



**Food and Agriculture
Organization of the
United Nations**



The International Treaty
**ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

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**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

**NINTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP TO
ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM**

Rome, Italy, 17–21 June 2019

INTERIM REPORT

ITEM 1. OPENING OF THE MEETING

1. The ninth meeting of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) was opened by the Co-chairs, Mr. Hans Hoogeveen (Netherlands) and Mr. Javad Mozafari (Iran). They recalled that the Working Group had been established six years ago by the Governing Body at its Fifth Session and that every effort should be made at this meeting to finalize the package of measures that the Working Group will recommend to the Eighth Session of the Governing Body for consideration and adoption. The Co-chairs reported on the positive outcomes of a series of informal consultations held since the last meeting of the Working Group, in San José (Costa Rica), Addis Ababa (Ethiopia), and Rome (Italy), to support the work of the Working Group.

2. Mr. Kent Nnadozie, Secretary of the International Treaty, welcomed participants to FAO Headquarters and highlighted all the efforts that went into this process since the Working Group was established. He also recalled the importance of the work of the Working Group for the overall objectives of the International Treaty and assured the Working Group of the Secretariat's commitment to provide any support that the Working Group might need to fulfil its mandate.

ITEM 2. ADOPTION OF THE AGENDA AND TIME TABLE

3. The Working Group adopted its Agenda, as provided in *Appendix 1*. The list of participants of the meeting is contained in *Appendix 2*.

**ITEM 3. REVISION OF THE STANDARD MATERIAL TRANSFER AGREEMENT OF THE
MULTILATERAL SYSTEM OF ACCESS AND BENEFIT-SHARING**

4. The Working Group, at its eighth meeting, agreed on an updated version of the Draft Revised Standard Material Transfer Agreement (SMTA), as contained in document IT/OWG-EFMLS-9/19/3, *Draft Revised Standard Material Transfer Agreement: Proposal by the Working Group, at its eight meeting*.

5. Building on all the efforts made by the Working Group during the last three biennia, considering the submissions received from Contracting Parties and stakeholders, as well as taking into account the discussions during the informal consultations, the Co-chairs drafted a revised SMTA contained in the

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document, IT/OWG-EFMLS-9/19/4 Add.1, *Draft Revised Standard Material Transfer Agreement - Co-chairs' proposal* to the ninth meeting of the Working Group.

6. The Working Group agreed to work on the basis of this text. It reviewed all of its elements and agreed to submit to the Governing Body the Draft Revised Standard Material Transfer Agreement provided in *Appendix 1* of the Draft Resolution contained in the *Report of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System to the Eighth Session of the Governing Body*.

7. Following initial discussions and positions on the issue of rates payable by users, the Co-Chairs made some proposals, as a basis for further discussion and possible compromise: (1) 0.015% for the Subscription System, (2) 0.2% minus 30% for the revised Article 6.8 payments, and (3) 2.0% minus 30% for the revised Article 6.7 payments. The Working Group will consider the issue further upon resumption of its meeting.

ITEM 4. ELABORATION OF CRITERIA AND OPTIONS FOR POSSIBLE ADAPTATION OF THE COVERAGE OF THE MULTILATERAL SYSTEM

8. The Governing Body, at its Seventh Session, requested the Working Group to elaborate criteria and options for possible adaptation of the coverage of the Multilateral System, taking into account, *inter alia*, proposals presented at the Seventh Session of the Governing Body (Resolution 2/2017).

9. The Co-chairs, in the document, IT/OWG-EFMLS-8/18/4, *Enhancing the Functioning of the Multilateral System: Note by the Co-chairs*, provided an overview of the various proposals that were made so far on how to adapt the coverage of the Multilateral System.

10. The Working Group agreed to revise the formal proposal for the amendment to Annex I of the International Treaty submitted by the Government of Switzerland and, accordingly, to recommend to the Governing Body the proposal for an amendment of Annex I of the International Treaty provided in *Appendix 2* to the Draft Resolution, which is contained in the *Report of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System to the Eighth Session of the Governing Body*.

ITEM 5. DEVELOPMENT OF A PROPOSAL FOR A GROWTH PLAN TO ATTAIN THE ENHANCED MULTILATERAL SYSTEM

11. In Resolution 2/2017, the Governing Body requested the Working Group to develop a proposal for a Growth Plan to attain the enhanced Multilateral System. The Working Group, at its eighth meeting, considered that the Growth Plan could be useful in addressing the following issues: the interlinkages between the expansion of the coverage and the realization of benefit sharing and *vice versa*; and, trust building measures among Contracting Parties and between Contracting Parties and users of the Multilateral System, especially the private sector.

