



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

THIRD SESSION OF THE GOVERNING BODY

Tunis, Tunisia, 1 – 5 June 2009

ANNOTATED PROVISIONAL AGENDA AND PROVISIONAL INDICATIVE TIMETABLE

Introduction

1. The Governing Body is convened under the provisions of Article 19 of the Treaty, and is open to all Contracting Parties to the International Treaty, and to observers.
2. Following the generous offer of the Government of Tunisia, which was welcomed by the Governing Body, the Third Session of the Governing Body is being held at the Hotel Ramada Plaza, Tunis, from 1 to 5 June 2009.

Opening Session

3. The opening session will begin at 10.00 a.m. on Monday, 1 June 2009. The Governing Body will hear welcoming addresses by representatives of the Government of Tunisia, and by local authorities, as well as special addresses by the Director General of FAO and invited expert speakers representing some major stakeholders in the Treaty.

Chairperson of the Governing Body

4. At its Second Session, the Governing Body elected Mr. Godfrey Mwila (Zambia) as Chairperson of the current session of the Governing Body. However, in the intervening period, Mr. Mwila resigned from this office, and, in accordance with Rule II.3 of the *Rules of Procedure of the Governing Body*,¹ and with the unanimous agreement of the Bureau, he designated Mr. Modesto Fernandez Díaz-Silveira (Cuba) to act as Chair in his stead. Mr. Fernandez accepted the office as of 23 July 2008.

¹ “The Chairperson shall preside at all sessions of the Governing Body and shall exercise such other functions as may be required to facilitate the work of the Governing Body. The Chairperson, if temporarily absent from a session or any part thereof or temporarily unable to fulfil his or her inter-sessional duties, shall designate a Vice-Chairperson to act as Chairperson. A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.”

5. In accordance with Rule II.1 of the *Rules of Procedure*,² the Government of Zambia designated Ms Catherine Mungoma, in the place of Mr. Mwila, as the Vice-Chair representing the Africa Region. Furthermore, the Government of Australia designated Ms Fiona Bartlett, in the place of Ms Anna Somerville, as the Vice-Chair representing the South West Pacific Region.

ITEM 1. Adoption of Agenda and Time-Table

6. The present document annotates the *Provisional Agenda*,³ and provides a proposed time-table, for the consideration of the Governing Body.

7. The agenda for this meeting is very heavy, reflecting the volume of work that the Governing Body will undertake at this session. It includes a number of issues arising from the First and Second Sessions of the Governing Body, or specifically deferred to this session, as well as issues that the Governing Body expressly requested be put on the agenda for this session.

8. The working documents comprise: (a) a general section laying out the issues for discussion or decision by the Governing Body, providing possible approaches (where relevant); and (b) possible elements of decisions, or draft Resolutions, for the consideration of the Governing Body.

9. This structure seeks to establish a more orderly and transparent process, by linking the discussions of the Governing Body directly to the decisions that it might wish to take, so that these may then be reflected directly in the Work Programme. Where there are financial implications, these will be translated directly into the draft Budget for the biennium.⁴

ITEM 2. Election of the *Rapporteur* for the Third Session of the Governing Body

10. In accordance with Rule II.1 of the *Rules of Procedure* adopted by the Governing Body at its First Session,⁵ “*the Governing Body shall elect [...] a Rapporteur from among the delegates, alternates, experts and advisers of the Contracting Parties*”. The Governing Body is invited to do so, under this Item.

ITEM 3. Appointment of the Credentials Committee

11. By Article 19.4 of the Treaty, each Contracting Party shall have one vote and may be represented at sessions of the Governing Body by a single delegate, who may be accompanied by an alternate, and by experts and advisers. Alternates, experts and advisers may take part in the proceedings of the Governing Body, but may not vote, except in the case of their being duly authorized to substitute for the delegate.

12. According to Rule IV.5 of the *Rules of Procedure*, “*each Contracting Party shall communicate to the Secretary of the Treaty the name of its representatives on the Governing Body before the opening of each session of the Governing Body*”. Rule XIII of the *Rules of Procedure* further provides that “*the provisions of the General Rules of the FAO shall apply mutatis mutandis to all matters not specifically dealt with under the Treaty or the present Rules*”.

² “If a Bureau member is unable to temporarily carry out any of his or her functions, the Contracting Party of that Bureau member may designate an alternate”.

³ Document IT/GB-3/09/1Rev.1 *Draft Provisional Agenda Rev.1*.

⁴ See documents IT/GB-3/09/21, *Draft Work Programme and Budget for the 2010-11 Biennium*, and IT/GB-3/09/21 Add.1, *Addendum 1 to the Draft Work Programme and Budget for the 2010-11 Biennium: Possible supporting activities to be funded by Contracting Parties under the Special Fund for Agreed Purposes*.

⁵ *Appendix D* of the document IT/GB-1/06/Report, (Madrid, Spain, 12 – 16 June 2006).

13. According to Rules III.3 and III.4 of the *General Rules of the FAO*, a Credentials Committee shall be set up to examine credentials. These Rules apply, *mutatis mutandis*, as the Rules of Procedure of the Governing Body do not address the issue of credentials. The Governing Body may wish establish a Credentials Committee, comprising one representative per region, to examine the credentials at this session, and report back to the Governing Body.

ITEM 4. Establishment of the Budget Committee

14. According to Rule II of the *Financial Rules* of the Governing Body, the financial period is two calendar years, coinciding with the financial period of FAO, and Rule III.4 provides that the draft budget shall be prepared by the Secretary and circulated to Contracting Parties before regular sessions of the Governing Body. The draft Work Programme and Budget for the biennium 2010/2011 is contained in the document, IT/GB-2/07/21, *Draft work programme and budget for the biennium 2010/2011*.

