

**Items 3.1 and 3.2
of the Provisional Agenda**

COMMISSION ON PLANT GENETIC RESOURCES

First Extraordinary Session

Rome, 7 -11 November 1994

REVISION OF THE INTERNATIONAL UNDERTAKING

MANDATE, CONTEXT, BACKGROUND AND PROPOSED PROCESS

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REVISION OF THE INTERNATIONAL UNDERTAKING

MANDATE, BACKGROUND, CONTEXT AND PROPOSED PROCESS

I INTRODUCTION

1. Conference Resolution 7/93 requests the revision of the International Undertaking on Plant Genetic Resources be negotiated. This document provides, for the easy reference of the Commission, basic information for the negotiating process. Section II assembles the various contributory decisions and mandates flowing from Agenda 21 of the United Nations Conference on Environment and Development (UNCED), the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity (especially Resolution 3) and Resolution 7/93 of the FAO Conference. Section III provides background information on the process by which the International Undertaking was adopted, and subsequently modified, by a series of Conference Resolutions that were then annexed to the Undertaking. Section IV outlines the present state of development of the FAO Global System on Plant Genetic Resources, in the context of which Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity requires solutions be sought to outstanding matters not dealt with under the Convention. Finally, Section V proposes to the Commission a "step-by-step" process for the revision of the International Undertaking, which is in line with a recommendation by the Commission at its Fifth Session. The guidance of the Commission is invited on (i) the stages proposed to facilitate the revision process, and (ii) the tentative timetable and financial implications identified in Annex 4.

2. The 9th Session of the Working Group that met in Rome in May 1993 discussed a previous version of this document. Relevant comments from the Working Group, as well as the deliberations of the Second session of the Intergovernmental Committee on the Convention on Biological Diversity, are reflected in this document.

II RELEVANT DECISIONS AND MANDATE: AGENDA 21, RESOLUTION 3 OF THE NAIROBI CONFERENCE FOR THE ADOPTION OF THE AGREED TEXT OF THE CONVENTION ON BIOLOGICAL DIVERSITY, AND FAO CONFERENCE RESOLUTION 7/93

3. Agenda 21, adopted by the United Nations Conference on Environment and Development (UNCED), called for the strengthening of the FAO Global System on Plant Genetic Resources, and its adjustment in line with the outcome of negotiations on the Convention on Biological Diversity, as well as for the realization of Farmers' Rights. The Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity also adopted a complementary resolution (see Appendix 1), which identified access to existing *ex situ* collections and Farmers' Rights as outstanding issues not addressed by the Convention, and recognized that solutions should sought within the

FAO Global System on Plant Genetic Resources. In following up on these matters, the FAO Conference, at its twenty-seventh session, in November, 1993, welcomed this resolution and unanimously adopted Resolution 7/93, "Revision of the International Undertaking on Plant Genetic Resources", (see Appendix 2) which requested the Director-General to provide a forum for negotiations among governments for:

- the adaptation of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity;
- consideration of the issue of access on mutually agreed terms to plant genetic resources, including *ex situ* collections not addressed by the Convention; and
- the issue of the realization of Farmers' Rights.

In this Resolution, the Conference urged that the process be carried out through the Commission on Plant Genetic Resources, with the help of its Working Group, in close collaboration with the Governing Body of the Convention on Biological Diversity.

4. FAO subsequently reported to the First Session of the Intergovernmental Committee on the Convention on Biological Diversity (ICCBD), in October 1993, and the Second Session, in June and July 1994, on progress made in the follow-up to Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity. In the ICCBD, there was strong general support for the renegotiation process of the International Undertaking, and to bringing it within the framework of the Convention, possibly in the form of a protocol. It was stressed that the Conference of the Parties should provide guidance in the interpretation and further development of the issues raised by Resolution 3. The efforts to bring the *ex situ* collections held by the International Agricultural Research Centres under the auspices of FAO was also strongly supported. The ICCBD also agreed that, "in order to ensure cooperation and complementarity with the work being carried out by the Commission on Plant Genetic Resources to implement Resolution 3 of the Nairobi Final Act, FAO should be invited to present a progress report on this subject to the first Conference of the Parties".

