



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
Organization
of
the
United
Nations

Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

Item 2 of the Provisional Agenda

COMMISSION ON PLANT GENETIC RESOURCES

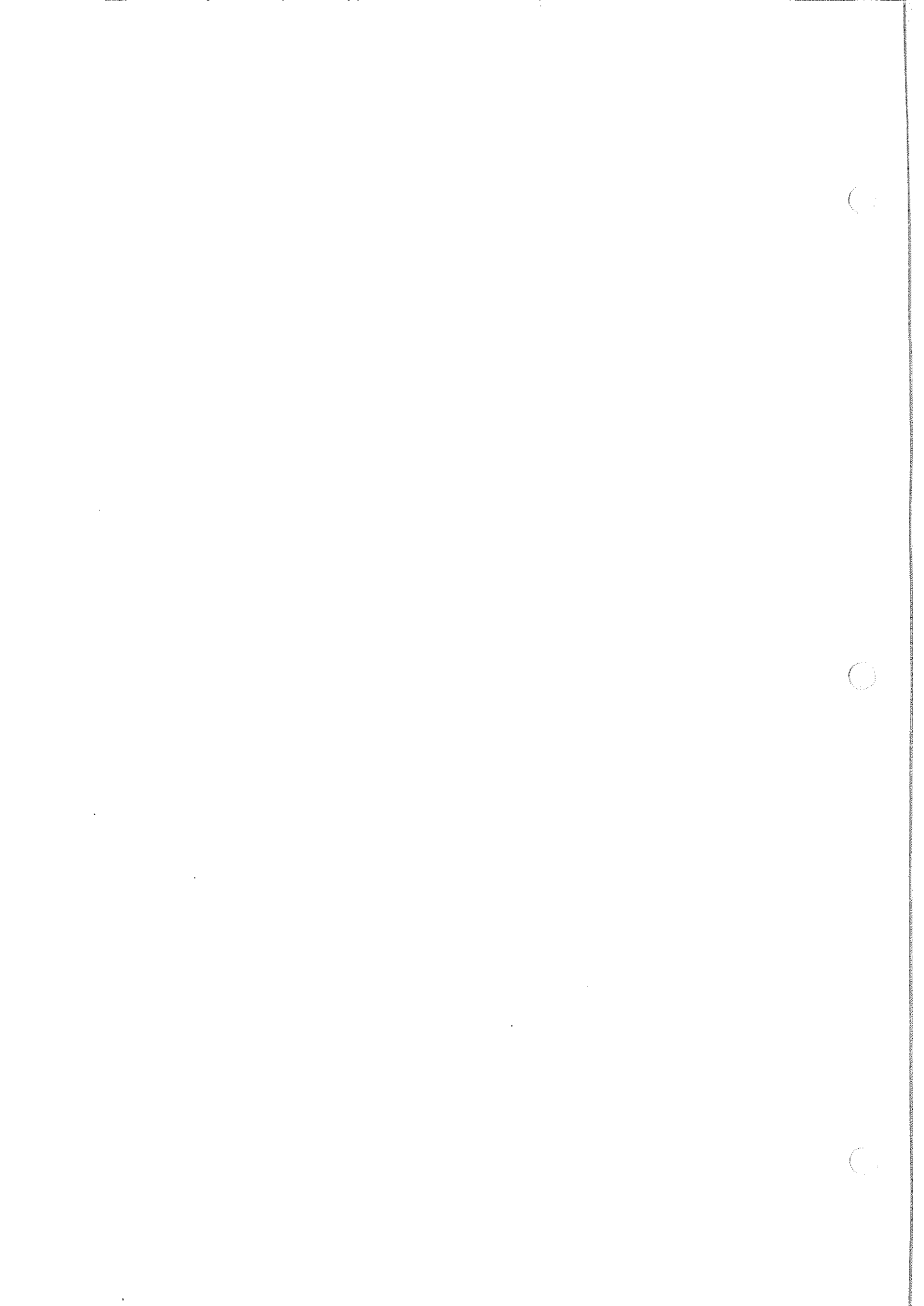
First extraordinary meeting

Rome, Italy, 7 - 11 November 1994

REPORT BY THE CHAIRMAN OF THE WORKING GROUP ON THE GROUP'S NINTH MEETING

CONTENTS

	Paragraphs
INTRODUCTION	1 - 5
REVISION OF THE INTERNATIONAL UNDERTAKING	6 - 16
PROGRESS REPORT ON THE INTERNATIONAL CONFERENCE AND PROGRAMME ON THE CONSERVATION AND UTILIZATION OF PLANT GENETIC RESOURCES	17 - 23
INTERNATIONAL NETWORK OF <i>EX SITU</i> GERMPLASM COLLECTIONS: PROGRESS REPORT ON AGREEMENTS WITH THE INTERNATIONAL AGRICULTURAL RESEARCH CENTRES	24 - 27
DRAFT TERMS OF REFERENCE AND PROCEDURES FOR THE WORKING GROUP	28 - 32
EXAMINATION OF THE AGENDA FOR THE NEXT COMMISSION MEETING	33 - 36