15. The Governing Body may wish to establish a Budget Committee, which meets from time to time following Plenary proceedings, to translate the decisions taken by the Plenary into budgetary terms, review the draft budget accordingly, and recommend a draft Budget for the 2010/2011 Work Programme, for the consideration of the Plenary.

16. It is suggested that the Budget Committee consist of a maximum of two representatives per region acting as the spokespersons for their respective regions, and all Contracting Parties able to attend as observers. It is also suggested that there be two Co-Chairs, one from a developing, and one from a developed country. If the Governing Body were to elect a member of the Bureau as a Co-Chair, this might facilitate co-ordination between the Committee and the Bureau, and to the programming of the discussions by the Governing Body.

ITEM 5. Report of the Chairperson

17. The Chairperson will report, for information, on major developments in the inter-sessional period affecting the International Treaty and on actions taken in accordance with the decisions of the Governing Body.

ITEM 6. Report of the Secretary

18. In accordance with Article 20 of the Treaty, the Secretary will report to the Governing Body on activities undertaken,⁶ and communicate to all Contracting Parties information received from Contracting Parties in accordance with the Treaty,⁷ as well as on a number of other issues, as requested by the Governing Body in previous meetings, including: the status of ratification and implementation of the Treaty, and issues not specifically covered in other documents prepared for other agenda items.

ITEM 7. Financial Rules of the Governing Body

19. At its First Session, the Governing Body adopted its *Financial Rules*, leaving some Rules in brackets, to be resolved at its Second Session. At its Second Session, it further deferred consideration of these Rules to the current session.⁸

⁶ Article 20.2c.

⁷ Article 20.3b.

⁸ These are identified in the document, IT/GB-3/09/5, *Financial Rules of the Governing Body*.

20. In addition to these outstanding matters, the *Ad Hoc* Third Party Beneficiary Committee has recommended some amendment to the *Financial Rules*, in order to make provision for the establishment of a Special Trust Fund for the effective operation of the Third Party Beneficiary.⁹ The Governing Body may therefore wish to defer consideration of this agenda item until after its consideration of Agenda Item 12*bis*, to be able to take account of the decisions under Agenda Item 12*bis*, and consider all issues related to the *Financial Rules* together. This proposal is already reflected in the Provisional Indicative Time-Table.

21. It is accordingly suggested that the Governing Body work with the text of the *Financial Rules* contained in *Appendix 2: Proposed Amendments to the Financial Rules of the Treaty* to the document, IT/GB-3/09/11. Rev.1, *Report of the Chair of the Ad Hoc Third Party Beneficiary Committee*, because this contains both the outstanding Rules in brackets and the proposed amendments resulting from the work of the Committee.

22. The Governing Body is invited to first address the Rules in brackets, and finalize these. In this context, it may wish to take into account document IT/GB-3/09/5 Add.1, *Financial Rules of the Governing Body - background information*, which provides factual information on practices to date, and on a report by the United Nations Joint Inspection Unit regarding the impact of voluntary contributions on programme delivery in United Nations system organizations.

23. The Governing Body is invited to then turn to the amendments recommended by the *Ad Hoc* Third Party Beneficiary Committee, in the light of its deliberations under Item 12 bis.

ITEM 8. Adoption of Procedures and Operational Mechanisms to Promote Compliance and to Address Issues of Non-Compliance

24. At its First Session, the Governing Body decided “*to consider and approve procedures and operational mechanisms on compliance at its second session, on the basis of the draft procedures and operational mechanisms to promote compliance and address issues of non-compliance, [available to the present session in the Appendix to document IT/GB-3/09/06 Rev. 1], and the submissions made by Parties and observers*”. It further requested the Secretary to compile submissions by Contracting Parties and observers.

On 3 November 2006, a Circular State Letter was accordingly issued, inviting, *inter alia*, such submissions. These are contained in document, IT/GB-2/07/Inf.5, *Compilation and analysis of submissions made by Contracting Parties and observers on compliance* (from the Second Session of the Governing Body), which is again at the disposal of the Governing Body in the current session. Also available to the Governing body is the document IT/GB-1/06/Inf.7, *Compilation of submissions and comments on the draft procedures and mechanisms to promote compliance and to address issues of non-compliance* (from the First Session of the Governing Body).

25. At its Second Session, by Resolution 1/2007, the Governing Body decided:

“*pursuant to Article 21 of the Treaty, to consider and approve procedures and operational mechanisms on compliance at its Third Session, on the basis of the draft procedures and operational mechanisms to promote compliance and address issues of non-compliance, [available to the present session in the Appendix to document IT/GB-3/09/06 Rev. 1], and the submissions made by Parties and observers*”.

26. By Resolution 1/2007, the Governing Body further decided

“*to establish, as appropriate, a contact group at its next Session, which shall commence consideration of the procedures and operational mechanisms to promote compliance and address issues of non-compliance*”.

⁹ See *Appendix 2: Proposed Amendments to the Financial Rules of the Treaty*, to the document, IT/GB-3/09/11. Rev.1, *Report of the Chair of the Ad Hoc Third Party Beneficiary Committee*.

27. It is suggested that the Contact Group on Compliance comprise two representatives from each Region, and may be open to interested Contracting Parties and observers. It would review and finalize the draft procedures and operational mechanisms to promote compliance and address issues of non-compliance, in the *Appendix* to IT/GB-3/09/06 Rev. 1, so that these may then be considered for adoption by the Plenary.