III BACKGROUND: THE INTERNATIONAL UNDERTAKING AND ITS ANNEXES

5. The International Undertaking was adopted by the FAO Conference Resolution 8/83, with reservations by eight countries.¹ It was the first comprehensive international agreement concerning plant genetic resources. The Undertaking seeks to "ensure that

1 Canada, France, Germany, Japan, New Zealand, Switzerland, United Kingdom and the United States of America.

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".

6. In 1983, following Conference Resolution 9/83, the FAO Commission on Plant Genetic Resources was also established, as a permanent inter-governmental body, through which countries, *inter alia*, monitor the implementation of the International Undertaking, and advise FAO on its activities and programmes in the field of plant genetic resources. One hundred and forty countries are currently members of the Commission (122), or have adhered to the Undertaking (110), or both.¹

7. As originally negotiated, the Undertaking was based on "the universally accepted principle that plant genetic resources are a heritage of mankind and consequently should be available without restriction". By the definition of plant genetic resources in the Undertaking (Article 2), this concept applies to both the new products of biotechnology (commercial varieties and breeding lines), and to farmers' varieties and wild materials. However, this concept of unrestricted access is qualified; the Undertaking gives a number of possible ways by which samples of genetic resources could be made available: free of charge, on the basis of mutual exchange, or on mutually agreed terms.

8. In order to overcome the reservations to the Undertaking, it has been further qualified and interpreted by three complementary resolutions, which were negotiated by countries² through the Commission and unanimously adopted by the FAO Conference. These are now annexes to the Undertaking. The first such resolution (4/89) provided an agreed interpretation of the Undertaking, which recognized that Plant Breeders' Rights, as provided for by the Union for the Protection of New Varieties of Plants (UPOV) Convention of 1978, were not inconsistent with the Undertaking. It simultaneously recognized "Farmers' Rights", which were defined in the second resolution (5/89). The third resolution (3/91) reaffirmed that the concept of the heritage of mankind is subject to the sovereign rights of nations over their genetic resources, and agreed that Farmers' Rights will be implemented through an international fund for plant genetic resources. The third resolution also agreed "that breeders' lines and farmers' breeding material should only be available at the discretion of their developers during the period of development".

9. The agreements embodied in these resolutions led to new qualifications on the principle of "unrestricted access", in a number of ways:

- firstly, by affirming the sovereign rights of countries over their plant genetic resources;

1 See Appendix 3 for a list of these countries.

2 It should be noted that in these negotiations Member and non-Member Countries of the Commission participated actively, including both countries which had signed the International Undertaking and countries which had not, as well as nations not members of FAO.

- secondly, by clarifying the fact that free access does not necessarily mean access free of charge, by on the one hand recognizing that Plant Breeders' Rights are not incompatible with the Undertaking, and, on the other, by recognizing Farmers' Rights, both of which allow for some form of compensation;
- thirdly, by limiting the benefits of the Undertaking, including access to genetic resources, to those countries adhering to the Undertaking; and
- fourthly, by limiting the scope of the free access provision, such that breeders' lines and farmers' breeding material were excluded.

10. The process of developing the Undertaking through agreed interpretations, in line with the aims of the original text, has sought to develop and maintain a balance between access to the new products of biotechnology (commercial varieties and breeders' lines) on the one hand, and farmers' varieties and wild material on the other, and the interests of developed and developing countries, by balancing the rights of breeders (formal innovators) and farmers (informal innovators). However, while the rights of breeders, already enforced in many industrial countries, are being strengthened through revisions of the UPOV convention, as well as through national and international agreements on intellectual property rights, including patents, Farmers' Rights are yet to be implemented, and the international fund foreseen in Resolution 3/91 is yet to be established.

IV CONTEXT: THE FAO GLOBAL SYSTEM ON PLANT GENETIC RESOURCES

11. Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity identified the Global System as the context in which issues left outstanding by the Convention on Biological Diversity (access to existing *ex situ* collections and Farmers' Rights) should be addressed. It may, therefore, be important to briefly summarize the origin, development and components of the Global System, for the benefit of those negotiating the revision of the Undertaking, including the implementation of Resolution 3 of the Nairobi Conference.