INTRODUCTION

1. The ninth meeting of the working group, held on 11 and 12 May 1994, was attended by representatives from Australia, Brazil, Canada, Cape Verde, Egypt, Ethiopia, France, Germany, India, Israel, Japan, Libya, Madagascar, Malaysia, Peru, Poland, Sweden, Thailand, Tunisia and Venezuela. The European Union was also represented at the meeting, in accordance with paragraphs 8 and 9 of Article II of the FAO Constitution. The meeting was chaired by Mr M. Bolívar (Spain).
2. The Chairman called the meeting to order. The Assistant Director-General, Mr de Haen, then presented the provisional agenda. He noted the importance of the themes to be discussed, and the negotiations under way which were designed to provide a solid basis for the conservation and sustainable use of plant genetic resources for food and agriculture purposes. Mr de Haen emphasized the features which distinguished these resources from other classes of biodiversity: they were vital to long-term food security and to the satisfaction of the basic needs of present and future generations; their biodiversity had been steered by human beings; and countries were far more interdependent on each others' plant genetic resources than on other classes of biodiversity. The uniqueness of plant genetic resources for agriculture and food meant that they might have to be dealt with in a different way from other classes of biodiversity. Mr de Haen mentioned Resolution 7/93 of the FAO Conference, and stated that the Director-General had guaranteed Regular Programme funding for the Commission to prepare and hold regular and extraordinary negotiation meetings in 1994 and 1995 in implementation of the Resolution. He also pointed out that the Regular Programme resources available would not suffice to allow economic support for the attendance of delegations from the developing countries. Accordingly, extra-budgetary resources had been requested from potential donors.
3. After running through the provisional agenda, Mr de Haen informed members that, in line with the spirit of the recommendations made at the Commission's fifth meeting, the Chairman of the Intergovernmental Committee on the Convention on Biological Diversity had been invited to the present working group meeting. The Director-General of IPGRI had also been invited to attend the debate on agenda item 4: International Network of *Ex Situ* Germplasm Collections: Progress Report on Agreements with the International Agricultural Research Centres (CPGR/94/WG9/6).
4. The agenda was approved, subject to the addition of an item 6 proposed by the Canadian Delegation: Examination of the Agenda for the next Commission meeting.
5. A number of Delegations emphasized how important it was that developing countries be able to play a full part in the meetings, stressing that no efforts should be spared to secure the requisite funds. This view received broad endorsement.

REVISION OF THE INTERNATIONAL UNDERTAKING

Stage one: Integration of the Annexes and Harmonization with the Convention on Biological Diversity (CPGR/94/WG9/2 and CPGR/94/WG9/3)

6. The Legal Adviser, Mr Moore, presented the relevant documents and cited Resolution 7/93 of the Conference which requested that intergovernmental negotiations be held for the adaptation of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity. Mr Moore also mentioned the need to examine the legal status of the International Undertaking and its relation to the Convention on Biological Diversity, as well as the recommendation of the Commission and the Conference that the Undertaking be revised on a step-by-step basis.
7. Mr Moore then proposed that the Undertaking now be discussed article by article, leaving the preamble until last.

