



# The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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## Item 15 of the Provisional Agenda

### FOURTH SESSION OF THE GOVERNING BODY

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## POLICY COHERENCE AND COMPLEMENTARITY OF THE WORK OF THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE AND OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY

*Note by the Secretary*

1. The Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture and the Commission on Genetic Resources for Food and Agriculture have repeatedly emphasized the need for close collaboration between the two bodies.
2. At their last meetings, the Commission and the Governing Body emphasized the need for close cooperation that may gradually lead to an agreed functional division of tasks and activities between the two bodies within the terms of the Treaty. This vision paper presents the institutional framework relevant to both bodies, reviews on-going cooperation and provides an overview of most relevant activities on plant genetic resources for food and agriculture by the Commission and the Governing Body. It presents options and considerations to be taken into account to further facilitate policy coherence and complementarity of the work of the two bodies. The Governing Body may wish to recommend, for consideration by the Commission, next joint steps the two bodies may wish to consider to further enhance cooperation.

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## I. INTRODUCTION

1. The Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (Governing Body) and the Commission on Genetic Resources for Food and Agriculture (Commission) have repeatedly emphasized the need for close collaboration between the two bodies.

2. The Governing Body, at its Third Session, encouraged a close cooperation between the Commission and the Governing Body

“that may gradually lead to an agreed functional division of tasks and activities between the Commission and the Governing Body within the terms of the Treaty.”<sup>1</sup>

The Commission, at its Twelfth Regular Session,

“emphasized the need for close cooperation between the Commission and the Governing Body that may gradually lead to an agreed functional division of tasks and activities between the Commission and the Governing Body within the terms of the International Treaty, and requested the Secretariats of the Commission and the International Treaty to jointly develop a vision paper with the aim of facilitating policy coherence and complementarity of the work of the two bodies, for consideration by the Commission at its Thirteenth Regular Session and the Fourth Session of the Governing Body. The vision paper should envisage various options, including transfer of plant genetic resources activities from the Commission to the International Treaty, with advantages and disadvantages. The draft vision paper would be submitted for review by the joint meeting of the Bureau of the Commission and the Bureau of the Governing Body of the International Treaty.”<sup>2</sup>

3. A review of the relevance of the components of the FAO Global System on Plant Genetic Resources as well as of the cooperation between the Commission and the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty) is also foreseen for the Commission’s next session, in the Commission’s Multi-Year Programme of Work.<sup>3</sup>

4. This document has been jointly prepared by the two Secretariats; a previous draft version of the document was reviewed by the Bureaus of the two bodies at their joint meeting on 12 November 2010. The document presents the institutional framework within which the Commission and the Governing Body operate and reviews the cooperation between the two bodies since 2006. It then provides an overview of the most relevant activities on plant genetic resources for food and agriculture and presents considerations the Commission and the Governing Body may wish to take into account in considering the functional division of tasks and activities between the Commission and the Governing Body within the terms of the International Treaty. This document does not address the issue of global information mechanisms developed by FAO for facilitating and monitoring the implementation of the *Global Plan of Action*; these information systems will be addressed in a separate vision paper, which the Governing Body, at its Third Session, requested its Secretariat to develop, for presentation to the Fourth Session of the Governing Body.<sup>4</sup>

5. While the secretariats of the Governing Body and of the Commission may assist in the development of coherent and complementary programmes, policies and activities of the two

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<sup>1</sup> IT/GB-3/09/Report, *Appendix A.7*, paragraph 3.

<sup>2</sup> CGRFA-12/09/Report, paragraph 92.

<sup>3</sup> CGRFA-12/09/Report, *Appendix G*, p. 12.

<sup>4</sup> IT/GB-4/11/19, *Vision Paper on the development of the Global Information System in the context of Article 17 of the International Treaty*.

bodies, the ultimate responsibility for policy coherence and complementarity of the Commission's and the Governing Body's programmes, policies and activities lies, of course, with the two bodies and their Members. The purpose of this document is therefore to facilitate the discussion of the Commission and the Governing Body on their future cooperation and division of tasks, to increase the efficiency of their collaboration and to create new synergies and avoid duplications in areas of common interest. The document, together with comments and suggestions received from the Governing Body, will also be considered by the Commission, at its Thirteenth Regular Session (18-22 July 2011).