12. Article 7 of the International Undertaking on Plant Genetic Resources provides that the international arrangements set up in the Undertaking "will be further developed, and, where necessary, complemented in order to develop a Global System". The Terms of Reference of the Commission on Plant Genetic Resources, established in 1983, state that the Commission shall "recommend measures that are necessary or desirable in order to ensure the comprehensiveness of the Global System and the efficiency of its operation in line with the Undertaking". Resolution 4/89 (now Annex 1 of the Undertaking), adopted by FAO Conference in 1989, endorses an Agreed Interpretation of the Undertaking "which is intended to lay the basis for an equitable and, therefore, solid and lasting, Global System".

13. The FAO Commission on Plant Genetic Resources has over the years been the forum where, by a process of consensus, the Global System for the Conservation and Utilization of Plant Genetic Resources and the multilateral agreements and instruments which it encompasses, have been developed. The consensus reached by the Commission, in the development of the Global System, which was subsequently endorsed by the Council and the Conference, is now represented in the form of a number of tangible elements. These include:

- The World Information and Early Warning System on Plant Genetic Resources;
- International Networks of *Ex Situ* Collections and *In Situ* Conservation Areas, with complementary basic agreements on Genebanks; and
- A voluntary International Code of Conduct for Plant Germplasm Collecting and Transfer.

14. Furthermore, FAO member countries have agreed that the following elements will also be implemented:

- A periodic publication on the State of the World's Plant Genetic Resources¹;
- A Global Plan of Action on Plant Genetic Resources⁴; and
- An International Fund on Plant Genetic Resources to implement Farmers' Rights.

15. Together, these elements aim to ensure the conservation and availability of plant genetic resources and the equitable sharing of the benefits derived from the sustainable utilization of them, and of related technologies. It should also be noted that, unlike the Convention on Biological Diversity - which covers all aspects of biological diversity - the scope of the Undertaking, of the Commission on Plant Genetic Resources itself, and of the other components of the Global System, is limited to plant genetic resources, and more specifically to those of interest to food and agriculture.

16. In 1991, during its fourth session, the Commission "agreed that the various institutional elements of the Global System were in place, and that many of the legal and political difficulties had been overcome". However it was also recognized that much remained to be done to make the Global System fully operative. In fact, the 1991 session of FAO Conference, which endorsed Resolution 3/91 (now Annex 3 to the International Undertaking), in recognizing "the important consensus reached on a number of delicate issues such as sovereignty over plant genetic resources, access to breeders' and farmers' material and implementation of Farmers' Rights through an international fund", also

1 The first periodical publication on the State of the World's Plant Genetic Resources, and the Global Plan of Action, are being elaborated in the course of the preparatory process of the Fourth International Conference on Plant Genetic Resources.

recognized that "other relevant matters, such as conditions of access to plant genetic resources and the nature and size of the fund, needed to be further discussed and negotiated in the light of the decisions on access to biodiversity and funding mechanisms of the 1992 UN Conference on Environment and Development" (UNCED).

17. In 1992, against this background, UNCED's Agenda 21 recommended the strengthening of the FAO Global System on Plant Genetic Resources and its adjustment in line with the outcome of negotiations on the Convention on Biological Diversity. In the same year, Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity identified access to existing *ex situ* collections and Farmers' Rights as outstanding issues to which solutions should be sought within the Global System. Finally, in 1993, the fifth session of the Commission on Plant Genetic Resources welcomed the content of that resolution and negotiated a follow-up resolution, which was unanimously adopted by the FAO Conference in November 1993, as Resolution 7/93, on the revision of the International Undertaking.

18. In summary, the Commission has gone a long way in building up, by consensus, the Global System referred to in the International Undertaking. Two complementary and interrelated concepts provided the basis for the negotiation of the agreed interpretations of the Undertaking and the development of the Global System. These two concepts, the formulation of which has evolved between 1983 and 1993, and which are not yet fully developed, are (i) conditions of access to plant genetic resources (which, as recognized in Resolution 3/91, need further clarification); and (ii) the rights of the providers of germplasm, which need to be realized through Farmers' Rights (and in particular, the implementation of the international fund referred to in FAO Conference Resolution 3/91).

