



Item 5.2 of the Draft Provisional Agenda

**COMMISSION ON GENETIC RESOURCES FOR FOOD AND
AGRICULTURE**

**First Meeting of the Commission on Genetic Resources for Food and
Agriculture acting as the Interim Committee for the International Treaty
on Plant Genetic Resources for Food and Agriculture**

Rome, 9–11 October 2002

**INTER-SESSIONAL WORK OF THE COMMISSION ACTING AS
THE INTERIM COMMITTEE FOR THE INTERNATIONAL
TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND
AGRICULTURE**

**WORK PROGRAMME AND BUDGET
2003-2004**

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**INTER-SESSIONAL WORK OF THE COMMISSION ACTING AS THE INTERIM
COMMITTEE FOR THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE: WORK PROGRAMME AND BUDGET, 2003-2004**

I. INTRODUCTION

1. The Conference, at its Thirty-first Session, adopted the International Treaty on Plant Genetic Resources for Food and Agriculture by Conference Resolution 3/2001,¹ and requested the Interim Committee for the Treaty to undertake a series of actions. Moreover, the Treaty itself foresees various decisions that will need to be taken at the first meeting of the Governing Body, and which may therefore need preparation by the Interim Committee for the Treaty.

2. The present document analyses the possible items of the work programme of the Interim Committee for the Treaty that may have budgetary implications, and in each case attempts to identify the financial resources required. For the purpose of this analysis, and for the preparation of the draft work programme and budget given in *Table 1*, it is assumed that the Treaty will enter into force in two years time: the needs identified are therefore allocated over a two-year time span, 2003 and 2004. The resources needed for substantive meetings, and the resources required to facilitate the participation of developing countries, are identified separately.

3. The guidance sought from the Interim Committee for the Treaty following its review of possible elements of the inter-sessional work programme and budget is outlined in paragraph 29.

II. ELEMENTS OF THE INTER-SESSIONAL WORK PROGRAMME AND BUDGET

***ACTIONS REQUESTED IN CONFERENCE RESOLUTION 3/2001,
AND PREPARATIONS FOR THE FIRST MEETING OF THE GOVERNING BODY***

4. The Interim Committee for the Treaty will consider the possible elements of its inter-sessional work programme under Item 5 of the Draft Provisional Agenda. Those elements with budgetary implications are considered below.

***Agenda Item 5.1.a: Draft Rules of Procedure and draft Financial Rules,
for the consideration of the Governing Body***

5. The Conference requested the Interim Committee for the Treaty to prepare draft Rules of Procedure and draft Financial Rules, for the consideration of the Governing Body at its first Session (Conference Resolution 3/2001, operative para. 8b). Documents CGRFA/MIC-1/02/4, *Draft Rules of Procedure for the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*, and CGRFA/MIC-1/02/5, *Draft Financial Rules for the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture* consider the activities that may be required, and contain draft texts for consideration.

6. The Interim Committee for the Treaty may wish to establish an Open-ended Working Group of Legal Experts, during the current session, to address these questions. However, should it decide not to do so, or if the task is too great to be completed during the session, provision will need to be made in the Work Programme and Budget. One three-day session of an Open-ended Working Group of

¹. Available as document CGRFA/MIC-1/02/Inf.1.

Legal Experts is therefore budgeted for, possibly just before the next meeting of the Interim Committee for the Treaty in 2004. It is assumed that the Working Group will be constituted of legal experts from delegations, with appropriate technical support, and that interpretation will be needed in all official languages. The costs of convening the meeting are estimated at US\$ 131,625. As an open-ended body, provision is also made to support the participation of developing countries, at a cost of US \$122,400.

Agenda Item 5.1.b: Terms of Reference for the Expert Group on the Terms of the Standard Material Transfer Agreement

7. Article 12.4 of the Treaty provides that:

“facilitated access [...] shall be provided pursuant to a standard material transfer agreement (MTA), which shall be adopted by the Governing Body and contain the provisions of Articles 12.3a, d and g, as well as the benefit-sharing provisions set forth in Article 13.2d(ii) and other relevant provisions of this Treaty...”

8. Article 13.2d(ii) specifies that:

“the standard Material Transfer Agreement referred to in Article 12.4 shall include a requirement that a recipient who commercializes a product that is a plant genetic resource for food and agriculture and that incorporates material accessed from the Multilateral System, shall pay to the mechanism referred to in Article 19.3f, an equitable share of the benefits arising from the commercialization of that product, except whenever such a product is available without restriction to others for further research and breeding, in which case the recipient who commercializes shall be encouraged to make such payment. The Governing Body shall, at its first meeting, determine the level, form and manner of the payment, in line with commercial practice”.