## II. INSTITUTIONAL FRAMEWORK

### *Commission on Genetic Resources for Food and Agriculture*

6. The Commission is an intergovernmental body established by the FAO Conference in 1983. As of November 2009, 172 countries and the European Union are Members of the Commission. The Commission provides the only permanent forum for governments to specifically discuss and negotiate matters relevant to biological diversity for food and agriculture, including *all* plant, animal, forest, aquatic, micro-organism and invertebrate genetic resources for food and agriculture. The Commission strives to halt the loss of genetic resources for food and agriculture, to ensure food security and sustainable development by promoting the conservation and sustainable use of genetic resources for food and agriculture, including the exchange, and the fair and equitable sharing of the benefits arising from their use.

7. In its coordinating role, the Commission guides and monitors FAO's policies, programmes and activities related to genetic resources for food and agriculture, including both sectoral and cross-sectoral matters. It also keeps relevant matters in other forums under continuous review.

8. The Commission oversees the preparation of global assessments on genetic resources for food and agriculture and the updating and the implementation of global plans of action. It guides the development of relevant global information systems in support of this role. The Commission has established three intergovernmental technical working groups which support it in its work on plant, animal and forestry genetic resources.

9. By facilitating the implementation of global action plans the Commission supports the development of national and regional policies and programmes on genetic resources for food and agriculture.

10. The Commission also negotiates other international instruments addressing the conservation and sustainable utilization of genetic resources for food and agriculture. The Commission negotiated the International Treaty which is currently the only international, legally binding and fully operational agreement on access and benefit-sharing.

11. As a statutory body established under Article VI.1 of the constitution of FAO, the Commission reports to the Director-General who shall bring to the attention of the Conference through the Council any recommendations adopted by the Commission which have policy implications or which affect the programme or finances of the Organization. Major recommendations adopted by the Commission as well as agreements which the Commission negotiates, are therefore reported by the Commission to the FAO Conference which would usually endorse them or, as in the case of the International Treaty, formally adopt. The FAO Conference is the highest governing body of FAO.

12. According to Article 17.3 of the International Treaty on Plant Genetic Resources for Food and Agriculture, Contracting Parties shall cooperate with the Commission in its periodic reassessment of *The State of the World's Plant Genetic Resources for Food and Agriculture* in order to facilitate the updating of the rolling *Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture (Global Plan of Action)* to which the Treaty makes reference in its Article 14. According to Article 14, Contracting Parties, recognizing that the rolling *Global Plan of Action* is important to the

International Treaty, should promote its effective implementation, including through national actions and, as appropriate, international cooperation to provide a coherent framework, *inter alia*, for capacity-building, technology transfer and exchange of information, taking into account the provisions of Article 13 of the International Treaty.

*Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*

13. The International Treaty was adopted by the FAO Conference as per Article XIV of the FAO Constitution in 2001 and entered into force in 2004. There are currently 127 Contracting Parties to the Treaty.

14. The objectives of the International Treaty are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the CBD, for sustainable agriculture and food security. The Governing Body shall promote the full implementation of the International Treaty, keeping in view its objectives. Article 19.3 of the International Treaty contains a non-exhaustive list of specific functions of the Governing Body. The Governing Body is the highest body of the International Treaty. It adopts the budget of the International Treaty and decides, by consensus, on amendments of the International Treaty. According to Article 19.9, sessions of the Governing Body should, as far as possible, be held back-to-back with the regular sessions of the Commission.

15. Through the International Treaty, Contracting Parties agreed to establish a Multilateral System, which is efficient, effective, and transparent, both to facilitate access to plant genetic resources for food and agriculture, and to share, in a fair and equitable way, the benefits arising from the utilization of these resources, on a complementary and mutually reinforcing basis. The Multilateral System currently addresses plant genetic resources for food and agriculture of 64 of the most important crops, which account for about 80 percent of all human consumption and which are listed in *Annex I* to the International Treaty. *Annex I* has been established according to criteria of food security and interdependence.<sup>5</sup>

16. The Governing Body of the International Treaty also adopted a Funding Strategy to enhance the availability, transparency, efficiency and effectiveness of the provision of financial resources to implement activities under the Treaty. According to the Funding Strategy, the initial priorities of the Strategy will be the priority activity areas of the rolling *Global Plan of Action*, for further development by the Governing Body.<sup>6</sup> As part of the strategy, the Benefit-sharing Fund has been established to which organizations based in eligible Contracting Parties can submit project proposals for grants, on agreed thematic focuses. These organizations include governmental and non-governmental organizations, including genebanks and research institutions, farmers and farmers' organizations and regional and international organizations.