19. It is therefore not surprising that these two issues are similar to the main issues for negotiation identified in Resolution 3 of the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity. In this resolution, the question of terms of access is limited to *ex situ* collections not acquired in accordance with the Convention. Resolution 7/93, adopted by the FAO Conference in 1993, however, identifies as an issue for negotiation the broader question of access on mutually agreed terms to plant genetic resources for food and agriculture, including those contained in *ex situ* collections not addressed by the Convention.

20. The process underway, under the guidance of the Commission, to revise the International Undertaking, and harmonize it with the Convention on Biological Diversity, including the definition of the conditions of access to plant genetic resources for food and agriculture, together with the realization of Farmers' Rights, will further develop the Global System so that it becomes fully operative. Moreover, if the revised Undertaking becomes a protocol to the Convention, it will effectively bring under the framework of the Convention the issues that were recognized as outstanding by Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity.

V PROPOSED PROCESS FOR THE REVISION OF THE INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES, AND ITS HARMONIZATION WITH THE CONVENTION ON BIOLOGICAL DIVERSITY

21. The 5th Session of the Commission considered that "the revision of the International Undertaking should be conducted carefully, as a gradual pragmatic and step-by-step process, building on the consensus already achieved through the Commission's previous discussions, as embodied in the International Undertaking and its annexes".

22. The ninth session of the Commission's Working Group discussed document CPGR/94/WG9/2, which proposed a step-by-step process for the revision of the International Undertaking, in the light of the request by the Commission. The proposed process is outlined below with some comments made in the Working Group.

23. The actions necessary for the revision of the Undertaking may be grouped into three stages, each of which may contain a number of steps.

Stage I

24. Stage I is the consolidation of the Undertaking by the incorporation of its annexes, and its harmonization with the Convention on Biological Diversity. The Commission and the Conference have already provided guidance for this stage. A first draft of the consolidated text was discussed by the Working Group, which requested that the text be forwarded, with its comments, to the present session of the Commission for consideration (see document CPGR-Ex1/94/4.) The Working Group also requested the preparation of a second version of the consolidated text, and comments, in a new structure, but with no other changes, for submission to the Commission at the same time, so that it might decide on which version to work. This has been done: the restructured text is contained in CPGR-Ex1/94/4 Alt.

Stage II

25. The Conference agreed that the process of adjusting the International Undertaking should also, *inter alia*, address the issues of:

- access on mutually agreed terms to plant genetic resources, including *ex situ* collections not addressed by the Convention, and
- the realization of Farmers' Rights.

These are complex issues on which more specific guidance from the Commission is needed. Document CPGR-Ex1/94/5 presents these issues and addresses a number of relevant questions. After preliminary discussion by the Working Group, document CPGR-Ex1/94/5 Supp. has been prepared to provide a more technical analysis of some of the key questions, for the consideration of the Commission. Following further

guidance from the Commission, a new draft of the revised International Undertaking could be prepared for consideration at the Sixth regular session of the Commission in 1995. This new draft should encompass the issues of access to plant genetic resources for food and agriculture, and Farmers' Rights, possibly together with complementary agreements.

Stage III

26. The proposed third stage is the consideration of the possible legal and institutional status of the revised International Undertaking, as well as the subsidiary issue of how, and by which body or bodies the text of the revised Undertaking will be approved, and the new instrument adopted. Following the discussion of the Commission, the options on the status of the revised Undertaking - each of which implies a different legal and institutional scenario - appear to include the following:

- that it remain a voluntary, non-binding agreement;
- that it become an independent, legally-binding agreement; or
- that the revised International Agreement be presented to the Conference of the Parties to the Convention on Biological Diversity, for possible adoption as a protocol to the Convention.

27. The Commission earlier agreed that it was premature to decide this issue, and agreed that the first steps in revising the Undertaking should not attempt to preempt or prejudge this decision. The proposed approach is therefore to keep options open, by drafting revisions in such a way as to facilitate conversion to a legally-binding instrument, if this is so decided in due course, and by ensuring consultation with the Conference of the Parties to the Convention on Biological Diversity.

28. During discussion of this proposed process in the Working Group, a suggestion was made to merge stages II and III, as the issues addressed were intimately linked. It was pointed out that the financial mechanism of the revised International Undertaking, which is linked to the issue of the realization of Farmers' Rights, and necessary to promote conservation and facilitate access, was closely connected to the final legal and institutional status to be decided upon for the revised Undertaking. In this case, it would be difficult to separate stages II and III.