ITEM 9. Implementation of the Funding Strategy for the Implementation of the Treaty

28. At its First Session, the Governing Body adopted the Funding Strategy for the Implementation of the International Treaty.¹⁰ It also established an *Ad Hoc* Advisory Committee, composed of seven representatives of Contracting Parties, with one representative nominated by each of the FAO Regions, to “draft, on the basis of the preparatory work of the Secretariat and information provided by the Parties, priorities, eligibility criteria and operational procedures for the allocation of funds under the direct control of the Governing Body, for the consideration of the Governing Body”.

29. As a result of the work of *Ad Hoc* Advisory Committee on the Funding Strategy, the Second Session of the Governing Body adopted, as *Annexes* to the Funding Strategy, (a) *Priorities*; (b) *Eligibility Criteria for the use of resources under the direct control of the Governing Body*; and (c) *Operational Procedures for the use of resources under the direct control of the Governing Body*. It also reconvened the *Ad Hoc* Advisory Committee on the Funding Strategy,¹¹ including to develop a strategic plan for the implementation of the Funding Strategy.¹²

30. Document IT/GB-3/09/7, *Report of the Co-chairs of the Ad Hoc Advisory Committee on the Funding Strategy*, contains, for the consideration of the Governing Body: (a) the draft *Annex 4* of the Funding Strategy, *Information and reporting requirements under the Funding Strategy*,¹³ and (b) a draft Decision for its adoption;¹⁴ (c) the draft *Strategic Plan*,¹⁵ and (d) a draft Decision for its adoption;¹⁶ as well as (e) a proposal that a Committee on the Funding Strategy be established, for which elements of terms of reference are suggested.¹⁷

31. Document IT/GB-3/09/8, *Report on actions taken by the Secretary on the implementation of the Funding Strategy*, describes the process by which the first projects for funding from the Benefit-sharing Fund have been identified. When the Benefit-sharing Fund received funds during the biennium,¹⁸ the Bureau consulted the *Ad Hoc* Advisory Committee on the Funding Strategy on the appropriate amount for small-scale projects, and on the percentage of the total funds available to be assigned to the first round of the project cycle. The appropriate amount recommended was US\$ 50,000, up to a total of US\$ 250,000. The call for proposals was opened in December 2008 and closed on 15 January 2009.

32. Several hundred eligible pre-proposals were received. The 64 pre-proposals approved by

¹⁰ Resolution 1/2006.

¹¹ Resolution 1/2006 [paragraph 15], see IT/GB-1/06/Report, *Report of the First Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*.

¹² The *Ad Hoc* Advisory Committee met in two sessions in Rome, Italy, in October 2008 and March 2009; and in Geneva, Switzerland, in April 2009. It will meet, as necessary, for another session in Tunis in May 2009.

¹³ *Appendix 1*.

¹⁴ *Appendix 3*.

¹⁵ IT/GB-3/09/7 *Appendix 2*.

¹⁶ *Appendix 4*.

¹⁷ Paragraph. 7.

¹⁸ Italy, Norway, Spain and Switzerland generously made voluntary contributions to the Benefit-sharing Trust Fund of the Treaty.

the Bureau were requested to submit proposals by 18 March 2008. The 45 proposals properly received were submitted to the Panel of Experts for appraisal.

33. Part IV of document contains, for consideration for adoption, possible elements for a decision of the Governing Body regarding the further development of the Funding Strategy.

34. The *Operational Procedures for the use of resources under the direct control of the Governing Body* provide, in Article 6c, that “*projects not fundable within that year will be presented to donors for possible funding [...]*”. Given the large number of proposals that have been successfully appraised, but for which funds are not available in this cycle, the Governing Body may wish to:

- Request the Secretary to bring these to the attention of all relevant international mechanisms, funds and bodies, both bilateral and multilateral;
- Request such bodies to consider them favourably, and whenever they fund one of these projects, to inform the Secretary; and
- Request the Secretary to report on funding of such projects at its next session.

ITEM 10. Consideration of the Business Plan of the Governing Body

35. At its Second Session, by Resolution 3/2007, the Governing Body requested the Secretary, working with the Bureau, to prepare and submit a *Business Plan for the implementation of the Treaty*, for consideration by the Governing Body at its Third Session, and decision at its Fourth Session.

36. Document IT/GB-3/09/9, *Consideration of the Business Plan of the Governing Body*, outlines the steps taken by the Secretariat and the Bureau in the preparation of the draft *Business Plan*. The initial draft, prepared by the Secretariat, was revised with inputs requested from their regions by Bureau Members. The current draft of the *Business Plan* is contained, for the information of Contracting Parties, in the *Appendix* to the document, IT/GB-3/09/Inf.12 *The Business Plan of the Governing Body*.

37. The Governing Body may wish to invite Contracting Parties to submit comments on the current draft of the *Business Plan*, and give any guidance it considers appropriate for its finalization for submission to its Fourth Session.

ITEM 11. Relationship between the Governing Body and the Global Crop Diversity Trust

38. At its First Session, the Governing Body entered into a *Relationship Agreement between the Global Crop Diversity Trust and the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*.¹⁹ It also adopted Resolution 1/2006, by which it:

“request[ed] that the Global Crop Diversity Trust cooperate with the Governing Body on the basis of a Relationship Agreement, in accordance with Article 7 of the Constitution of the Global Crop Diversity Trust, including the Governing Body’s authority to provide overall policy guidance to the Trust on all matters within the purview of the Treaty, as well as the reporting obligations of the Trust to the Governing Body”.

39. Article 6.3f of the Trust’s Constitution provides that the Executive Board shall:

¹⁹ *Appendix M* of the Report of the Session.