*Genetic resources as part of the global framework*

17. The International Treaty and the Commission form part of a broader global framework of institutions and instruments developed with the objective to conserve and sustainably use biodiversity and to share the benefits derived from its use in a fair and equitable manner. The Convention on Biological Diversity, as a framework instrument, plays undoubtedly a key role in the conservation and sustainable use of biodiversity and the sharing of benefits derived from its use in a fair and equitable manner. Other institutions, such as the Global Crop Diversity Trust and the Consultative Group on International Agricultural Research make important contributions to achieving the shared objective of conserving and using biodiversity for food security sustainable agriculture, as well as climate change adaptation and mitigation.

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<sup>5</sup> Article 11.1 International Treaty on Plant Genetic Resources for Food and Agriculture

<sup>6</sup> IT/GB-1/06/Report, *Appendix F*, paragraph 4.

18. There are other intergovernmental bodies and institutions of relevance to the Commission and the Treaty. FAO Governing Bodies, such as the FAO Conference and Council, determine the policies of the Organization, discuss and approve the Programme of Work and Budget, and make recommendations to Members and international organizations. Decisions and policies arising from policy bodies such as the Committee on Food Security or the Conference of Parties of the United Nations Climate Change Convention are also relevant, given that genetic resources are fundamental to address key global development challenges such as food security and climate change. Multilateral funding mechanisms have mandates and programmes related to the Treaty and the Commission (Global Environmental Facility, International Fund for Agricultural Development, Global Adaptation Fund,...). As fundamental as policy coherence and complementarity of the work of the Commission and the Governing Body is, as important is the continued cooperation of both with all the relevant actors to ensure coherence and complementarity across the global framework of instruments and institutions.

### III. REVIEW OF ON-GOING COOPERATION

19. The Governing Body and the Commission have a long-standing and highly successful history of collaboration and coordination of their activities, including at the level of their Secretariats:

- Both bodies adopted a *Joint Statement of Intent for Cooperation between the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture and the Commission on Genetic Resources for Food and Agriculture* which provides guidance on the collaboration between the two bodies as well as between their Secretariats. The *Joint Statement of Intent of Cooperation* is contained in document, CGRFA/GB-IT/JBM-2/10/Inf. 2.
- Both bodies consider their cooperation as a standing item on the agendas of their regular sessions.
- The Bureaus of both bodies hold joint bureau meetings on a regular basis and coordinate matters which are of common interest, such as the updating of the *Global Plan of Action* and the review of the *Genebank Standards*.
- The Secretariats of both bodies coordinate their work, hold regular coordination meetings, coordinate their participation in other forums and support each other, including in the preparation and conduct of intergovernmental meetings.
- The Secretariats of both bodies, together with FAO's Plant Production and Protection, joined forces in the coordination and organization of regional consultations on the updating of the *Global Plan of Action* which also provided relevant information on the implementation of the International Treaty.

20. Cooperation between the Commission and the Governing Body has facilitated the achievement of a series of important milestones and outputs of intergovernmental work on plant genetic resources for food and agriculture. The Commission, including through its Bureau and its Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture, guided the preparation of *The Second Report on the State of the World's Plant Genetic Resources for Food and Agriculture (Second Report)*; FAO, at the request and under the guidance of the Commission, currently updates the *Global Plan of Action* in response to and in the light of the findings of the *Second Report*. The Governing Body, at this session, will have the opportunity to comment on the draft updated *Global Plan of Action* which, subsequently, will be presented with the comments received from the Governing Body, to the Commission's Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture and to the Thirteenth Session of the Commission.

#### IV. CURRENT TASKS AND ACTIVITIES OF THE COMMISSION IN THE AREA OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

21. The Commission's activities related to plant genetic resources for food and agriculture include: activities where the International Treaty foresees cooperation with the Commission; activities which the Commission, including through the adoption of its Multi-Year Programme of Work (MYPOW) and the Strategic Plan 2010-2017 for its implementation or upon request by other bodies, including the Governing Body and the Conference of the Parties to the CBD, decided or might decide to consider; and cross-sectorial matters which may often cover, but are not limited to, *plant* genetic resources for food and agriculture.

