary contributions from Parties [based on such indicative scale of contributions as shall be adopted by the Governing Body by consensus] [based on the scale of contributions adopted from time to time by the Conference of the FAO adjusted so as to ensure that no Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 25 per cent of the total and that no contribution from a least developed country Party exceeds 0.01 per cent of the total];
- (b) Voluntary contributions made by the Parties in addition to those under (a) above;
- (c) Other voluntary contributions, including contributions to support the participation of representatives of developing country Parties and of other Parties with economies in transition in the Governing Body and its subsidiary bodies;
- (d) The uncommitted balance of appropriations from previous financial periods carried forward;
- (e) Miscellaneous income attributed to the fund concerned; and
- (f) Moneys contributed by the FAO in respect of the expenses to be borne by it.

5.2 In respect of contributions made pursuant to Rule 5.1 (a):

- (a) Contributions for each calendar year are expected on or before 1 January of that year;
- (b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the Secretariat of the contribution it intends to make and of the projected timing of that contribution.

5.3 Expenses borne by the FAO shall be determined and paid within the limits of the relevant item of the budget of the FAO as approved by the Conference.

5.4 Parties that are not Members of the FAO shall contribute towards the expenses borne by the FAO in a proportionate amount to be determined by the Director-General.

5.5 Pending receipt of annual contributions, the FAO is authorized to finance budgeted expenditure from the uncommitted balance of the Administrative Budget.

5.6 For determining the annual contributions of each Party, the assessed contribution for such Party for the financial period pursuant to paragraph 5.1(a) above, shall be divided into two equal instalments, one of which is payable in the first calendar year and the other in the second calendar year of the financial period.

5.7 At the beginning of each calendar year the Secretary shall inform Parties of their indicative annual contributions to the budget.

5.8 All contributions to the Administrative Budget shall be paid in United States dollars or its equivalent in a convertible currency. Where a contribution is paid in a convertible currency other than United States dollars, the applicable rate shall be the official rate of the convertible currency to the dollar on the first business day in January of the calendar year in which the contribution is due, or the rate in effect on the day the payment is made, whichever is the higher.

#### **Rule VI Funds**

6.1 All contributions and other receipts shall be placed in a Trust Fund administered by the FAO.

6.2 With respect to the Trust Fund referred to in paragraph 6.1, the FAO shall maintain the following Funds:

- (g) A General Fund to which shall be credited receipts of all contributions paid under Rule 5.1 (a) and (f), along with any additional contributions to offset administrative budget expenditures that are made by Parties, and other moneys accruing in respect of the Administrative Budget under Rule 5.1 (d) and (e), from which shall be met all expenditure chargeable against the annual Administrative Budget;
- (h) A Special Fund to which shall be credited other contributions paid under Rule 5.1 (b) and (c).

#### **Rule VII Accounts and Audit**

7.1 The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external audit process of the FAO.

#### **Rule VIII Amendments**

8.1 These Rules may be amended by the Governing Body by consensus.

*ANNEX II*

**FINANCIAL RULES FOR THE CONFERENCE OF THE PARTIES TO THE  
UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION  
IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR  
DESERTIFICATION, PARTICULARLY IN AFRICA,  
ITS SUBSIDIARY BODIES AND THE CONVENTION SECRETARIAT**

*Scope*

1. The present rules shall govern the financial administration of the Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, its subsidiary bodies and the Convention Secretariat. In so far as not specifically provided by the present rules, the Financial Regulations and Rules of the United Nations shall apply.

*Financial Period*

2. The financial period shall be a biennium, of which the first calendar year shall be an even-numbered year.

*Budget*

3. The head of the Convention Secretariat shall prepare the budget estimates for the following biennium in United States dollars showing projected income and expenditures for each year of the biennium concerned. The head of the Convention Secretariat shall dispatch the estimates to all Parties to the Convention at least ninety days before the opening of the session of the Conference of the Parties at which the budget is to be adopted.

4. The Conference of the Parties shall, prior to the commencement of the financial period that the budget covers, consider the budget estimates and adopt by consensus a core budget authorizing expenditures other than those referred to in paragraphs 9 and 10.

5. Adoption of the core budget by the Conference of the Parties shall constitute authority to the head of the Convention Secretariat to incur obligations and make payments for the purposes for which the appropriations were approved and up to the amounts so approved, provided always that, unless specifically authorized by the Conference of the Parties, commitments shall be covered by related income.

6. The head of the Convention Secretariat may make transfers within each of the main appropriation lines of the approved core budget. The head of the Convention Secretariat may also make transfers between such appropriation lines up to limits which the Conference of the Parties may set as appropriate.

*Funds*

7. A General Fund for the Convention shall be established by the Secretary-General of the United Nations and managed by the head of the Convention Secretariat. Contributions made pursuant to paragraph 12 (a), along with any additional contributions to offset core budget expenditures that are made, pursuant to paragraphs 12 (b) and 12 (c), by the Government hosting the Convention Secretariat and by the United Nations shall be credited to the General Fund. All core budget expenditures made pursuant to paragraph 5 shall be charged to the General Fund.

