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COMMISSION ON PLANT GENETIC RESOURCES

First Extraordinary Session

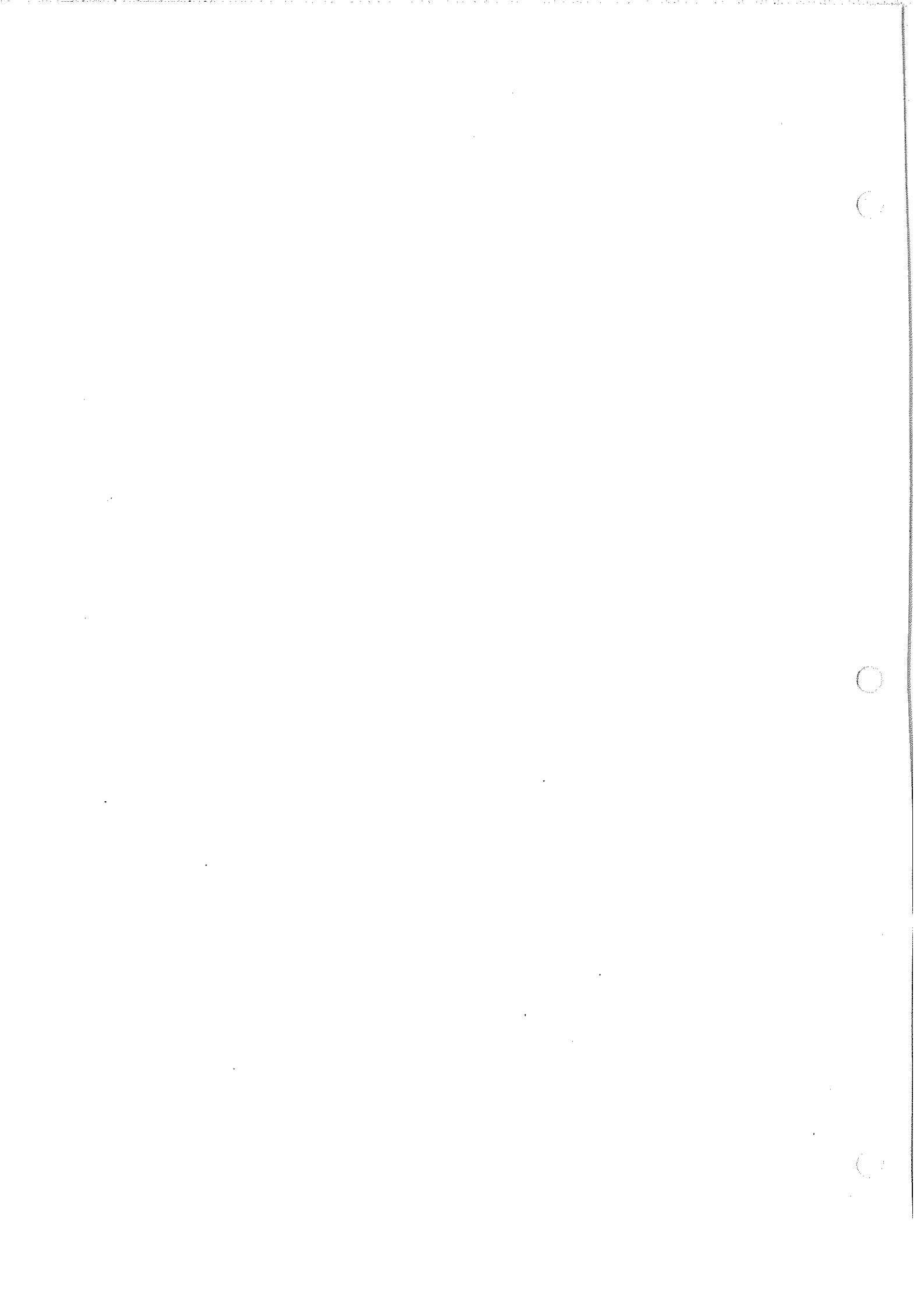
Rome, 7 - 11 November 1994

INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES

(This is an information document containing the original International Undertaking, as adopted through Conference Resolution 8/83, and its three annexes, adopted as Conference Resolutions 4/89, 5/89 and 3/91. Conference Resolution 7/93 requested the revision of this Undertaking.)