29. In the various documents before the Commission at this session, the issues mentioned here for consideration in stage III have not been developed in any detail. A comprehensive legal study of the various possibilities, and an analysis of the implications of each of the options, will be necessary.

30. In practical terms, the Commission may also wish to consider the tentative timetable and the financial implications, as outlined in Appendix 4. In considering these matters, the Working Group stressed the need to obtain extrabudgetary funds, so as to ensure the full participation of adequate delegations from developing countries in the negotiations, in line with Conference Resolution 7/93. FAO approached potential

donors by letter in May 1994, seeking the funds necessary to cover the participation of delegations from less developed countries in the 1994/95 biennium. At the time this document was prepared, there were no formal donor pledges, although there had been some informal expressions of interest. If the necessary donor support was not forthcoming, in reply to these letters, FAO intended to invite potential donors to a pledging meeting.

**Resolution 3 of the Nairobi Conference for the Adoption of the Agreed Text of
the Convention on Biological Diversity**

**THE INTERRELATIONSHIP BETWEEN THE CONVENTION ON BIOLOGICAL
DIVERSITY AND THE PROMOTION OF SUSTAINABLE AGRICULTURE**

The Conference,

Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,

Recognizing the basic and continuing needs for sufficient food, shelter, clothing, fuel, ornamental plants and medicinal products for peoples of the world,

Emphasizing that the Convention on Biological Diversity stresses the conservation and sustainable use of biological resources,

Recognizing the benefits from the care and improvement by the peoples of the world of animal, plant and microbial genetic resources to supply those basic needs and from the institutional research on and development of those genetic resources,

Recalling that broadly-based consultations in international organizations and forums have studied, debated and achieved consensus on urgent action for the security and sustainable use of plant genetic resources for food and agriculture,

Noting that the Preparatory Committee of the United Nations Conference on Environment and Development has recommended that policies and programmes of priority for *in-situ*, on-farm and *ex-situ* conservation and sustainable use of plant genetic resources for food and sustainable agriculture, integrated into strategies and programmes for sustainable agriculture, should be adopted not later than the year 2000 and that such national action should include *inter alia*:

- (a) Preparation of plans or programmes of priority action on conservation and sustainable use of plant genetic resources for food and sustainable agriculture based, as appropriate, on country studies on plant genetic resources for food and sustainable agriculture;
- (b) Promotion of crop diversification in agricultural systems where appropriate, including new plants with potential value as food crops;
- (c) Promotion of utilization of, as well as research on, poorly known but potentially useful plants and crops, where appropriate;
- (d) Strengthening of national capabilities for utilization of plant genetic resources for food and sustainable agriculture, plant breeding and seed production capabilities, both by specialized institutions and farmers' communities;
- (e) The completion for the first regeneration and safe duplication of existing *ex-situ* collections on a world-wide basis as soon as possible; and

- (f) The establishment of *ex-situ* base collection networks,

Noting further that the Preparatory Committee for the United National Conference on Environment and Development has recommended:

- (a) The strengthening of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture operated by the Food and Agriculture Organization of the United Nations in close cooperation with the International Board for Plant Genetic Resources, the Consultative Group on International Agricultural Research and other relevant organizations;
- (b) The promotion of the Fourth International Technical Conference on the Conservation and Sustainable use of Plant Genetic Resources for Food and Sustainable Agriculture in 1994 to adopt the first State-of-the-World Report and the first Global Plan of Action on the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture; and
- (c) The adjustment of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture in line with the outcome of the negotiations on a Convention on Biological Diversity,

Recalling the agreement in the Preparatory Committee for the United Nations Conference on Environment and Development on provisions regarding conservation and utilization of animal genetic resources for sustainable agriculture,

1. *Confirms* the great importance of the provisions of the Convention on Biological Diversity for the conservation and utilization of genetic resources for food and agriculture;
2. *Urges* that ways and means should be explored to develop complementarity and cooperation between the Convention on Biological Diversity and the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture;
3. *Recognizes* the need for the provision of support to the implementation of all activities agreed upon in the programme area on conservation and sustainable utilization of plant genetic resources for food and sustainable agriculture and in the programme area on conservation and utilization of animal genetic resources for sustainable agriculture in the Agenda 21 proposed to be adopted at the United Nations Conference on Environment and Development in Rio de Janeiro;
4. *Further recognizes* the need to seek solutions to outstanding matters concerning plant genetic resources within the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture, in particular:
 - (a) Access to *ex-situ* collections not acquired in accordance with this Convention; and
 - (b) The question of farmers' rights.