8. In order to proceed on a step-by-step basis as recommended by the Commission and the Conference, the Working Group accepted Mr Moore's proposal. Given the scale and diversity of the comments and proposals made on each article by the various delegations, and as the Working Group is not a negotiating body, it was agreed that the secretariat would add the Group's comments to those already contained in the document, thereby giving the Commission further items for discussion.
9. Several countries highlighted the importance of altering the structure of the document, as set out in the Annex, to offer the Commission a clear and useful text when it came to discuss the articles. However, it was noted that the new lay-out might make it more difficult to compare the text with the original Undertaking. It would therefore be helpful for the secretariat to draft two versions of the document, one using the present format and the other using the one proposed in the Annex, so that the Commission could decide which it preferred to work with.
10. During the examination of the Undertaking and its Annexes, the following main points were made:
- The Working Group is not a negotiating body. Its task is to raise basic points and to highlight the principles and concepts which will aid the Commission in its negotiations.
 - The negotiation of the revised Undertaking must be based on the results of over ten years of negotiations, which are reflected in the Undertaking and its Annexes. The consensus which had previously been secured must be maintained. The essence of the Undertaking must be conserved, and no unnecessary alterations must be made. Account must also be taken of the changed situation.
 - The Undertaking must fit in with the Convention, but it must be remembered that two subjects (access to resources conserved *ex situ* which are not addressed by the Convention, and Farmers' Rights) are not included in the Convention and must be discussed within the FAO World System of Plant Genetic Resources.
 - As far as possible, the wording of the revised Undertaking must be aligned with that of the Convention.
 - The revised Undertaking must also take account of other international agreements, such as Agenda 21 and the Uruguay Round, particularly the provisions on *sui generis* intellectual property systems for plant varieties, within the context of TRIPS.
 - It would be desirable for the revised Undertaking to be legally binding.
 - It was felt that the specific question of plant genetic resources for food and agriculture purposes merited specific discussions and solutions which might not necessarily be valid for other classes of biodiversity.
 - International cooperation is needed to avoid the loss of endangered plant genetic resources and to ensure a better distribution of the benefits derived from them.
 - The revision of the Undertaking should alter its format to include conditions of access to germplasm, financial aspects, Farmers' Rights, legal and institutional aspects, and international cooperation.
 - The revised Undertaking should cover conservation and sustainable use of plant genetic resources for food and agriculture purposes. Some countries felt that the Undertaking should also cover medicinal plants. Others disagreed. A distinction was drawn between cultivated and non-cultivated medicinal plants.
 - It was important that the secretariat prepare the new version of the document as soon as possible, incorporating the comments made at the present meeting on the individual articles.
 - It was agreed that the revision process must be done with the cooperation of the Conference of the Parties. It was also noted that the work should be done in close contact with the Commission on Sustainable Development.

**Stage two: Consideration of other Topics to be incorporated in the revised Undertaking
at Later Stages of the Process (CPGR/94/WG9/2 and CPGR/94/WG9/4)**

11. The Secretary of the Commission, Mr Esquinas-Alcázar, introduced this item. He pointed out that the second stage in the revision of the Undertaking would address the following issues identified in Resolution 7/93:

- access on mutually agreed terms to plant genetic resources, including *ex situ* collections not addressed by the Convention on Biological Diversity;
- "the need to realize Farmers' Rights".

12. One country felt that discussion should be limited to a) access to *ex situ* collections existing before the entry into force of the Convention on Biological Diversity, and b) Farmers' Rights.

13. However, several countries thought that, in accordance with Resolution 7/93, the discussion should also consider access to new collections and the case for framing a multilateral agreement embracing both types of collection. They considered that the Parties were unlikely to limit the regulation of access to plant genetic resources to bilateral agreements. These countries stressed that plant genetic resources for food and agriculture purposes came within FAO terms of reference.

14. It was also proposed that discussion of the second stage of the revision of the Undertaking should include these institutional aspects.

15. One country emphasized the difficulty of plenary negotiations and suggested that working groups be set up at Commission meetings as a discussion forum open to all countries. Other countries pointed out that the developing nations would find it difficult to send enough delegates to participate in different working groups at the same time.

16. It was felt that the negotiations should be confined to plant genetic resources for food and agriculture purposes, and it was proposed that this and other comments made by the delegates in response to the questions raised in the secretariat paper be included in the revised document to be presented at the extraordinary session of the Commission.

**PROGRESS REPORT ON THE INTERNATIONAL CONFERENCE AND PROGRAMME
ON THE CONSERVATION AND UTILIZATION OF PLANT GENETIC RESOURCES
(CPGR/94/WG9/5)**

17. The Assistant Director-General, Mr de Haen, introduced this item. He noted that the International Technical Conference would be held in June 1996. He stressed that it should constitute a concrete step towards world food security, and emphasized the participatory nature of the Global Plan of Action. He charted the progress of the preparations:

- setting-up of a Secretariat;
- finalization of guidelines for the drafting of country reports;
- cooperation with other bodies;
- initial contacts with the countries for the drafting of their reports.

18. Around 80 to 85 questionnaires containing the requisite information had already been returned by the Member Nations.

19. US\$2.7 million in funding had already been committed, and there were firm pledges for almost another million. This meant that around US\$ 4 million were still needed for total project funding. In these conditions, FAO could not obtain commitments, even though these were necessary to expedite the preparatory process. Support was also needed to enable the developing countries to play an active part in the process.