“adopt the fund disbursement strategy for the Trust, including the proposed balance between support for collections held by national institutions and support for collections held by international institutions, and the balance between regions. Before adopting such strategy, the Executive Board shall consult with the Governing Body and Donors’ Council”.

40. Under this Agenda Item, the Executive Secretary of the Global Crop Diversity Trust will present a report to the Governing Body on the activities of the Trust, and provide information on the development of its disbursement strategy, on the basis of the following documents: IT/GB-3/09/10, *Report from the Global Crop Diversity Trust*, and IT/GB-3/09/Inf. 8, *Draft fund disbursement strategy of the Global Crop Diversity Trust*.

ITEM 12. Implementation of the Multilateral System of Access and Benefit-sharing

41. This agenda item is both extensive and complex, and contains several interlinked issues. In order to facilitate a systematic approach to the item, it is proposed that the discussions be structured in a manner that separates the substantive and more general issues from the specific practical aspects.

42. Document IT/GB-3/09/13, *Review of the implementation of the Multilateral System* presents a broad assessment of the policy aspects of the implementation of the Multilateral System. The Governing Body may therefore wish to discuss it first, before moving to the more practical issues, under agenda sub-items 12.1, 12.2 and 12.3. The issues related to the Third Party Beneficiary Procedures may then be considered under agenda item 12*bis*.

43. Document IT/GB-3/09/13 suggests three short-term priorities: (a) to promote the complete documentation of Materials “in” the Multilateral System; (b) to document exchange under the Multilateral System; and (c) to assist users of the Multilateral System to resolve legal and technical uncertainties that are impeding the inclusion of plant genetic resources in the Multilateral System.

44. Attention is drawn to the draft enabling resolution contained in section VIII of the document, which the Governing Body is invited to consider for adoption.

Item 12.1 Assessment of progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons

45. Under Article 11.4 of the Treaty:

“within two years of the entry into force of the Treaty, the Governing Body shall assess the progress in including the plant genetic resources for food and agriculture referred to in paragraph 11.3 in the Multilateral System”.

46. At its First Session, the Governing Body deferred this assessment in the Multilateral System until the current session,²⁰ and, at its Second Session,

“requested the Secretary to continue gathering information on the assessment of progress in the inclusion of plant genetic resources in the Multilateral System, through cost-effective means, including gathering information from National Focal Points.”

47. Document IT/GB-3/09/12, *Assessment of progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons*, provides the limited information currently available. Because of this paucity of information, it

²⁰ Paragraph 28, IT/GB-1/06/Report, *Report of the First Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*.

suggests that the Governing Body further postpone detailed discussion of this matter, and provide clear guidance as to what information it wishes to obtain, responsibilities for providing it, and channels of communication.

48. Attention is drawn to the draft enabling resolution contained in section VIII of the document, which the Governing Body is invited to consider for adoption.

Item 12.2 Review of the implementation and operation of the Standard Material Transfer Agreement and the Multilateral System

49. At its First Session, the Governing Body adopted the Standard Material Transfer Agreement, and requested the Secretary

*“to review the implementation and operation of the Standard Material Transfer Agreement, and report to the Governing Body at its third session, in particular on the benefit-sharing provisions and the modalities of payment”.*²¹

50. In preparing this review, the Secretary requested information from Contracting Parties and other relevant stakeholders regarding their experience with the implementation and operation of the Standard Material Transfer Agreement. Document IT/GB-3/09/14, *Review of the implementation and operation of the Standard Material Transfer Agreement*, provides a synopsis of the information received or collected by the Secretary on various aspects of the implementation and operation of the Standard Material Transfer Agreement, including measures taken by Contracting Parties, major challenges faced by users, benefit-sharing arrangements, and information management.

51. The document notes that a number of Contracting Parties and private and public sector bodies are having difficulties in interpreting the Standard Material Transfer Agreement, a situation that must be addressed rapidly. In general, information on the implementation and operation of the Standard Material Transfer Agreement is very scanty, except in the case of the International Agricultural Research Centres of the Consultative Group on International Agricultural Research.²² It therefore suggests postponing the first review of the levels of payment, called for by Resolution 2/2006, as well as of whether the mandatory payment requirement shall also apply in cases where commercialized products are available without restriction to others for further research and breeding, to a later session or sessions of the Governing Body.

52. Attention is drawn to the draft enabling resolution contained in section VII of the document, which the Governing Body is invited to consider for adoption.

Item 12.3 Review of the Material Transfer Agreement being used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions, for Plant Genetic Resources for Food and Agriculture not included in Annex I of the Treaty

53. At its Second Session, the Governing Body endorsed the use of the Standard Material Transfer Agreement by the International Agricultural Research Centres, for plant genetic resources for food and agriculture other than those listed in *Annex I* of this Treaty and collected before its entry into force, with an interpretative footnote or series of footnotes that indicated that certain of its provisions should not be interpreted as precluding such use of the SMTA.²³ It also

²¹ Resolution 2/2006.

²² See also, the document IT/GB-3/09/Inf. 13 *Experience of the CG Centres with the Implementation of the Agreements with the Governing Body, with particular reference to the Use of the Standard Material Transfer Agreement for Annex I and Non-Annex I Crops*.