9. Resolution 3/2001, in operative para. 8c, therefore requested the Interim Committee for the Treaty to prepare for consideration of the Governing Body at its first Session, this draft standard Material Transfer Agreement. In operative para. 9, it further decided:

“to establish an Expert Group to develop and propose recommendations, which may be considered by the Interim Committee, on the terms of the standard MTA. Such group shall be composed of experts with technical or legal expertise with respect to the exchange of plant genetic resources for food and agriculture and the relevant commercial practice. Terms of Reference for the Expert Group shall be agreed at the first meeting of the Interim Committee.”

10. Document CGRFA/MIC-1/02/6 contains draft *Terms of Reference for the Expert Group on the Terms of the Standard Material Transfer Agreement*. The Interim Committee for the Treaty is requested to review these, and to decide on the scope of work and the composition of the Expert Group, as well as the schedule for the completion of its functions.

11. For the purpose of the draft budget, it has been assumed that the Expert Group will be composed of fifteen members, which would allow for regionally balanced representation, but without the Group being too large. For the purpose of the budget, the following assumptions have been made:

- Two five-day meetings will be held, one in 2003 and one in 2004. (Should further meetings be required before the next Meeting of the Interim Committee for the Treaty, increased provision will be required in the budget);
- If experts are appointed in their personal capacities, they will be recruited and remunerated as consultants, their travel expenses will be met at UN rates and no interpretation will be needed.

Substantial inter-sessional research and document preparation will be required. The estimated cost per meeting is US\$193,330.

- If experts are designated by countries to represent them or their regions, in the framework of an inter-governmental meeting, interpretation should be provided. In previous inter-governmental negotiating meetings of the Commission and its subsidiary bodies, donors have provided extra-budgetary resources to facilitate the participation of developing countries. If the Interim Committee for the Treaty should wish to deal with this task through an inter-governmental meeting, additional resources will be needed, which are not included in *Table 1*.

***Agenda Item 5.1.c: Draft Procedures to Promote Compliance,
for the consideration of the Governing Body***

12. Operative para. 8d of Resolution 3/2001 requests the Interim Committee for the Treaty “to prepare, for consideration at the first Session of the Governing Body, proposed procedures to promote compliance with the Treaty in accordance with Article 21”.

13. Document CGRFA/MIC-1/02/7, *Procedures to Promote Compliance with the International Treaty for Plant Genetic Resources for Food and Agriculture*, reviews the practice with respect to compliance under other international agreements and in other forums, and proposes the following actions:

- To seek the views of Members of FAO and States entitled to become Parties to the Treaty on the principles and elements of procedures and operational mechanisms to promote compliance with the provisions of the Treaty and to address issues of non-compliance, in particular on the need for the establishment of a Compliance Committee by the Governing Body and the possible functions and powers of such a Committee;
- Analysis of the responses by the secretariat and, on this basis, the suggestion of appropriate principles and elements for such procedures; and
- The convening of an Open-ended Working Group of Legal Experts, with appropriate technical support, to review the responses and suggestions and recommend appropriate draft procedures and operational mechanisms for consideration and approval by the Governing Body at its first session.

14. For the purpose of the draft budget, it is assumed that a single five-day session of such an Open-ended Working Group will meet in 2003, and that it will be constituted of experts from delegations, and will need interpretation in all official languages. The cost of convening a five-day Open-ended Working Group of Legal Experts is estimated at US\$ 208,000. As an open ended body, additional provision is made to support the participation of developing countries, at a cost of \$167,000.

***Agenda Item 5.1.f: Preparation of a Funding Strategy
for the implementation of the International Treaty***

15. Article 18 of the Treaty establishes a Funding Strategy, and foresees a number of actions that may need to be implemented in an integrated manner, some of which must be initiated or completed by the first meeting of the Governing Body. By Article 18.1:

“The Contracting Parties undertake to implement a funding strategy for the implementation of this Treaty”.

16. Article 19.3c foresees that:

“The Governing Body shall [...] adopt, at its first session, and periodically review the funding strategy for the implementation of this Treaty, in accordance with the provisions of Article 18”.

Article 13.4 specifically foresees that:

“The Governing Body shall, at its first meeting, consider relevant policy and criteria for specific assistance under the agreed funding strategy established under Article 18 for the conservation of plant genetic resources for food and agriculture in developing countries, and countries with economies in transition whose contribution to the diversity of plant genetic resources for food and agriculture in the Multilateral System is significant and/or which have special needs”.

17. A target for funding will be established periodically, taking into account the *Global Plan of Action for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Agriculture*, as per Article 18.3:

“In order to mobilize funding for priority activities, plans and programmes, in particular in developing countries and countries with economies in transition, and taking the Global Plan of Action into account, the Governing Body shall periodically establish a target for such funding”.