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INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES¹

I. GENERAL

Article 1 - Objective

1. The objective of this Undertaking is to ensure that plant genetic resources of economic and/or social interest, particularly for agriculture, will be explored, preserved, evaluated and made available for plant breeding and scientific purposes. This Undertaking is based on the universally accepted principle that plant genetic resources are a heritage of mankind and consequently should be available without restriction.

Article 2 - Definitions and Scope

2.1 In this Undertaking:

- (a) "plant genetic resources" means the reproductive or vegetative propagating material of the following categories of plants:
- i. cultivated varieties (cultivars) in current use and newly developed varieties;
 - ii. obsolete cultivars;
 - iii. primitive cultivars (land races);
 - iv. wild and weed species, near relatives of cultivated varieties;
 - v. special genetic stocks (including elite and current breeders' line and mutants;
- (b) "base collection of plant genetic resources" means a collection of seed stock or vegetative propagating material (ranging from tissue cultures to whole plants) held for long-term security in order to preserve the genetic variation for scientific purposes and as a basis for plant breeding;
- (c) "active collection" means a collection which complements a base collection, and is a collection from which seed samples are drawn for distribution, exchange and other purposes such as multiplication and evaluation;
- (d) "institution" means an entity established at the international or national level, with or without legal personality, for purposes related to the exploration, collection, conservation, maintenance, evaluation or exchange of plant genetic resources;

¹ Extracted from Resolution 8/83 of the Twenty-second Session of the FAO Conference. Rome, 5-23 November 1983.

- (e) "centre" means an institution holding a base or active collection of plant genetic resources, as described in Article 7.

2.2 This Undertaking relates to the plant genetic resources described in para. 2.1 (a), of all species of economic and/or social interest, particularly for agriculture at present or in the future, and has particular reference to food crops.

Article 3 - Exploration of Plant Genetic Resources

3.1 Governments adhering to this Undertaking will organize or arrange for missions of exploration, conducted in accordance with recognized scientific standards, to identify potentially valuable plant genetic resources that are in danger of becoming extinct in the country concerned, as well as other plant genetic resources in the country which may be useful for development but whose existence or essential characteristics are at present unknown, in particular:

- (a) known land races or cultivars in danger of becoming extinct due to their abandonment in favour of the cultivation of new cultivars;
- (b) the wild relatives of cultivated plants in areas identified as centres of genetic diversity or natural distribution;
- (c) species which are not actually cultivated but may be used for the benefit of mankind as a source of food or raw materials (such as fibres, chemical compounds, medicine or timber).

3.2 Special efforts will be made, in the context of Article 3.1, where the danger of extinction of plant species is certain, or is likely, having regard to circumstances such as the clearance of vegetation from tropical rain forests and semi-arid lands with a view to the expansion of cultivated areas.

Article 4 - Preservation, Evaluation and Documentation of Plant Genetic Resources

4.1 Appropriate legislative and other measures will be maintained and, where necessary, developed and adopted to protect and preserve the plant genetic resources of plants growing in areas of their natural habitat in the major centres of genetic diversity.

4.2 Measures will be taken, if necessary through international cooperation, to ensure the scientific collection and safeguarding of material in areas where important plant genetic resources are in danger of becoming extinct on account of agricultural or other development.

4.3 Appropriate measures will also be taken with respect to plant genetic resources held, outside their natural habitats, in

gene banks or living collections of plants. Governments and institutions adhering to this Undertaking will, in particular, ensure that the said resources are conserved and maintained in such a way as to preserve their valuable characteristics for use in scientific research and plant breeding, and are also evaluated and fully documented.

Article 5 - Availability of Plant Genetic Resources

5. It will be the policy of adhering Governments and institutions having plant genetic resources under their control to allow access to samples of such resources, and to permit their export, where the resources have been requested for the purposes of scientific research, plant breeding or genetic resource conservation. The samples will be made available free of charge, on the basis of mutual exchange or on mutually agreed terms.