8. Within the General Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Conference of the Parties by consensus. The purpose of

the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

9. A Supplementary Fund shall be established by the Secretary-General of the United Nations and managed by the head of the Convention Secretariat. The Supplementary Fund shall receive contributions pursuant to paragraphs 12 (b) and (c), other than those specified in paragraphs 7 and 10, including contributions earmarked, in accordance with paragraph 15, for:

- (a) Support to the participation of some representatives of non-governmental organizations from affected developing country Parties, particularly the least developed among them, in sessions of the Conference of the Parties;
- (b) Facilitation of assistance to affected developing countries in accordance with article 23, paragraph 2 (c), and article 26, paragraph 7, of the Convention;
- (c) Other appropriate purposes consistent with the objectives of the Convention.

10. A Special Fund shall be established by the Secretary-General of the United Nations and managed by the head of the Convention Secretariat. The Special Fund shall receive contributions pursuant to paragraphs 12 (b) and (c) earmarked to support the participation of representatives of developing, and in particular least developed, country Parties affected by desertification and/or drought, particularly those in Africa, in the sessions of the Conference of the Parties and its subsidiary bodies.

11. In the event that the Conference of the Parties decides to terminate a fund established pursuant to the present rules, it shall so advise the Secretary-General of the United Nations at least six months before the date of termination so decided. The Conference of the Parties shall decide, in consultation with the Secretary-General of the United Nations, on the distribution of any uncommitted balances after all liquidation expenses have been met.

### *Contributions*

12. The resources of the Conference of the Parties shall comprise:

- (a) Contributions made each year by Parties on the basis of an indicative scale adopted by consensus by the Conference of the Parties, and based on such a scale of assessments of the United Nations as may be adopted from time to time by the General Assembly, adjusted so as to ensure that no Party contributes less than 0.01 per cent of the total, that no one contribution exceeds 25 per cent of the total and that no contribution from a least developed country Party exceeds 0.01 per cent of the total;
- (b) Other contributions made by Parties in addition to those made pursuant to paragraph (a);
- (c) Contributions from States not Parties to the Convention, as well as governmental, intergovernmental and non-governmental organizations, and other sources;
- (d) The uncommitted balance of appropriations from previous financial periods attributed to the fund concerned;
- (e) Miscellaneous income attributed to the fund concerned.

13. The Conference of the Parties shall, in adopting the indicative scale of contributions referred to in paragraph 12 (a), make adjustments to take account of contributions of Parties which are not members of the United Nations, as well as those of regional economic integration organizations that are Parties.

14. In respect of contributions made pursuant to paragraph 12 (a):
- (a) Contributions for each calendar year are expected on or before 1 January of that year;
  - (b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the head of the Convention Secretariat of the contribution it intends to make and of the projected timing of that contribution.
15. Contributions made pursuant to paragraphs 12 (b) and (c) shall be used in accordance with such terms and conditions, consistent with the objectives of the Convention, as may be agreed between the head of the Convention Secretariat and the contributor. Contributions to the Supplementary Fund referred to in paragraph 9 shall, as appropriate, be placed in sub-accounts.
16. Contributions made pursuant to paragraph 12 (a) from States and regional economic integration organizations that become Parties to the Convention after the beginning of a financial period shall be made *pro rata temporis* for the balance of that financial period. Consequent adjustments shall be made at the end of each financial period for other Parties.
17. All contributions shall be paid in United States dollars or its equivalent in a convertible currency into a bank account to be designated by the Secretary-General of the United Nations, in consultation with the head of the Convention Secretariat.
18. The head of the Convention Secretariat shall acknowledge promptly all pledges and contributions and shall inform the Parties, once a year, of the status of pledges and payments of contributions.
19. Contributions not immediately required shall be invested at the discretion of the Secretary-General of the United Nations, in consultation with the head of the Convention Secretariat. The resulting income shall be credited to the appropriate fund or funds referred to in paragraphs 7, 9 and 10.

#### *Accounts and audit*

20. The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external audit process of the United Nations.
21. During the second year of the financial period the United Nations shall provide the Parties with an interim statement of accounts for the first year of the financial period. The United Nations shall also, as soon as practicable, provide to the Parties a final audited statement of accounts for the full financial period.

#### *Administrative support costs*

22. The Conference of the Parties, under such terms as may from time to time be mutually agreed upon between it and the United Nations, shall reimburse the United Nations from the funds referred to in paragraphs 7, 9 and 10, as the case may be for the purposes of services rendered, including the administration of the relevant fund by the United Nations, to the Conference of the Parties, its subsidiary bodies and the Convention Secretariat.

#### *Amendments*

23. Any amendment to the present rules shall be adopted by the Conference of the Parties by consensus.