Adopted on 22 May 1992

FAO Conference Resolution 7/93, on follow-up to Resolution 3 of the Nairobi Final Act

**REVISION OF THE INTERNATIONAL UNDERTAKING
ON PLANT GENETIC RESOURCES**

THE CONFERENCE,

Noting that

- (a) the United Nations Conference on Environment and Development (UNCED), in Chapter 14 of its Programme of Action, Agenda 21, recommended that the Global System on the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture be strengthened, and that the System should be adjusted to be in line with the outcome of the negotiations of a Convention on Biological Diversity,
- (b) the Convention on Biological Diversity, signed at UNCED by 156 governments and the European Communities, covers plant genetic resources, and recognizes that the authority to determine access to genetic resources rests with the national governments, that access to genetic resources shall be subject to the prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that party, and shall be on mutually agreed terms,
- (c) the Final Act of the Nairobi Conference for the adoption of the agreed text of the Convention on Biological Diversity, in a resolution on the interrelationship between the Convention on Biological Diversity and the promotion of sustainable agriculture, urged that ways and means should be explored to develop complementarity and cooperation between the Convention on Biological Diversity and the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for food and sustainable agriculture, and recognized the need to seek solutions to outstanding matters concerning plant genetic resources,
- (d) the Fourth Session of the FAO Commission on Plant Genetic Resources agreed that conditions of access to plant genetic resources needed further clarification,

Recognizing

- (a) the importance and urgency of revising the International Undertaking, in harmony with the Convention on Biological Diversity, on a step-by-step basis, starting with the integration of the Undertaking and its annexes,
- (b) the need to ensure fair and equitable sharing of benefits with the countries providing plant genetic resources,
- (c) the need to consider agreement on the terms of access to samples of plant genetic resources, including those preserved in ex situ collections, and not addressed by the Convention on Biological Diversity,
- (d) the need to realize Farmers' Rights,

- (e) the importance of close collaboration, including mutual reporting, in these matters, between the Commission on Plant Genetic Resources and the Governing Body of the Convention on Biological Diversity, the Intergovernmental Committee on the Convention on Biological Diversity, as well as the Commission on Sustainable Development;
1. Requests the Director-General to provide a forum for negotiations among governments:
 - (a) for the adaptation of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity,
 - (b) for consideration of the issue of access on mutually agreed terms to plant genetic resources, including ex situ collections not addressed by the Convention, as well as
 - (c) for the issue of realization of Farmers' Rights;
 2. Urges that the process be carried out through regular and extraordinary sessions of the Commission on Plant Genetic Resources, convened, if necessary, with extra-budgetary financing, and with the help of its subsidiary body, in close collaboration with the Intergovernmental Committee on the Convention on Biological Diversity, and after the entry into force of the Convention, with its Governing Body;
 3. Expresses the hope that the process be concluded in time for the FAO International Technical Conference on Plant Genetic Resources; and
 4. Suggests that the outcome be submitted to the International Technical Conference and to the Conference of the Parties to the Convention on Biological Diversity.

(Adopted 22 November 1993)

Appendix 3

**COUNTRIES THAT ARE MEMBERS OF THE COMMISSION, OR WHICH HAVE
ADHERED TO THE INTERNATIONAL UNDERTAKING OF BOTH**

TENTATIVE TIME-TABLE AND FINANCIAL IMPLICATIONS

1. Conference Resolution 7/93 urged that the process of revising the International Undertaking "be carried out through regular and extraordinary sessions of the Commission of Plant Genetic Resources convened, if necessary, with extrabudgetary financing and with the help of its subsidiary body." The Conference emphasized the need to secure "the full participation of developing countries." It "agreed that the Working Group ... should meet early in 1994 and an extraordinary session of the CPGR itself should be held in 1994 to begin the negotiating process." It requested that, "subject to the availability of the necessary resources, the meeting of the CPGR be held sufficiently early for it to report to the November 1994 Session of the Council." Finally, the Conference "requested the Director-General to take all necessary action to raise extrabudgetary funds and to seek resources from the regular budget to expedite the process and to seek resources from the regular budget to expedite the process and to enable full participation of developing countries."