II. INTERNATIONAL COOPERATION

Article 6 - General

6. International cooperation will, in particular, be directed to:

- (a) establishing or strengthening the capabilities of developing countries, where appropriate on a national or sub-regional basis, with respect to plant genetic resources activities, including plant survey and identification, plant breeding and seed multiplication and distribution, with the aim of enabling all countries to make full use of plant genetic resources for the benefit of their agricultural development;
- (b) intensifying international activities in preservation, evaluation, documentation, exchange of plant genetic resources, plant breeding, germplasm maintenance, and seed multiplication. This would include activities carried out by FAO and other concerned agencies in the UN System, it would also include activities of other institutions, including those supported by the CGIAR. The aim would be to progressively cover all plant species that are important for agriculture and other sectors of the economy, in the present and for the future;
- (c) supporting the arrangements outlined in Article 7, including the participation in such arrangements of governments and institutions, where appropriate and feasible;
- (d) considering measures, such as the strengthening or establishment of funding mechanisms, to finance activities relating to plant genetic resources.

Article 7 - International Arrangements

7.1 The present international arrangements, being carried out under the auspices of FAO and other organizations in the United Nations System, by national and regional institutions and institutions supported by the CGIAR, in particular the IBPGR, for the exploration, collection, conservation, maintenance, evaluation, documentation, exchange and use of plant genetic resources will be further developed and, where necessary, complemented in order to develop a global system so as to ensure that:

- (a) there develops an internationally coordinated network of national, regional and international centres, including an international network of base collections in gene banks, under the auspices or the jurisdiction of FAO, that have assumed the responsibility to hold, for the benefit of the international community and on the principle of unrestricted exchange, base or active collections of the plant genetic resources of particular plant species;
- (b) the number of such centres will be progressively increased so as to achieve as complete a coverage as necessary, in terms of species and geographical distribution, account also being taken of the need for duplication, of the resources to be safeguarded and preserved;
- (c) the activities of the centres that are related to the exploration, collection, conservation, maintenance, rejuvenation, evaluation and exchange of plant genetic resources will be carried out with due account being taken of scientific standards;
- (d) sufficient support in funds and facilities will be provided, at the national and international levels, to enable the centres to carry out their tasks;
- (e) a global information system, under the coordination of FAO, relating to plant genetic resources maintained in the afore-mentioned collections, and linked to systems established at the national, sub-regional and regional levels, will be developed on the basis of relevant arrangements that already exist;
- (f) early warning will be given to FAO, or to any institution designated by FAO, of any hazards that threaten the efficient maintenance and operation of a centre, with a view to prompt international action to safeguard the material maintained by the centre;
- (g) the IBPGR pursues and develops its present activities, within its terms of reference, in liaison with FAO;
- (h) i. the general expansion and improvement of related professional and institutional capability within

developing countries, including training within appropriate institutions in both developed and developing countries, is adequately funded; and

- ii. the overall activity within the Undertaking ultimately ensures a significant improvement in the capacity of developing countries for the production and distribution of improved crop varieties, as required to support major increases in agricultural production, especially in developing countries.

7.2 Within the context of the global system any Governments or institutions that agree to participate in the Undertaking, may, furthermore, notify the Director-General of FAO that they wish the base collection or collections for which they are responsible to be recognized as part of the international network of base collections in gene banks, under the auspices or the jurisdiction of FAO. The centre concerned will, whenever requested by FAO, make material in the base collection available to participants in the Undertaking, for purposes of scientific research, plant breeding or genetic resource conservation, free of charge, on the basis of mutual exchange or on mutually agreed terms.

Article 8 - Financial Security

8.1 Adhering Governments, and financing agencies, will, individually and collectively, consider adopting measures that would place activities relevant to the objective of this Undertaking on a firmer financial basis, with special consideration for the need of developing countries to strengthen their capabilities in genetic resource activities, plant breeding and seed multiplication.

8.2 Adhering Governments, and financing agencies, will, in particular, explore the possibility of establishing mechanisms which would guarantee the availability of funds that could be immediately mobilized to meet situations of the kind referred to in Article 7.1 (f).