20. The Working Group expressed concern at these financial problems and their repercussions on the preparatory process. It urged that funds be mobilized from all possible sources. It also emphasized the importance of active participation of the developing countries in both the preparatory process and the Conference.
21. The Working Group noted that both the revision of the Undertaking and the preparation of the "State of the World" Report and the Plan of Action should be viewed as part of the preparatory process carried out by countries under the guidance of the Commission and its Working Group within the context of the Global System on Plant Genetic Resources. It also pointed out that country consultations and cooperation with other bodies should be stepped up.
22. The Group stressed that although the Conference would not be solely technical in nature, all aspects of plant genetic resources for food and agriculture purposes should be examined with due scientific rigour.
23. The country hosting the Conference expressed concern about possible failure to respect the scheduled dates.

**INTERNATIONAL NETWORK OF *EX SITU* GERMPLASM COLLECTIONS:
PROGRESS REPORT ON AGREEMENTS WITH THE INTERNATIONAL AGRICULTURAL
RESEARCH CENTRES (CPGR/94/WG9/6)**

24. This item was introduced by the Legal Adviser, who elucidated the negotiations which had taken place with countries and international centres at the request of the Commission. Mr Moore told the Group that 34 governments had offered to place their *ex situ* collections under FAO auspices, and chosen their preferred model agreement, while nine of them had already confirmed that they would sign the agreement.
25. The Working Group reviewed the latest draft of the agreement with the international centres, noting that it was the fruit of negotiations between FAO and the centres conducted through IPGRI.
26. The Working Group agreed that the changes incorporated in the latest version substantially met the concerns about the previous drafts, voiced by the Commission at its fifth meeting.
27. Certain countries thought that the draft still left room for improvement, but felt that further changes would lead to delays in its formalization. In their view, it was important that the CGIAR centres integrate their germplasm collections into the FAO network as soon as possible. This was why it was important to sign the agreement in its present form. Some members of the Working Group wished to be informed of any major change to the final version of the agreement. Some countries thought that the words "without restriction" in Article 9 might clash with certain articles of the Convention on Biological Diversity and impede negotiations on the revision of the Undertaking. The Working Group therefore proposed that when the final agreements were drawn up, the case for deleting the words "without restriction" should be discussed with the centres. The Legal Adviser pointed out that the agreement was for a four-year period. He suggested that the best way of tackling the "without restriction" problem might be a joint FAO-IPGRI declaration to the Commission on Plant Genetic Resources, so that the agreement would not be held up. Mr Iwanaga, representing IPGRI, seconded this proposal, which the Working Group then endorsed.

**DRAFT TERMS OF REFERENCE AND PROCEDURES FOR THE WORKING GROUP
(CPGR/94/WG9/7)**

28. The Working Group examined the paper on this subject which had been prepared by the secretariat pursuant to recommendations made by the Commission.
29. The procedure for electing Working Group members was discussed at some length. It was agreed that election should be at the discretion of the regional groups, as should the question of rotation and continuity.
30. The Legal Adviser noted that the election of the Chairman and Vice-Chairman was up to the Commission.
31. Some countries felt that allowing observers to attend "upon request" might lead to over-representation of the developed countries, which could be undesirable during negotiations. They suggested that observers only be allowed to take the floor at the Chairman's request.
32. The Working Group recommended that the subject, with the Group's comments, be discussed by the Commission.

EXAMINATION OF THE AGENDA FOR THE NEXT COMMISSION MEETING

33. The secretariat distributed copies of the provisional agenda for the sixth meeting of the Commission on Plant Genetic Resources, scheduled for 1995. The provisional agenda had been adopted at the fifth meeting.
34. The Secretary of the Commission noted that the extraordinary meeting to be held in autumn 1994 would seek to: i) negotiate the revision of the International Undertaking in line with Resolution 7/93; and ii) discuss the preparation of the report on the State of World Plant Genetic Resources, the Global Plan of Action, and other preparations for the Fourth International Technical Conference.
35. The Working Group agreed that the extraordinary meeting of the Commission should confine itself to plant genetic resources for food and agriculture purposes. It was also agreed that the secretariat should present a report on the financial position of the trustee project for the International Conference and Programme on the Conservation and Utilization of Plant Genetic Resources.
36. The Working Group asked that the provisional agenda for the sixth meeting of the Commission, adopted at the fifth meeting, include detailed information on FAO programmes and projects on the conservation and use of plant genetic resources. This might take the form of an item 6: Reports, programmes and activities on plant genetic resources.