##### ***The State of the World's Plant Genetic Resources for Food and Agriculture***

22. In 1996, FAO launched *The State of the World's Plant Genetic Resources for Food and Agriculture* developed through a participatory, country-driven process under the guidance of the Commission on Genetic Resources for Food and Agriculture. The International Treaty, adopted five years later, refers in its Article 17.3 to the State of the World report and stipulates that "Contracting Parties shall cooperate with the Commission on Genetic Resources for Food and Agriculture of the FAO in its periodic reassessment of the state of the world's plant genetic resources for food and agriculture in order to facilitate the updating of the rolling Global Plan of Action referred to in Article 14." Accordingly, the Commission initiated and guided the preparation of *The Second Report on the State of the World's Plant Genetic Resources for Food and Agriculture (Second Report)* which was launched by the Director-General of FAO in October 2010.

##### ***Global Plan of Action***

23. Article 14 of the International Treaty recognizes that the rolling *Global Plan of Action* is important to this Treaty, and that "Contracting Parties should promote its effective implementation, including through national actions and, as appropriate, international cooperation to provide a coherent framework, *inter alia*, for capacity-building, technology transfer and exchange of information", taking into account the provisions of Multilateral System of the Treaty. At the same time, article 17.3 of the International Treaty provides that "Contracting Parties shall cooperate with the Commission on Genetic Resources for Food and Agriculture of the FAO in its periodic reassessment of the state of the world's plant genetic resources for food and agriculture in order to facilitate the updating of the rolling Global Plan of Action referred to in Article 14."

##### ***Implementation of the Global Plan of Action***

24. The Commission also monitors progress in the implementation of the *Global Plan of Action* through an agreed set of indicators and a country-led participatory approach. To support its Members' efforts to implement the *Global Plan of Action*, the Commission has established in 2007 a Facilitating Mechanism that identifies opportunities for funding each of the 20 priority activity areas of the *Global Plan of Action*.<sup>7</sup>

##### ***Updating the Global Plan of Action***

25. The Commission, at its Twelfth Regular Session, took the initiative to request FAO to prepare the updated *Global Plan of Action* based primarily on the *Second Report*, and in particular, on the identified gaps and needs, taking into account further contributions from Governments, as well as inputs received from regional meetings and consultations. The Commission also requested its Secretary to coordinate with the Secretary of the International Treaty in the updating process, to ensure that specific issues of relevance to the International Treaty are taken into account. It requested its Secretary to organize with the Secretary of the International Treaty a joint meeting of the Bureaus of the Commission and of the International Treaty to review a first draft of the updated *Global Plan of Action*, prior to its Thirteenth Regular Session. The Commission also requested its Working Group on Plant Genetic Resources to review the draft updated *Global Plan of Action* at its fifth session.

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<sup>7</sup> [www.globalplanofaction.org](http://www.globalplanofaction.org)

### ***Genebank Standards***

26. Article 15.1d of the International Treaty refers to the “*Genebank Standards* endorsed by the FAO Commission on Genetic Resources for Food and Agriculture.” The Governing Body, at its Third Session, invited the Commission to commence and coordinate the process for the revision of the *Genebank Standards*, in collaboration with competent institutes, including the International Agricultural Research Centres of the CGIAR, the Global Crop Diversity Trust and other relevant organizations, taking into account relevant ongoing work and initiatives.<sup>8</sup> In response to this invitation, the Commission, at its Twelfth Regular Session, agreed on the need for revising the *Genebank Standards* and requested FAO, in cooperation with the International Treaty, the CGIAR and other relevant international institutions, to undertake this review for consideration by the Commission’s Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture, at its fifth session.

### ***Review of policy, programmes and activities of FAO in the area of plant genetic resources***

27. The Commission, by its Statutes, as adopted by the FAO Council, is mandated to keep under continuous review all matters relating to the policy, programmes and activities of FAO in the area of genetic resources of relevance to food and agriculture, including their conservation and sustainable use and the fair and equitable sharing of benefits derived from their utilization, and to advise the Director-General and the Council and, as appropriate, its technical committees, including in particular the Committees on Agriculture, Forestry and Fisheries, on such matters. Accordingly, the technical departments of FAO report to each session of the Commission on their policies, programmes and activities, including in the field of plant genetic resources, including their conservation and sustainable use and the fair and equitable sharing of benefits derived from their utilization.

### ***International Code of Conduct for Plant Germplasm Collecting and Transfer***

28. The Commission, according to Article 16.1 of the *International Code of Conduct for Plant Germplasm Collecting and Transfer (Code of Conduct)*, which was adopted by the FAO Conference in 1993, is also mandated to review the relevance and effectiveness of the *Code of Conduct*. The *Code of Conduct* also states that, at a suitable time, it may be desirable to develop procedures for monitoring and evaluating the observance of the principles embodied in the Code, under the auspices of the Commission.