18. Article 18.4a provides that:

“The Contracting Parties shall take the necessary and appropriate measures within the Governing Bodies of relevant international mechanisms, funds and bodies to ensure due priority and attention to the effective allocation of predictable and agreed resources for the implementation of plans and programmes under this Treaty,

and, in this regard, operative para. 12 of Resolution 3/2001 specifically:

“requests the Commission on Genetic Resources for Food and Agriculture, acting as the Interim Committee, to initiate the establishment of cooperation with the Conference of the Parties to the Convention on Biological Diversity and, as appropriate, with other relevant international organizations and treaty bodies, in particular in relation to the provisions of Article 18.4a of the International Treaty on Plant Genetic Resources for Food and Agriculture”.

19. The Treaty also foresees that the Funding Strategy will draw on a wide range of resources, including those referred in Article 13.6:

“The Contracting Parties shall consider modalities of a strategy of voluntary benefit-sharing contributions whereby Food Processing Industries that benefit from plant genetic resources for food and agriculture shall contribute to the Multilateral System”.

and, by Article 18.4f, that:

“Voluntary contributions may also be provided by Contracting Parties, the private sector, taking into account the provisions of Article 13, non-governmental organisations and other sources. The Contracting Parties agree that the Governing Body shall consider modalities of a strategy to promote such contributions”.

20. In order to operationalize this set of provisions, and establish the foundations on which the Governing Body may build in order to adopt the Funding Strategy for the implementation of the Treaty at its first session, a number of actions are indicated, on which the guidance and decision of the Interim Committee for the Treaty is sought. These are listed below. The Interim Committee for the Treaty may, of course, make any other arrangements that its wishes, and adjust the draft budget accordingly.

Identification of the funding resources

- Consultations with the secretariats of relevant international mechanisms, funds and bodies, in preparation for action by Contracting Parties (18.4a).
- Consultations with governments and their development agencies, with the private sector (including food processing industries, pursuant to Article 13.6), with relevant non-governmental organizations, and other funding sources (Article 18.4f).

These consultations may include visits to relevant organizations and donor coordination meetings carried out by the secretariat possibly through stakeholders meetings.

Proposal of policy and criteria for assistance, and needs for the priority plans, programmes and activities under the Funding Strategy

- Consultations with governments in the context of the identification of priority activities, plans and programmes, in particular in developing countries and countries with economies in transition, and taking the *Global Plan of Action* into account, to prepare policy and criteria for specific assistance under the funding strategy (Article 13.4), and in order to provide a coherent framework for capacity-building, technology transfer and the exchange of information (Article 13).

These consultations could probably best be carried out through a series of regional meetings. Such a process could, as appropriate, be linked to the proposed updating of the rolling *Global Plan of Action*. The Interim Committee for the Treaty may also wish to consider an inter-regional meeting to finalize proposals, in which case budgetary provision would be needed.

Preparation of the Funding Strategy for adoption at the first session of the Governing Body

- On the basis of the activities described above, the Interim Committee for the Treaty may wish to request the secretariat to prepare a draft Funding Strategy, for consideration of the Governing Body at its first meeting (Article 19.3c).

21. No individual budgetary allocation is made in this item, because it involves a varied range of actions within the normal remit of the secretariat of the Commission, and the work of the FAO's legal and technical units. However, the current staff capacity of the secretariat is limited, and needs to be strengthened to carry out these and other incremental tasks: provision is accordingly made to strengthen the capacity of the secretariat, as shown in *Table 1*.

SECOND MEETING OF THE INTERIM COMMITTEE FOR THE TREATY

22. Operative para. 8 of Resolution 3/2001 foresees that the Interim Committee for the Treaty will meet “*in the framework of the Commission on Genetic Resources for Food and Agriculture, subject to the availability of necessary resources*”. The Tenth Regular Session of the Commission will probably be held in late 2004, and it is therefore proposed that a five-day Second Meeting of the Interim Committee for the Treaty be organized in conjunction with the regular session, by which stage a number of substantial matters deriving from the above work plan are expected to be ready for consideration. The estimated cost of the Interim Committee meeting is incorporated in *Table 1*.

23. The Interim Committee for the Treaty is invited to confirm these arrangements, and to give guidance regarding the subjects to be covered in the draft agenda for its second meeting, including in the light of the programme of work it establishes during consideration of the current document.