²³ Paragraph 68, IT/GB-2/07/Report.

decided that it would review these measures during its consideration of the Standard Material Transfer Agreement at its current session.²⁴

54. Documents IT/GB-3/09/15 and IT/GB-3/09/Inf. 15, *Experience of the CG Centres with the Implementation of the Agreements with the Governing Body, with particular reference to the Use of the Standard Material Transfer Agreement for Annex 1 and Non-Annex 1 Crops*, reports on the experience of the International Agricultural Research Centres in this use of the Standard Material Transfer Agreement as endorsed by the Governing Body at its Second Session and contained in *Annex E* of Document IT/GB-3/09/Inf. 15. Although the CG Centres have used the Standard Material Transfer Agreement for a relatively short time, “the impression of the Centres is that the SMTA is attracting increasing acceptance by potential recipients as they become more familiar with its terms”.²⁵

55. The Governing Body is invited to take note of these documents and to take any decisions necessary.

ITEM 12bis. Procedures for the Third Party Beneficiary

56. At its First Session, the Governing Body invited the Food and Agriculture Organisation of the United Nations:

“to carry out the roles and responsibilities as identified and prescribed in the Standard Material Transfer Agreement, under the direction of the Governing Body, in accordance with the procedures to be established by the Governing Body at its next session”.

57. At its Second Session, the Governing Body:

*“thanked the Director-General for having accepted in principle its invitation for FAO to carry out, as the Third Party Beneficiary, the roles and responsibilities as identified and prescribed in the Standard Material Transfer Agreement, under its direction”.*²⁶

58. At its Second Session, the Governing Body further:

“ requested the Secretary to prepare draft text setting out the procedures to be followed by FAO, when carrying out its roles and responsibilities as the Third Party Beneficiary, taking into account, in particular, FAO’s role as specialized agency of the United Nations, its privileges and immunities. It invited Contracting Parties, other governments and international organizations to comment on the draft text.”

“decided to establish an Ad Hoc Third Party Beneficiary Committee, composed of seven representatives of Contracting Parties, with one representative nominated by each of the FAO Regions. The Committee’s mandate is to consider the draft text prepared by the Secretary, and comments and submissions from Contracting Parties, other governments and international organizations. The Ad Hoc Committee shall prepare draft Third Party Beneficiary procedures to be submitted to the Governing Body at its next Session.”

59. The Committee held two meetings, in Rome, on 24 and 25 November 2008 and on 26 and 27 March 2009. Document IT/GB-3/09/11 Rev.1, *Report of the Chair of the Ad Hoc Third Party Beneficiary Committee*, reports on the outcome of this work, undertaken in consultation with UNCITRAL, WIPO and the ICC. It contains a draft enabling Resolution,²⁷ to which are

²⁴ Ibid.

²⁵ See Document IT/GB-3/09/Inf. 15.

²⁶ Paragraph 61, IT/GB-2/07/Report.

²⁷ *Appendix 1.*

annexed: (a) draft *Procedures for the Operation of the Third Party Beneficiary*;²⁸ and (b) *Operations of the Third Party Beneficiary*.²⁹ It also contains (c) *Proposed amendments to the Financial Rules providing for the establishment of the Third Party Beneficiary Operating Reserve within the Core Administrative Budget*.³⁰

60. The Committee also recommended the establishment of operational guidelines for the amicable dispute settlement and mediation phases that could, *inter alia*, assist in containing costs, and that, for this purpose, the current Committee meet again to finalize such guidelines.³¹ It agreed on the information that the Third Party Beneficiary would require to carry out its roles and responsibilities, as well as the schedule for its provision to the Governing Body, which it forwarded for the consideration of the Governing Body.³² It recommended that the Secretary develop appropriate and cost-effective electronic technologies to facilitate the submission, collection and storage of such information, in ways that would ensure confidentiality and data integrity.³³

61. The Governing Body is invited to consider for adoption the draft enabling Resolution and its *Appendices*.

ITEM 13. Implementation of Article 6, Sustainable use of plant genetic resources

62. At its First Session, the Governing Body “*decided that the implementation of Article 6 should be a component of its programme of work, and a standing item on its agenda, as a priority. At its Second Session, it:*

“reiterated the high importance it attaches to the promotion of Article 6 for the successful implementation of the Treaty. It stressed that Article 6 should continue to be a component of its Programme of Work, and a standing item on its agenda. Capacity building, research and availability of financial resources were considered to be integral components for the implementation of Article 6”.

63. The Governing Body further requested the Secretary to prepare a comprehensive document for the current session, covering the status of the implementation of Article 6, including information on policy and legal measures used to achieve the objectives of the Article.

“It invited submissions from Contracting Parties, other governments, and relevant institutions and organizations, and urged an improved process for information gathering on the sustainable use activities, including means such as surveys, conceptual frameworks, inter-sessional meetings and workshops”.

64. As requested, document IT/GB-3/09/16, *Implementation of Article 6*, reviews the status of implementation of Article 6, taking into account the submissions of Contracting Parties.³⁴ Document IT/GB-3/09/Inf. 5 provides a *Compilation of Submissions Sent by Contracting Parties, Other Governments, and Relevant Institutions and Organizations on the Implementation of Article 6*. The FAO Secretariat has also made available two information documents: IT/GB-3/09/Inf. 5 Add. 1, *Activities of FAO Related to the Supporting Components of the Treaty*, and

²⁸ Annex 1 to Appendix 1.

²⁹ Annex 2 to Appendix 1.

³⁰ Appendix 2.

³¹ Paragraphs 21-22.

³² Paragraph 25 and Parts III and IV of Annex 2 of Appendix 1.

³³ Paragraphs 26 and 27.

³⁴ IT/GB-3/09/Inf. 5, *Compilation of Submissions Sent by Contracting Parties, Other Governments, and Relevant Institutions and Organizations on the Implementation of Article 6*.

