



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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Item 12.2 of the Provisional Agenda

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

THIRD SESSION OF THE GOVERNING BODY

Tunis, Tunisia, 1 – 5 June 2009

ASSESSMENT OF PROGRESS IN THE INCLUSION IN THE MULTILATERAL SYSTEM OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE HELD BY NATURAL OR LEGAL PERSONS

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I. INTRODUCTION

1. By Article 11.3 of the Treaty, Contracting Parties

“agree to take appropriate measures to encourage natural and legal persons within their jurisdictions who hold plant genetic resources for food and agriculture listed in Annex 1 to include such plant genetic resources for food and agriculture in the Multilateral System”.

2. Article 11.4 provides that:

“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. Following this assessment, the Governing Body shall decide whether access shall continue to be facilitated to those natural and legal persons referred to in paragraph 11.3 that have not included these plant genetic resources for food and agriculture in the Multilateral System, or take such other measures as it deems appropriate.”

II. DELIBERATIONS OF THE GOVERNING BODY AND FOLLOW-UP BY THE SECRETARY

3. The Treaty entered into force on 29 June 2004, and the first Session of the Governing Body was held from 1 to 6 June 2006. At that session, the Governing Body decided to defer the assessment of progress in the inclusion of plant genetic resources for food and agriculture held by natural and legal persons in the Multilateral System until the present session. It welcomed the decision of the International Agricultural Research Centres to bring their materials into the Multilateral System,

“Urge[d] all other holders of the plant genetic resources for food and agriculture listed in Annex I to the Treaty to include these plant genetic resources in the Multilateral System, and urge[d] Contracting Parties to take appropriate measures, in accordance with Article 11.3 of the Treaty”,

and

“re-emphasised the importance of Contracting Parties taking appropriate measures to encourage natural and legal persons within their jurisdiction, who hold plant genetic resources for food and agriculture listed in Annex I of the Treaty, to include such plant genetic resources for food and agriculture in the Multilateral System”.

4. By a Circular State Letter of 3 November 2006, the Interim Secretary accordingly requested Contracting Parties to provide:

“Information on all plant genetic resources for food and agriculture made available [...] includ[ing] by natural and legal persons within their jurisdictions”.

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

“requested the Secretary to continue gathering information on the assessment of progress in the inclusion of plant genetic resources in the Multilateral System”.

6. By a further Circular State Letter of 11 November 2007, the Secretary accordingly drew Contracting Parties’ attention to the outstanding request for such information. A *sample letter of notification of inclusion of material in the multilateral system* was distributed with the Circular State Letter.¹

III. THE CURRENT STATE OF KNOWLEDGE

7. A number of Contracting Parties have reported on the plant genetic resources for food and agriculture that are under their management and control and in the public domain, and thus included in the Multilateral System, in accordance with the provisions of Article 11.2 of the Treaty.² It should be noted that some of these reports have included the collections of institutions that—in strict legal terms—are not be part of the Government, but separate legal persons. The legal regimes of Contracting Parties differ greatly in terms of the ownership and governance systems under which plant genetic resources are held. In many countries, the Government does not directly hold some or all of the major national collections, although it may provide policy guidance to such collections, as well as financial and institutional support, and regard them as part of its national public plant genetic resources system. Academic institutions, foundations and quasi-autonomous non-governmental organizations may, for example, hold such collections. The Governing Body may therefore wish to clarify that Contracting Parties should report together on all resources that they regard as part of their national public genetic resources system, whether or not legal persons outside Government hold them.

8. The Governing Body may also wish to request Contracting Parties to inform it of the appropriate measures they are taking, in accordance with Article 11.3 of the Treaty, to encourage natural and legal persons within their jurisdictions to include plant genetic resources for food and agriculture in the Multilateral System. In the case of natural and legal persons whom they regard as part of their national public plant genetic resources system, these might, for example, include making continued financial support conditional on their doing so. Such documentation of best practices could be of use to other Contracting Parties, in finding administrative solutions in their national contexts.