### ***Access and benefit-sharing***

29. The Commission has undertaken important work with regard to access to plant genetic resources for food and agriculture and benefit-sharing and retains a specific interest in access and benefit-sharing for genetic resources for food and agriculture generally, which is a key matter in addressing food security and poverty reduction. In 2009, the Commission agreed on a resolution on policies and arrangements for access and benefit-sharing for genetic resources for food and agriculture which subsequently formed the basis of Resolution 18/2009 adopted by the FAO Conference, at its Thirty-sixth Session.<sup>9</sup>

30. With the implementation of its full mandate, the Commission may wish to consider access and benefit-sharing for genetic resources for food and agriculture in general, in order to contribute to the implementation of the relevant provisions of the *Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization to the Convention on Biological Diversity (Nagoya Protocol)* adopted on 29 October 2010 by the Conference of the Parties to the CBD at its Tenth Session.

31. The *Nagoya Protocol* recognizes “the interdependence of all countries with regard to genetic resources for food and agriculture as well as their special nature and importance for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change and acknowledging the fundamental role of the

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<sup>8</sup> IT/GB-3/09/Report, *Appendix A.7*, paragraph 20.

<sup>9</sup> C 2009/REP, Resolution 18/2009, paragraphs 172-174.



International Treaty on Plant Genetic Resources for Food and Agriculture and the FAO Commission on Genetic Resources for Food and Agriculture in this regard”.

32. With the adoption of the *Nagoya Protocol*, the work of the Commission on access and benefit-sharing may become even more important given that, according to the Protocol, each Party, in the development and implementation of its access and benefit-sharing legislation or regulatory requirements, shall consider the importance of genetic resources for food and agriculture and their special role for food security.

33. The Secretariats of the CBD and of the Commission formalised their cooperation through a joint work plan signed in October 2009. The Commission, at its Twelfth Regular Session, requested its Secretariat to include in the next phase of the joint work plan, access and benefit-sharing as a focus area.<sup>10</sup> In response, the Conference of the Parties to the CBD, at its recent tenth meeting, requested its Executive Secretary to invite FAO and its Commission to work together on a whole range of issues, including on relevant aspects of access and benefit sharing, underutilized crops, wild relatives of cultivated plants and other potential food sources.

#### ***Other cross-sectorial matters***

34. The Commission’s Multi-Year Programme of Work lists a whole range of other cross-sectorial matters relevant to various types of genetic resources for food and agriculture. These include the issues of climate change and genetic resources, targets and indicators, the application and integration of biotechnology in the use and exchange of genetic resources for food and agriculture and the internalization of the ecosystem approach.<sup>11</sup> All these cross-sectorial matters are of relevance to plant genetic resources for food and agriculture.

## **V. CURRENT TASKS AND ACTIVITIES OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY**

35. The International Treaty covers all plant genetic resources for food and agriculture. The Governing Body has concentrated its start-up phase on the operationalization of the core systems of the International Treaty, including, in particular, the Multilateral System on Access and Benefit-sharing. Since its First Session in 2006, it has put in place a number of mechanisms to ensure the functioning of the Multilateral System and the Benefit-sharing Fund of the Funding Strategy, and as of its Fourth Session, the Governing Body would be in a position to proceed to the full implementation of other provisions of the International Treaty.

#### ***Access and benefit-sharing***

36. The Multilateral System of Access and Benefit-sharing of the International Treaty is now fully operational. The gene pool now includes more than 1.3 million accessions of plant genetic resources for food and agriculture and is the world’s largest gene pool of agricultural plant genetic resources. Contracting Parties to the International Treaty are implementing access and benefit-sharing through the day-to-day operationalization of the Multilateral System, including the routine utilization, by both providers and users, of the Standard Material Transfer Agreement adopted by the Governing Body for the transfers of plant genetic resources for food and agriculture.

37. The Governing Body, at its Third Session, established the *Ad Hoc* Technical Committee on the Multilateral System and the Standard Material Transfer Agreement. The Committee is undertaking work, *inter alia*, on access to plant genetic resources for food and agriculture. The outputs of the meetings of the Committee will be put the Fourth Session of the Governing Body for its consideration.