8.3 Adhering Governments and institutions, and financing agencies, will give special consideration to requests from FAO for extra-budgetary funds, equipment or services needed to meet situations of the kind referred to in Article 7.1 (f).

8.4 The funding of the establishment and operation of the international network, insofar as it imposes additional costs on FAO, in the main will be funded from extra-budgetary resources.

Article 9 - Monitoring of Activities and Related Action by FAO

9.1 FAO will keep under continuous review the international situation concerning the exploration, collection, conservation, documentation, exchange and use of plant genetic resources.

9.2 FAO will, in particular, establish an intergovernmental body

to monitor the operation of the arrangements referred to in Article 7, and to take or recommend measures that are necessary or desirable in order to ensure the comprehensiveness of the global system and the efficiency of its operations in line with the Undertaking.

9.3 In the performance of its responsibilities outlined in Part II of this Undertaking, FAO will act in consultation with those Governments that have indicated to FAO their intention to support the arrangements referred to in Article 7.

III. OTHER PROVISIONS

Article 10 - Phytosanitary Measures

10. This Undertaking is without prejudice to any measures taken by Governments -in line with the provisions of the International Plant Protection Convention, adopted in Rome on 6 December 1951 - to regulate the entry of plant genetic resources with the aim of preventing the introduction or spread of plant pests.

Article 11 - Information on the Implementation of this Undertaking

11. At the time of adhering, Governments and institutions will advise the Director-General of FAO of the extent to which they are in a position to give effect to the principles contained in the Undertaking. At yearly intervals, they will provide the Director-General of FAO with information on the measures that they have taken or propose to take to achieve the objective of this Undertaking.

ANNEX I²

Resolution 4/89

AGREED INTERPRETATION OF THE INTERNATIONAL UNDERTAKING

THE CONFERENCE,

Recognizing that:

plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations,

Further recognizing that:

- (a) the International Undertaking on Plant Genetic Resources constitutes a formal framework aimed at ensuring conservation, use and availability of plant genetic resources,
- (b) some countries have not adhered to the Undertaking and others have adhered with reservation because of possible conflict of certain provisions of the Undertaking with their international obligations and existing national regulations,
- (c) these reservations and constraints may be overcome through an agreed interpretation of the Undertaking which recognizes Plant Breeders' Rights and Farmers' Rights,

Endorses the agreed interpretation set forth hereinafter which is intended to lay the basis for an equitable and, therefore solid and lasting, global system and thereby to facilitate the withdrawal of reservations which countries have made with regard to the International Undertaking, and to secure the adherence of others:

AGREED INTERPRETATION

- 1. Plant Breeders' Rights, as provided for under UPOV (International Union for the Protection of New Varieties of Plant) are not incompatible with the International Undertaking;
- 2. a state may impose only such minimum restrictions on the free exchange of materials covered by Article 2.1 (a) of the International Undertaking as are necessary for it to conform to its national and international obligations;
- 3. states adhering to the Undertaking recognize the enormous contribution that farmers of all regions have made to the

² Extract of the Twenty-fifth Session of the FAO Conference. Rome, 11-29 November 1989.

conservation and development of plant genetic resources, which constitute the basis of plant production throughout the world, and which form the basis for the concept of Farmers' Rights;

4. the adhering states consider that the best way to implement the concept of Farmers' Rights is to ensure the conservation, management and use of plant genetic resources, for the benefit of present and future generations of farmers. This could be achieved through appropriate means, monitored by the Commission on Plant Genetic Resources, including in particular the International Fund for Plant Genetic Resources, already established by FAO. To reflect the responsibility of those countries which have benefitted most from the use of germplasm, the Fund would benefit from being supplemented by further contributions from adhering governments, on a basis to be agreed upon, in order to ensure for the Fund a sound and recurring basis. The International Fund should be used to support plant genetic conservation, management and utilization programmes, particularly within developing countries, and those which are important sources of plant genetic material. Special priority should be placed on intensified educational programmes for biotechnology specialists, and strengthening the capabilities of developing countries in genetic resource conservation and management, as well as the improvement of plant breeding and seed production.
5. It is understood that:
 - (a) the term "free access" does not mean free of charge, and
 - (b) the benefits to be derived under the International Undertaking are part of a reciprocal system, and should be limited to countries adhering to the International Undertaking.