9. The Governing Body may wish to specify more precisely which categories of natural and legal persons it wishes to have information about, in particular fully private national and legal persons, including commercial companies and breeders, holding such resources. Such legal persons are also most likely to create Products using Materials accessed from the Multilateral System. It may accordingly wish to address a specific request to them to provide such information, and to invite the assistance of industry representative bodies in conveying the request to them.

10. No Contracting Party has specifically informed the Secretary about natural or legal persons, whom they do not regard as forming part of their national plant genetic resources system, having brought plant genetic resources into the Multilateral System.

11. During the preparation of this document, the first and so far only direct report from a natural or legal person within the jurisdiction of a Contracting Party was received: by a letter of 24 March 2009, PRO-MAÏS, a private maize-breeders’ association for maize study and improvement in France, and the French National Institute of Agronomic Research (INRA), informed the Secretary that they were including in the Multilateral System a collection of 500

¹ This is attached, as *Appendix I*, to IT/GB-3/09.14.

² See IT/GB-3/09.14.

accessions from maize populations and of maize lines, and that they would shortly make available an internet URL, where samples may be requested.

IV. CONCLUSIONS

12. Because of the current paucity of information, the Governing Body may wish to further postpone detailed discussion of this matter, but provide clear guidance as to what information it wishes to obtain, responsibilities for providing it, and channels of communication.

V. DRAFT ENABLING RESOLUTION

13. The following are elements of a decision which the Governing Body may wish to consider:

RESOLUTION X/2009

Inclusion of plant genetic resource for food and agriculture in the Multilateral System by natural and legal persons within the jurisdiction of Contracting Parties

Recalling that, in Article 11.3 of the Treaty, Contracting Parties agreed to take appropriate measures to encourage natural and legal persons within their jurisdictions who hold plant genetic resources for food and agriculture listed in *Annex 1* to include such plant genetic resources for food and agriculture in the Multilateral System;

Noting that Article 11.4 of the Treaty provided that, within two years of the entry into force of the Treaty, the Governing Body should assess the progress in including these plant genetic resources for food and agriculture in the Multilateral System, and that, following this assessment, the Governing Body should decide whether access shall continue to be facilitated to those natural and legal persons that have not included these plant genetic resources for food and agriculture in the Multilateral System, or take such other measures as it deems appropriate;

Noting further that, at its Second Session, it had decided to postpone this assessment of progress until this, its Third Session;

Recognizing the importance of obtaining the information it needs to assess progress in including plant genetic resources for food and agriculture, in particular by natural and legal persons within the jurisdictions of Contracting Parties, as provided for in Article 11.4 of the Treaty;

The Governing Body:

- (i) *Expresses its concern* that the information is not yet available on which to base this review;
- (ii) *Reiterates* the urgency of obtaining the information it needs to assess progress in the inclusion in the Multilateral System of plant genetic resources for food and agriculture held by natural and legal persons within the jurisdictions of Contracting Parties;
- (iii) *Requests* all Contracting Parties, in reporting on their plant genetic resources for food and agriculture in the Multilateral System, to provide information on the collections of legal persons not part of the Government, whom they regard as forming part of their national public plant genetic resources systems;
- (iv) *Further requests* all Contracting Parties to inform it of the appropriate measures they are taking, in accordance with Article 11.3, to encourage natural and legal persons within their jurisdictions to include plant genetic resources for food and agriculture in the Multilateral System;

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- (v) **Requests** private natural and legal persons, in particular commercial companies and breeders, to report on plant genetic resources for food and agriculture that they have included in the Multilateral System, and this context invites the assistance of industry representative bodies in conveying this request to their members;
 - (vi) **Decides** to postpone the assessment provided for in Article 11.4 of the Treaty until its Fourth Session, because of the current lack of information;
 - (vii) **Stresses** the importance of receiving adequate information by January 2011, in order that a full report may be prepared for its Fourth Session; and
 - (viii) **Requests** the Secretary to follow-up actively, to obtain the necessary information.