38. Other issues are also worth noting in the access and benefit-sharing context, in particular with regard to the cooperation with the CBD on access and benefit-sharing, including in the framework of the *Nagoya Protocol*. With the adoption of the Protocol, the Treaty’s legal

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<sup>10</sup> CGRFA-12/09/Report, paragraph 97.

<sup>11</sup> CGRFA-12/09/Report, Appendix G, paragraphs 28-37.

framework and the work of the Governing Body on access and benefit-sharing become even more important, including in the further development of national legislation or regulatory requirements. The Treaty is in harmony with the CBD and mandates its Secretary to cooperate in particular with the CBD Secretariat. The Decision of the Conference of Parties to the CBD adopting the Nagoya Protocol recognizes the Treaty as one of the four elements of the International Regime. The Secretariats of the International Treaty and the CBD have recently concluded a Memorandum of Cooperation where both parties undertake to cooperate in capacity-building dealing with access and benefit-sharing on plant genetic resources for food and agriculture.

39. Taking into account the significant progress so far achieved in the implementation of the Multilateral System on Access and Benefit-sharing of the International Treaty, the Governing Body might wish to consider continuing work in the area of access and benefit-sharing, by coordinating its work with the Commission, in particular to ensure that the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions are taken into account in the development and implementation of national access and benefit-sharing legislation applying to crops which are not listed in Annex 1 to the International Treaty or to purposes other than utilization and conservation for research, breeding and training for food and agriculture. The Governing Body and the Commission might wish to coordinate their work in this context.

#### ***Funding Strategy***

40. The Governing Body has put in place the policy and procedures needed for the operation of the Benefit-sharing Fund of the International Treaty, including a Strategic Plan for its implementation. The two first project cycles of the Benefit-sharing Fund are now being implemented. The Governing Body has also established its own information and reporting requirements under the Funding Strategy of the International Treaty, in order to facilitate the monitoring of its implementation. The Global Crop Diversity Trust is an essential element of the Funding Strategy.

#### ***Global Plan of Action***

41. As mentioned before, the *Global Plan of Action* is one “supporting component” of the International Treaty. Other supporting components are: the ex situ collections of plant genetic resources held by the Centres of the CGIAR and other relevant international institutions (Article 15); the International Plant Genetic Resources Network (Article 16); and the Global Information System on Plant Genetic Resources for Food and Agriculture (Article 17). At its third Session, the Governing Body noted the need to ensure close collaboration between the Commission and the Governing Body with regard to the *Global Plan of Action*, and invited the Commission, in the revision of the *Global Plan of Action*, to take into account specific issues of relevance to the Treaty and to adequately reflect the provisions of the Treaty in the *Global Plan of Action*. It also invited its Contracting Parties to actively participate in the process.

#### ***Global Information System on plant genetic resources for food and agriculture***

42. At its Fourth Session, the Governing Body will review a vision paper to take stock of existing information systems and outline a process for development of the Global Information System foreseen in Article 17 of the International Treaty, to facilitate the exchange of information, based on existing systems, on scientific, technical and environmental matters related to plant genetic resources for food and agriculture. As noted above, this will be addressed in a separate vision paper, which the Governing Body, at its Third Session, requested its Secretariat to develop, for presentation to the Fourth Session of the Governing Body.<sup>12</sup>

#### ***Other matters***

43. The *Ad Hoc* Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System had recently considered the provisions of the *Code of Conduct* that address the technical aspects for collecting material found in *in situ* conditions, as possible standards for the implementation of Article 12.3 h of the International Treaty.

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<sup>12</sup> IT/GB-3/09/Report, *Appendix A.7*, paragraph 22.

44. The Governing Body still has not undertaken a comprehensive implementation of other provisions of the Treaty to enable the full operationalization of the Treaty, including Articles 5 and 6 on conservation and sustainable use of plant genetic resources for food and agriculture and the Supporting Components (Part V of the International Treaty).

## **VI. OPTIONS TO FACILITATE POLICY COHERENCE AND COMPLEMENTARITY**

45. In response to the Commission's request, this section identifies options to facilitate policy coherence and complementarity of the work of the Commission and the Governing Body, including the transfer of plant genetic resources activities from the Commission to the International Treaty. The options presented are not intended to be exhaustive but are presented to encourage and facilitate discussion.