(Adopted on 29 November 1989)

ANNEX II³

Resolution 5/89

FARMERS' RIGHTS

THE CONFERENCE,

Recognizing that:

- (a) plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations,
- (b) full advantage can be derived from plant genetic resources through an effective programme of plant breeding, and that, while most such resources, in the form of wild plants and old landraces, are to be found in developing countries, training and facilities for plant survey and identification, and plant breeding, are insufficient, or even not available in many of those countries,
- (c) plant genetic resources are indispensable for the genetic improvement of cultivated plants, but have been insufficiently explored, and in danger of erosion and loss,

Considering that:

- (a) in the history of mankind, unnumbered generations of farmers have conserved, improved and made available plant genetic resources,
- (b) the majority of these plant genetic resources come from developing countries, the contribution of whose farmers has not been sufficiently recognized or rewarded,
- (c) the farmers, especially those in developing countries, should benefit fully from the improved and increased use of the natural resources they have preserved,
- (d) there is a need to continue the conservation (in situ and ex situ), development and use of the plant genetic resources in all countries, and to strengthen the capabilities of developing countries in these areas,

Endorses the concept of Farmers' Rights (Farmers' Rights mean rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity. These rights are vested in the International Community, as trustee for present and future generations of farmers, for the purpose of ensuring full benefits to farmers,

³ Extract of the Twenty-fifth Session of the FAO Conference. Rome, 11-29 November 1989.

and supporting the continuation of their contributions, as well as the attainment of the overall purposes of the International Undertaking) in order to:

- (a) ensure that the need for conservation is globally recognized and that sufficient funds for these purposes will be available;
- (b) assist farmers and farming communities, in all regions of the world, but especially in the areas of origin/diversity of plant genetic resources, in the protection and conservation of their plant genetic resources, and of the natural biosphere;
- (c) allow farmers, their communities, and countries in all regions, to participate fully in the benefits derived, at present and in the future, from the improved use of plant genetic resources, through plant breeding and other scientific methods.

(Adopted on 29 November 1989)

ANNEX III⁴

Resolution 3/91

THE CONFERENCE,

Recognizing that:

- (a) the concept of mankind's heritage, as applied in the International Undertaking on Plant Genetic Resources, is subject to the sovereignty of the states over their plant genetic resources,
- (b) the availability of plant genetic resources and the information, technologies and funds necessary to conserve and utilize them, are complementary and of equal importance,
- (c) all nations can be contributors and beneficiaries of plant genetic resources, information, technologies and funds,
- (d) conditions of access to plant genetic resources need further clarification;

Considering that:

- (a) the best way to guarantee the maintenance of plant genetic resources is to ensure their effective and beneficial utilization in all countries,
- (b) the farmers of the world have, over the millennia, domesticated, conserved, nurtured, improved and made available plant genetic resources, and continue to do so today,
- (c) advanced technologies and local rural technologies are both important and complementary in the conservation and utilization of plant genetic resources,
- (d) in situ and ex situ conservation are important and complementary strategies for maintaining genetic diversity;

Endorses the following points:

- 1. that nations have sovereign rights over their plant genetic resources;
- 2. that breeders' lines and farmers' breeding material should only be available at the discretion of their developers during the period of development;
- 3. that Farmers' Rights will be implemented through an

⁴ Extract of the Twenty-sixth Session of the FAO Conference. Rome, 9-27 November 1991.

international fund on plant genetic resources which will support plant genetic conservation and utilization programmes, particularly, but not exclusively, in the developing countries;

4. that the effective conservation and sustainable utilization of plant genetic resources is a pressing and permanent need, and, therefore, the resources for the international fund as well as for other funding mechanisms should be substantial, sustainable and based on the principles of equity and transparency;
5. that through the Commission on Plant Genetic Resources, the donors of genetic resources, funds and technology will determine and oversee the policies, programmes and priorities of the fund and other funding mechanisms, with the advice of the appropriate bodies.

(Adopted on 25 November 1991)