IT/GB-3/09/Inf. 10, *Pollinators: Neglected Biodiversity of Importance to Food and Agriculture*.³⁵

65. An important source of information will be the *Second State of the World's Plant Genetic Resources*, under preparation by the FAO Commission on Genetic Resources for Food and Agriculture, for which over 100 country reports have been received. A brief overview of relevant information on relevant policy and legal measures is abstracted from these reports, in document IT/GB-3/09/16, and other sources of information are identified.

66. The Governing Body is invited to take note of the above documents and the submissions received and provide further guidance on the implementation of Article 6 of the Treaty.

ITEM 14. Implementation of Article 9, Farmers' Rights

67. The Treaty, in Article 9.2, provides that "*the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments*".

68. By Resolution 2/2007, the Governing Body:

"Acknowledging that there is uncertainty in many countries as to how Farmers' Rights can be implemented and that the challenges related to the realization of Farmers' Rights are likely to vary from country to country; [...]

"Encourage[d] Contracting Parties and other relevant organizations to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders; [and]

"Request[ed] the Secretary to collect these views and experiences as a basis for an agenda item for consideration by the Governing Body at its Third Session to promote the realization of Farmers' Rights at the national level, and to disseminate relevant information through the website of the International Treaty, where appropriate".

69. Document, IT/GB-3/09/Inf. 6, *Collection of views and experiences submitted by Contracting Parties and other relevant organizations on the Implementation of Article 9*, contains the submissions received from Contracting Parties and other relevant organizations. The Secretary will bring any further submissions that are received before the session begins to the attention of the Governing Body.

70. The Governing Body is invited to give further guidance on how it wishes to proceed in relation to Article 9 and relevant provisions of the Treaty, taking the above document into account, as appropriate.

ITEM 15. Relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture

71. At its First Session,

"The Governing Body stressed the need to develop close cooperation with the Commission, underlining the need to promote coherence and mutual supportiveness between the two bodies, including through the exchange of information. The Governing Body emphasized the need for close cooperation between the two Secretariats in the future".

72. The Commission, at its Eleventh Regular Session,

³⁵ Available in the language in which they were received.

“stressed the importance of supporting the activities of the Governing Body, especially in its early phases of work. It welcomed the excellent cooperation between its Secretariat and the Secretariat of the International Treaty. The Commission supported the development of a joint statement of intention regarding long-term cooperation between the two secretariats”.

73. At its Second Session, the Governing Body requested that the Secretaries of the two bodies prepare a comprehensive paper identifying the repartition of their fields of intergovernmental work. The document, IT/GB-3/09/17, *Cooperation between the Governing Body and the Commission on Genetic Resources for Food and Agriculture, and coordination of their fields of intergovernmental work*, prepared jointly by the secretariats of the International Treaty and the Commission, responds to that request. It outlines key areas of coordination of intergovernmental work between the Governing Body and the Commission, including: support for the conservation and sustainable use of plant genetic resources; access and benefit-sharing; information systems on plant genetic resources; and mobilization of financial resources for plant genetic resources.

74. On the basis of a review of the work of the Commission, in particular in its role in relation to supporting components of the Treaty that are under its guidance, Section V of the document provides elements of a draft decision for consideration for adoption by the Governing Body. It covers: the finalization of the *State of the World’s Plant Genetic Resources for Food and Agriculture*; revision of the *Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture*; updating of the *International Code of Conduct for Plant Germplasm Collecting and Transfer*; other policy issues related to the specificity of plant genetic resources for food and agriculture and their uses; and *the Global Information System on Plant Genetic Resources for Food and Agriculture*.

ITEM 16. Report on the status of cooperation with other international organizations, including Agreements between the Governing Body and the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions

75. At its First Session, the Governing Body:

“noted that cooperation with other international organizations was of particular importance for the Treaty, in many aspects of its work. It acknowledged the ongoing fruitful collaboration with, in particular, the Convention on Biological Diversity, the World Intellectual Property Organization, and the Consultative Group on International Agricultural Research”.

76. At its Second Session, the Governing Body

“recognized the importance of collaboration between the Secretary of the Treaty and the International Agricultural Research Centres in the implementation of the Treaty;³⁶

“called for continued collaboration with the Convention on Biological Diversity, especially in regard to the conservation and sustainable use of agricultural biological diversity, and access and benefit sharing;³⁷

“acknowledged the important role of the Global Crop Diversity Trust in assisting the implementation of the Treaty, and stressed the need for mobilization of funds from other international mechanisms, including the Common Fund for Commodities and the Global Environment Facility;³⁸

³⁶ Paragraph 84.

³⁷ Paragraph 85.

³⁸ Paragraph 86.

“requested that the Secretary participate in relevant meetings of the World Intellectual Property Organization, the International Union for the Protection of New Varieties of Plants and the World Trade Organization; and

“requested the Secretary to report on relevant activities undertaken by international organizations, and consult with relevant private sector interests to identify potential areas for collaboration with the Treaty, in regard to plant genetic resources”.

77. The Secretary's approach to Treaty implementation has been to establish partnerships and collaborations with a wide range of partners, which ensures that Treaty systems are implemented but the technical work does not have to be done by the Secretariat, which merely facilitates and coordinates the implementation to ensure policy coherence with the guidance of the Governing Body. The document, IT/GB-3/09/18, *Progress report on partnerships, synergies and cooperation with other organizations*, provides information on a number of cooperative activities and initiatives since the Second Session. Relations with the CGIAR Centres and other institutions which have signed agreements with the Governing Body under Article 15 of the Treaty, regarding their *ex situ* collections, are also covered, as well as contacts with Non-Governmental Organizations since the Second Session are described in the document.

78. The Governing Body may wish to give further guidance on how cooperation with relevant international organizations may be strengthened, taking into account the possible elements of a decision contained in section VII of document, IT/GB-3/09/18.