### ***Option 1: Enhance the on-going cooperation framework***

46. The Commission and the Governing Body, through their Joint Statement of Intent, have agreed on terms of cooperation. The Joint Statement of Intent for Cooperation is based on the current division of tasks, as presented in sections III to V. This current framework of cooperation could be further strengthened to improve the effectiveness and efficiency of FAO's work in the area of plant genetic resources for food and agriculture, without changing the current division of tasks and the responsibilities of the two bodies. While under this option plant genetic resources activities would not be transferred from the Commission to the Treaty, cooperation and collaboration of the two bodies and their Secretariats could be strengthened and improved to ensure policy coherence and complementarity of the work of the two bodies and their Secretariats. At the programmatic level, it will be recalled that, by Resolution 7/2009, the Governing Body had invited "coordination of the Secretariats of the Commission and the Governing Body as well as between the Commission and the Governing Body to ensure that adequate attention is given to genetic resources issues, and that genetic resources issues are appropriately integrated into the FAO Regular Programme, Mid-Term Plan and Strategic Framework".

### ***Option 2: Case-by-case gradual transfer of specific tasks and activities to the Governing Body***

47. This option suggests considering the possibility of gradually transferring specific plant genetic resources activities from the Commission to the Treaty. The transfer of tasks and activities could be considered on a case-by-case basis and criteria could be established to determine whether a specific task should be transferred to the Governing Body or rather remain with the Commission. In this context, it should be noted that the change of responsibilities and the transfer of certain tasks and activities would in some cases require the involvement of other bodies, e.g. of the FAO Conference and/or specific changes to existing instruments.

### ***Option 3: Transfer of all plant genetic resources activities from the Commission to the Governing Body***

48. This option foresees the transfer of all plant genetic resources related activities from the Commission to the Governing Body. In this option, the Commission will continue to address plant genetic resources for food and agriculture in relation to cross-sectoral issues (e.g. biotechnology, access and benefit-sharing, climate change, biodiversity targets and indicators, etc.). The two intergovernmental bodies would continue to cooperate and support each other in their respective activities.

49. Each of these options has implications and considerations attached, which have advantages and disadvantages, depending on priorities. Section VII provides some preliminary considerations which the Governing Body and the Commission may find useful for determining which option they prefer with regard to the tasks and activities. In the light of further instructions from the Governing Body and the Commission, the advantages and disadvantages of the options can be further specified and elaborated with regard to the tasks and activities, as requested by the Governing Body. If deemed necessary, the Governing Body could also make recommendations at its present meeting with regard to individual tasks and activities.

## VII. PRELIMINARY CONSIDERATIONS REGARDING THE TRANSFER OF TASKS AND ACTIVITIES

50. Any transfer of tasks and activities from the Commission to the Governing Body may have specific implications, require specific procedures and have different advantages and disadvantages. This section presents a brief first non-exhaustive draft compilation of some preliminary considerations that may be relevant in determining possible transfers. In determining whether specific tasks or activities should be transferred to the Governing Body or remain with the Commission, the relevant bodies could first agree on relevant considerations and then, in a second step, take a decision on each task and activity taking into account the considerations agreed.

### *Concentration of tasks and activities in one intergovernmental body*

51. The concentration of tasks and activities related to plant genetic resources for food and agriculture in one intergovernmental body and one secretariat could help to avoid duplication of work and ensure coherence of relevant policies, programmes and activities. Furthermore, such a concentration could generate a full streamlining of all tasks and activities into the domestic frameworks for implementation. Similarly, concentration of tasks and related activities may simplify coordination at the national level and facilitate coherence of the implementation, in particular given the institutional and bureaucratic arrangements that may exist in countries. In other words, the concentration of tasks may help to rationalize resources and to encourage more cohesion. However, it should be noted that coordination with other bodies and instruments relevant to plant genetic resources for food and agriculture, in particular the CBD as well as other governing and statutory bodies of FAO, would continue to be necessary.

### *Inclusiveness*

52. Currently, FAO has 191 Member Nations plus one Member Organization, the European Union, and one Associate Member, The Faroe Islands. 172 countries and the European Union are Members of the Commission. The International Treaty has 129 Contracting Parties. As a result, instruments, decisions and recommendations enjoy different levels of inclusiveness and geographical coverage, depending on whether they are negotiated, adopted, supported or endorsed by the FAO Conference, the Commission or the Governing Body. Major instruments, including the report on the state of the world's plant genetic resources for food and agriculture and global plans of action, which are prepared under the guidance of or negotiated by the Commission usually receive the endorsement or are adopted by the FAO Conference. These membership figures present, of course, merely a snapshot in time and there is good reason to assume that the membership of the Treaty will increase over time, as it is already demonstrated by the pace of ratifications/accessions since the Treaty entered into force.