INCREMENTAL OPERATIONAL COSTS OF THE SECRETARIAT

24. The Commission's Secretariat is small and consists of two professionals and two general service staff. It supports both the work of the Commission and the Interim Committee for the Treaty process. The secretariat focuses on policy analysis and process questions. Technical and legal work on agricultural genetic resources, including in support of the Commission, is undertaken by technical units throughout FAO, under their specific budgets. Considerable support to the work of the Commission on plant genetic resources for food and agriculture, is, for example, provided by the Legal Office, the Plant Production and Protection Division, the Economic and Social Department, and the Information Division, under various Regular Programme elements, although it is difficult to identify separately these substantial contributions. The total budgetary allocation to the Secretariat of the Commission on Genetic Resources for Food and Agriculture in the Programme of Work and Budget 2002-2003, was US\$ 1,620,000.

25. During the negotiating process, the Commission gave priority to the negotiations, and donors provided substantial extra-budgetary resources, which allowed additional staff resources to be deployed within the secretariat on an *ad hoc* consultancy basis, when required: without these additional resources, the Commission's Secretariat would not have been able to undertake the additional tasks.

26. The tasks before the Interim Committee for the Treaty will require substantial support and preparatory work from the Commission's Secretariat, of a policy analysis and process nature. Although the Secretariat has been able to absorb, through limited extra-budgetary funds remaining from the negotiating process, some of the incremental work load (such as the preparation and running of the current meeting of the Interim Committee for the Treaty), additional capacity will be needed.

27. The costs of preparing and running the meetings discussed in the present document are individually budgeted for in *Table 1*. (This is for the period of the Interim Committee for the Treaty only. The Governing Body, in due course, will make the arrangements it desires regarding the Secretariat of the Treaty, on its entry into force.) The estimated incremental human and other resources necessary to undertake activities for 2003 and 2004 (which cannot meaningfully be budgeted for under individual events) are provided for in *Table 1*. These resources will need to be available soonest, and should be identified and secured no later than January 2003 in order to be able to plan and carry out the Programme of Work that should begin in early 2003. The Interim Committee for the Treaty is therefore requested, in considering this item, to place high priority on this key budget item, on which all other activities will depend.

28. One of the main advantages of developing the capacity and skills of the Secretariat in the interim period is the ability to give on-the-job training in supporting the development of the Treaty to

new staff, which will facilitate the transition to a full Secretariat, after the entry into force of the Treaty.

III. GUIDANCE SOUGHT FROM THE INTERIM COMMITTEE FOR THE TREATY

29. The Interim Committee for the Treaty is requested to:

- Review each of the items below and decide upon the mode in which it wishes to proceed;
- Following the review of the individual items, agree upon and consolidate the overall programme of work and budget, and update *Table I* accordingly;
- Provide guidance on how to proceed in order to ensure the resources necessary to implement the work programme and budget decided upon. In this regard, operative para. 14 of Resolution 3/2002 invites Members of FAO and States that are not Members of FAO, but are Members of the United Nations and any of its Specialized Agencies or the International Atomic Energy Agency, and Regional Economic Integration Organizations:

“to contribute, through the FAO, to the functioning of the Commission on Genetic Resources for Food and Agriculture acting as Interim Committee”

- How to proceed if funds do not become available in time.

TABLE 1: ESTIMATED BUDGET FOR THE ACTIVITIES OF THE INTERIM COMMITTEE FOR THE TREATY, 2003-2004

Note: in the table below, costs are estimated separately for individual activities, and for support for the participation of developing countries (PDC) in those activities

Agenda item	Task	Proposed Activity	2003		2004		Total: 2003 and 2004	
			Activities	PDC	Activities	PDC	Activities	PDC
5.1a	Rules of procedure and Financial Rules	Open-ended Working Group			131,625		131,625	
		Developing Country Participation				122,400		122,400
5.1b	Standard Material Transfer Agreement	Expert Group	193,330		193,330		386,660	
5.1c	Compliance	Open-ended Legal Working Group			208,000		208,000	
		Developing Country Participation				167,000		167,000
	Second Meeting of Interim Committee	Commission Meeting			360,250		360,250	
		Developing Country Participation				226,200		226,200
		<i>Incremental Secretariat Needs</i>						
		• 1 P4 Legal Officer	130,000		133,000		263,000	
		• 1 P3 Policy Analyst	119,000		121,000		240,000	
		• 2 P3 Treaty Support Officer	238,000		243,000		481,000	
		• Consultancy provision	130,000		130,000		260,000	
		• 2 G3 Secretaries/clerks	96,000		98,000		194,000	
		• Misc.	20,000		20,000		40,000	
		Activity costs	926,330		1,638,205		2,564,535	
		Project Servicing Costs (PSC) @ 6 %	55,580		98,292		153,872	
		Sub-total: Activity costs + PSC 6 %	981,910		1,736,497		2,718,407	
		Sub-total: Developing Country Participation, PSC 0%		0		515,600		515,600
		TOTAL	981,910		2,252,097		3,234,007	