ITEM 17. Matters relevant to the Treaty arising from the Report of the Independent External Evaluation of FAO

79. FAO is in the midst of a reform process, following the *Report of the Independent External Evaluation of FAO (IEE)*, the outcomes of which may have implications for both the implementation of the Treaty and the administration of its Secretariat.

80. The Bureau therefore requested that an Agenda Item on the IEE process be included in the Agenda of the Governing Body, and that a document be prepared for the consideration of the Governing Body: this is document IT/GB-3/09/19, *Matters arising from the Report of the Independent External Evaluation of FAO related to the Treaty*.

Of particular relevance for the Treaty was the unanimous adoption by the FAO Conference in November 2008 of the *Report of the Conference Committee on follow-up to the Independent External Evaluation of FAO: Immediate Plan of Action*, which, under *Governance Reform: Statutory Bodies, Conventions*, provided that “[t]he statutory bodies and conventions will be strengthened, enjoying more financial and administrative authority within the framework of FAO and a greater degree of self-funding by their Members.”.

81. The Governing Body may wish to take note of the relevant processes and issues, and give any further guidance it considers appropriate.

ITEM 18. Adoption of Work Programme and Budget for 2010/2011

82. Article 19.3 of the Treaty provides for the Governing Body to develop plans and programmes for implementation of the Treaty and to adopt a budget for the Treaty.

83. This Secretary adopts a new approach in the presentation of the draft Work Programme and Budget 2010-11, which is intended to enable the Governing Body to guide the budgeting and work programming process in an efficient and transparent manner. It seeks to directly link the discussions of the Governing Body to the draft Work Programme, and to the budgetary provisions required for its execution. Each substantive agenda item or issue for discussion is correlated with a defined component of the Work Programme, and the financial implications are reflected in the corresponding Budget line.

84. The Governing Body may wish to refer each decision or conclusion it reaches in Plenary on the various agenda items to the Budget Committee, which will evaluate the financial implications and report back to the Governing Body for a final decision on the relevant amounts, and the sources of funding to be used.
85. At its Second Session, the Governing Body requested³⁹
- “the Secretary to prepare and submit a Draft Programme of Work, including a Secretariat staffing table and a Draft Resolution on the Programme of Work and Budget, for the biennium 2010-11, for the consideration of the Governing Body at its Third Session, and to report on progress on income and expenditures, as well as any adjustments made to the budget for the biennium 2008-09”.*
86. Document IT/GB-2/07/20, *Programme of Work and Budget 2008-09: Financial Report*, provides the information requested on incomes and expenditures. It concludes that the unpredictability of both the level and the timing of contributions by Contracting Parties created difficulties in the implementation of the Work Programme, 2008/09. A number of activities had to be cancelled or discontinued in the course of the biennium. The implementation of a large fraction of the remaining programme of work was only possible through the exceptional agreement of a Contracting Party to allow the temporary use of moneys it had donated to the Special Fund for Agreed Purposes for other activities. The fact that the Working Capital Reserve is not capitalized creates further unpredictability and uncertainty.³⁹ Part VI identifies possible elements for a decision by the Governing Body, to address these questions.
87. The two documents that the Secretary submits in relation to the budget for the forthcoming biennium are: IT/GB-3/09/21, *Draft Work Programme and Budget for the biennium 2008/2009*; and IT/GB-3/09/21 Add. 1, *Addendum 1 to the Draft Work Programme and Budget for the 2010-11 Biennium: possible supporting activities to be funded by Contracting Parties under the Special Fund for Agreed Purposes*. The documents were circulated to the Bureau during its preparation, and incorporate comments received from the Chair and other Bureau members.
88. The Core Administrative Budget detailed in document IT/GB-3/09/21 — that is, the part of the Budget that, in accordance with Financial Rule III.3, is to be met by (a) the amount provided for the Treaty in the Regular Programme of Work and Budget of the FAO; (b) the voluntary contributions of Contracting Parties; (c) other voluntary contributions — has been kept to an absolute minimum, and is composed of two elements. These are: *Annex 1*, the statutory and overhead expenses required for the basic maintenance of the Treaty; and *Annex 2*, the cost of those activities which are already approved or expected to be approved by the Governing Body that are necessary to ensure the vital functions of the Treaty systems. The capitalization of the Working Capital Reserve during the forthcoming biennium, at a level reflecting three months of staff costs, is also requested.
89. Document IT/GB-3/09/21 Add. 1 lists, for information, further possible supporting activities that could be funded by donors according to their individual priorities, in accordance with Financial Rules V.1d and e.
90. Part IV of document IT/GB-3/09/21 contains a draft enabling Resolution, for consideration in adopting its Work Programme and Budget 2010/2011.

ITEM 19. Date and place of the Fourth Session of the Governing Body

91. The Governing Body is requested to indicate when and where the Fourth Session of the Governing Body should be convened. In this context, attention is drawn to paragraph 63 of document IT/GB-3/09/17, *Cooperation between the Governing Body and the Commission on Genetic Resources for Food and Agriculture, and coordination of their fields of*

³⁹

Paragraphs 47-50.

intergovernmental work, which foresees the possibility of convening the Fourth Session of the Governing Body back-to-back with the Thirteenth Regular Session of the Commission, as foreseen in Article 19.9 of the Treaty, and the decision of the Commission at its Eleventh Regular Session.⁴⁰

**ITEM 20. Election of the Chair and Vice-Chairs
of the Fourth Session of the Governing Body**

92. In accordance with Rule II.1 of its *Rules of Procedure*,
- “the Governing Body shall elect a Chairperson and one Vice-Chairperson per FAO region other than the region of the Chairperson (hereinafter collectively referred to as “the Bureau”) and in addition a Rapporteur from among the delegates, alternates, experts and advisers (hereinafter referred to as “representatives”) of the Contracting Parties”.*
93. Members of the Bureau may be re-elected for a second consecutive term, but *“no member of the Bureau may be re-elected for a third consecutive term”.*
94. The Governing Body is requested to elect the Chair and Vice-Chairs of the Fourth Session of the Governing Body. In accordance with Rule II.2 of the *Rules of Procedure*, the term of office of this Bureau will commence with immediate effect upon the closure of the Third Session.