### *Administrative, financial and legal aspects*

53. There will be administrative, financial and legal considerations that need to be further analyzed in the further development of the options to ensure coherence and complementarity between the Commission and the Governing Bodies of the Treaty. Guidance may be required from FAO Governing Bodies, such as the Council and Conference.

### *Profile and impact of decisions*

54. FAO's internal review of statutory bodies, with particular reference to Article XIV bodies,<sup>13</sup> such as the Treaty's Governing Body, is expected to lead to a higher degree of functional and administrative autonomy. Such an autonomy could have positive effects on the global institutional profile of the Governing Body and, consequently, on the impact of its decisions at international and domestic levels. On the other hand, the Commission has without doubt played a crucial role in the development of international policies for genetic resources for food and agriculture. It should also be noted that the Commission currently reconsiders its status within the constitutional framework of FAO. At its Twelfth Regular Session, the Commission requested its

<sup>13</sup> See, document CL 137/5, *Report of the 88th Session of the Committee on Constitutional and Legal Matters (CCLM)*, paragraphs 7 – 22..

Secretary to prepare an analysis of potential constraints of the Commission's current status, and to analyze and assess the advantages and disadvantages of a possible change of the Commission's status to a Governing Body of FAO.

***Information/ nomination requests***

55. The Governing Body as well as FAO, through its Commission, request information, country reports and the nomination of national focal points on a regular basis. At times, this can result in an excessive reporting burden for countries and cause confusion in the establishment of national structures, including the nomination of national focal points. The centralization of all tasks and activities related to plant genetic resources could help to simplify and clarify such requests. On the other hand, improved coordination among the Secretariats of the two bodies could also help to enhance effectiveness.

***Multi-sectoral work of the Commission***

56. The question whether tasks and activities related to plant genetic resources should remain with the Commission or be moved to the Governing Body also touches upon the vision for the Commission's future work. The Commission is presently responsible for the overall coordination within FAO of work covering all genetic resources of relevance to food and agriculture. As stated earlier, Article 17.3 of the International Treaty itself requires Contracting Parties of the International Treaty to cooperate with the Commission on Genetic Resources for Food and Agriculture of the FAO in its periodic reassessment of the state of the world's plant genetic resources for food and agriculture in order to facilitate the updating of the rolling Global Plan of Action referred to in Article 14 of the International Treaty. This broad mandate of the Commission to which Contracting Parties of the International Treaty are expected to make an important contribution regarding plant genetic resources provides an enabling environment for harmonizing multidisciplinary work and enhancing synergies between the relevant technical departments within FAO and between FAO and other international organizations. Each sector of genetic resources for food and agriculture benefits from the Commission's experience with assessing the state of genetic resources of the other sectors and developing global policy responses for them. The transfer of all tasks and activities related to plant genetic resources which the Commission has assessed and for which it has developed tailored global policy responses, could in the long run deprive the Commission of its important role as a coordinating platform for *all* genetic resources for food and agriculture. It could also question the Commission's holistic approach, as expressed in its MYPOW milestone for 2017: *The State of the World's Biodiversity for Food and Agriculture*.

***Subsidiary bodies***

57. The Commission's Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture provides scientific and technical advice to the Commission. The Working Group shall: review the situation and issues related to agrobiodiversity in the area of plant genetic resources for food and agriculture and advise and make recommendations to the Commission on these matters; consider the progress made in implementing the Commission's programme of work on plant genetic resources for food and agriculture as well as any other matters referred to the Working Group by the Commission; report to the Commission on its activities. Should all activities related to plant genetic resources be moved to the Governing Body, the need for the Commission's Working Group might have to be re-considered. However, it should be noted that Article 19.3 e of the International Treaty contains a mandate for the Governing Body, "to consider and establish subject to the availability of necessary funds such subsidiary bodies as may be necessary, and their respective mandates and composition."

## VIII. GUIDANCE SOUGHT

58. The Governing Body may wish to:
- i. express its view with regard to the considerations and options contained in this document;

- ii. recommend, for consideration by the Commission, next joint steps the two bodies may wish to consider to jointly review the division of tasks and activities of the two bodies with a view to further facilitate and improve policy coherence and complementarity of their work;
- iii. request its Secretary to communicate the Governing Body's view and recommendations to the Secretary of the Commission;
- iv. request its Secretary to implement together with the Secretary of the Commission common recommendations of the two bodies.