2. The various meetings of these bodies that are envisaged - including the last session of the Working Group, and the present extraordinary session of the Commission itself - are given in the table below. It was prepared on the assumption that the revision of the International Undertaking would be completed before the Fourth International Technical Conference on Plant Genetic Resources planned for 1996. It is important, however, to note that, given the technical complexity of the matters to be discussed, and the political delicacy of the negotiations themselves, there is a strong possibility that this cannot be accomplished in such a short period.

| Working Group | Commission | Purpose |
|--|---|---|
| Ninth Session, 11 - 12 May 1994 | | To prepare the work of the first extraordinary session of the Commission |
| Extraordinary Session, 3 - 4 November 1994 | Extraordinary Session, 7- 11 November, 1994 | To finalize step I of the revision, as far as appropriate, agree the range of issues to be addressed in step II, and how to proceed |
| Tenth Regular Session, July 1995 | Sixth Regular Session, July 1995 | To consider a second draft of the revised Undertaking, as part of step II, and make recommendations to the FAO Conference in November 1995 |
| Extraordinary Session, late 1995 | | To follow up on the recommendations of the Commission, as approved by the Conference, to finalize a second draft of the revised undertaking and prepare options for its future legal and institutional status |
| Extraordinary Session, early 1996 | Extraordinary Session, early 1996 | To consider and recommend options for its legal and institutional status, and finalize the text of the revised Undertaking |

3. The financial resources required to prepare and hold this series of meetings during the 1994-95 biennium, including the extraordinary sessions of the Commission and its Working Group, are \$US 1 076 000, of which \$US 643 000 was provided for in the Programme of Work and Budget approved by the FAO Conference in November 1993.

The remaining sum of \$US 433 000 is being made available within the Regular Programme by the reallocation of resources.

4. Extrabudgetary resources will be required to facilitate the participation of developing countries in these meetings. The budget that follows was communicated by FAO to the donor community, in May 1994, with a request for pledges. It foresees coverage of the travel expenses of and *per diem* of delegates from less developed countries: fourteen in each of four sessions of the Working Group, and sixty-five in two sessions of the Commission, programmed for the 1994/95 biennium.

**COST ESTIMATE OF THE PARTICIPATION OF LESS DEVELOPED COUNTRIES
IN THE SESSIONS OF THE COMMISSION ON PLANT GENETIC RESOURCES
AND ITS WORKING GROUP IN 1994 and 1995**

I. SESSIONS OF THE WORKING GROUP

| | | |
|---|---|---------------------|
| - | Number of Sessions | 4 |
| - | Number of Countries | 14 |
| - | Number of days per session (including travel) | 4 |
| - | Travel Costs (average) per participant | \$US 2 000 |
| - | <i>Per diem</i> | \$US 260 |
| <u>Estimated Costs (in \$US)</u> | | |
| - | Travel costs: 4 x 14 x 2 000 | 112 000 |
| - | <i>Per diem</i> : 4 x 14 x 260 | 58 240 |
| | Sub-total (rounded) | 170 000 |
| | Servicing Costs (13%) | 22 000 |
| | Total | \$US 192 000 |

II. SESSIONS OF THE COMMISSION

| | | |
|---|---|---------------------|
| - | Number of Sessions | 2 |
| - | Number of Countries | 65 |
| - | Number of days per Session (including travel) | 7 |
| - | Travel costs (average) per participant | \$US 2 000 |
| - | <i>Per diem</i> | 260 |
| <u>Estimated Costs (in \$US)</u> | | |
| - | Travel costs: 2 x 65 x 2 000 | 260 000 |
| - | <i>Per diem</i> : 2 x 65 x 7 x 260 | 236 600 |
| | Sub-total (rounded) | 497 000 |
| | Servicing Costs (13%) | 65 000 |
| | Total | \$US 562 000 |

III. GRAND TOTAL OF I AND II ABOVE: **\$US 754 000**