ITEM 21. Other business

95. Under this item, the Governing Body may address any other business requested by Contracting Parties.

ITEM 22. Adoption of the Report

96. According to Rule VIII.1 of the *Rules of Procedure*, *“at each session, the Governing Body shall approve a report embodying its decisions, views, recommendations and conclusions.”* This final agenda item therefore provides for the approval of the *Report of the Third Session of the Governing Body*.

⁴⁰ *“As far as practicable, the Commission requested its Secretariat to organise sessions of the Commission back-to-back with those of the Governing Body of the International Treaty.”*

PROVISIONAL INDICATIVE TIME-TABLE

PLENARY			
Time	Agenda Item	Title	Documents
Monday, 1 June 2009			
Morning			
10:00-13:00	Opening Ceremony of the Third Session of the Governing Body		
	1	Adoption of the Agenda and Timetable	IT/GB-3/09/1 IT/GB-3/09/2 IT/GB-3/09/Inf.1
	2	Election of the <i>Rapporteur</i>	
	3	Appointment of the Credentials Committee	
	4	Establishment of a Budget Committee	
	5	Report of the Chair	IT/GB-3/09/3
	6	Report of the Secretary	IT/GB-3/09/4
Monday, 1 June 2009			
Afternoon			
15:00-18:00	7	Financial Rules of the Governing Body – (<i>Initial consideration</i>)	IT/GB-3/09/5 IT/GB-3/09/5 Add.1
	8	Adoption of procedures and operational mechanisms to promote compliance and to address issues of non-compliance (<i>Establishment of a Contact Group on Compliance</i>)	IT/GB-3/09/06 Rev. 1 IT/GB-2/07/Inf.5

			IT/GB-1/06/Inf.7
	9	Implementation of the Funding Strategy of the Treaty	IT/GB-3/09/7 IT/GB-3/09/8 IT/GB-3/09/Inf.9
Tuesday, 2 June 2009			
morning			
10:00-13.00	9	Implementation of the Funding Strategy <i>Continued</i>	IT/GB-3/09/7 IT/GB-3/09/8 IT/GB-3/09/Inf.9
	11	Relationship between the Governing Body and the Global Crop Diversity Trust	IT/GB-3/09/10 IT/GB-3/09/Inf.8
Tuesday, 2 June 2009			
afternoon			
	10	Consideration of the Business Plan of the Governing Body	IT/GB-3/09/9 IT/GB-3/09/Inf.12
	12	Implementation of the Multilateral System of Access and Benefit-sharing	IT/GB-3/09/13 IT/GB-3/09/Inf.4
	12.1	Assessment of progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons	IT/GB-3/09/12
Wednesday, 3 June 2009			
morning			
10:00-13.00	12.2	Review of the implementation and operation of the Standard Material Transfer Agreement and the Multilateral System	IT/GB-3/09/14
	12.3	Review of the Material Transfer Agreement being used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions, for Plant Genetic Resources for Food and Agriculture not included in <i>Annex 1</i>	IT/GB-3/09/15 IT/GB-3/09/Inf. 15

		of the Treaty	
	12bis	Procedures for the Third Party Beneficiary	IT/GB-3/09/11. Rev.1
Wednesday, 3 June 2009			
Afternoon			
15:00-18.00	7	Financial Rules of the Governing Body – <i>Continued</i>	IT/GB-3/09/5 IT/GB-3/09/5 Add.1 <i>Appendix 2</i> of IT/GB-3/09/11. Rev.1
	13	Implementation of Article 6, <i>Sustainable Use of Plant Genetic Resources</i>	IT/GB-3/09/16 IT/GB-3/09/Inf.5 IT/GB-3/09/Inf.5 Add.1 IT/GB-3/09/Inf. 10
	14	Implementation of Article 9, <i>Farmers' Rights</i>	IT/GB-3/09/Inf.6
Thursday, 4 June 2009			
morning			
10:00-13:00		Compliance (Consideration of the draft <i>Procedures and operational mechanisms to promote compliance and address issues of non-compliance</i> prepared by the Contact Group on Compliance)	
	15	Relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture	IT/GB-3/09/17
	16	Report on the status of cooperation with other international organizations	IT/GB-3/09/18
	17	Matters relevant to the Treaty arising from the Report of the Independent External Evaluation of	IT/GB-3/09/19

		FAO	
Thursday, 4 June 2009			
Afternoon			
15:00-18:00	18	Adoption of the Work Programme and Budget for 2010/11 biennium	IT/GB-3/09/20 IT/GB-3/09/21 IT/GB-3/09/21 Add. 1
	19	Other Business	
Friday, 5 June 2009			
morning			
10:00-13:00	Preparation of the Report		
Friday, 5 June 2009			
Afternoon			
15:00-18:00	19	Date and place of the Fourth Session of the Governing Body	
	20	Election of the Chair and Vice-Chairs of the Fourth Session of the Governing Body	
	21	Adoption of the report	
		Closing of the Session	