12. The Co-chairs, in the document, IT/OWG-EFMLS-9/19/4, *Enhancing the Functioning of the Multilateral System: Note by the Co-chairs*, made a compromise proposal for the package of measures on the enhancement of the Multilateral System. They proposed that those components of the growth plan that were considered useful would be incorporated into the text of the draft Resolution on the enhancement of the Multilateral System.

13. The Working Group considered and reviewed the compromise proposal of the Co-Chairs for the package of measures on the enhancement of the Multilateral System. Such review enabled the Working Group to agree on a number of draft decisions to be included in the Draft Resolution provided in the *Report of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System to the Eighth Session of the Governing Body*, as contained in *Appendix 3* to this Interim Report.

ITEM 6. LIAISON WITH THE AD HOC ADVISORY COMMITTEE ON THE FUNDING STRATEGY AND RESOURCE MOBILIZATION

14. The Co-chair of the Ad Hoc Advisory Committee on the Funding Strategy and Resource Mobilization (Committee), Mr. Alwin Kopse, and Mr. Pierre du Plessis, who was interim Co-Chair of the Committee at its eleventh meeting, provided an update on the work undertaken by the Committee, including the targets for the Funding Strategy and for the Benefit-sharing Fund.

15. The experts commissioned to prepare an analysis of sales and profitability in the seed sector were invited by the Co-chairs to give a short presentation on the preliminary key findings, as contained in the document, IT/OWG-EFMLS-9/19/Inf.5, *Report on sales within the seed sector*.

ITEM 7. OTHER BUSINESS

16. The Working Group did not discuss any other business, pending the conclusion of its meeting.

ITEM 8. ADOPTION OF THE REPORT OF THE WORKING GROUP AND THE REPORT TO THE EIGHTH SESSION OF THE GOVERNING BODY, INCLUDING ELEMENTS OF A DRAFT RESOLUTION

17. Due to time constraints the Working Group decided to suspend the meeting and, in light of the significant progress made in the course of its ninth meeting, agreed to resume at a later time to finalize its work. While the Working Group agreed on various components of the package of measures *ad referendum*, (meaning that they are provisionally agreed with no bracketed text and subject to the whole outcome document being agreed), and re-emphasized the overarching understanding of members that nothing is agreed until everything is agreed, it identified the outstanding issues where consensus still needs to be finalized.

18. The Working Group finalized its Interim Report, containing the proceedings of the first part of its meeting and its interim report to the Eighth Session of the Governing Body, including a draft Resolution. It agreed that the interim Report will be forwarded to the Governing Body, as a basis for further discussion, with the understanding the final Report with any additional elements will be presented to the Governing Body prior to the commencement of its Eighth Session. Upon the conclusion of its resumed meeting, the Working Group will revise this Interim Report and adopt the final Report of its ninth meeting, containing the final versions of all the elements of the package of measures that it will recommend to the Eighth Session of the Governing Body for adoption.

Appendix 1

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE
NINTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP TO ENHANCE THE FUNCTIONING OF THE MULTILATERAL SYSTEM
Rome, Italy, 17-21 June 2019
DRAFT PROVISIONAL AGENDA

1. Opening of the meeting
2. Adoption of the agenda and time table
3. Revision of the Standard Material Transfer Agreement of the Multilateral System of Access and Benefit-sharing
4. Elaboration of criteria and options for possible adaptation of the coverage of the Multilateral System
5. Development of a proposal for a Growth Plan to attain the enhanced Multilateral System
6. Liaison with the *Ad Hoc* Advisory Committee on the Funding Strategy and Resource Mobilization
7. Other business
8. Adoption of the report of the Working Group to the Eighth Session of the Governing Body, including draft resolution

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**INTERIM REPORT OF THE AD HOC OPEN-ENDED WORKING
GROUP TO ENHANCE THE FUNCTIONING OF THE MULTILATERAL
SYSTEM
TO THE EIGHTH SESSION OF THE GOVERNING BODY**

I. INTRODUCTION

1. The Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System (Working Group) was established by the Governing Body through Resolution 2/2013. In Resolution 2/2017, the Governing Body requested the Working Group, with support from the Secretariat, to (a) develop a proposal for a Growth Plan to attain the enhanced Multilateral System, (b) revise the Standard Material Transfer Agreement, (c) elaborate criteria and options for possible adaptation of the coverage of the Multilateral System, and (d) make recommendations to the Governing Body on any other issues related to the process for the enhancement of the Multilateral System.
2. This interim report describes the work so far undertaken by the Working Group during the biennium pursuant to its Terms of Reference and presents the package of measures that the Working Group recommends to the Governing Body to enhance the functioning of the Multilateral System, including a draft Resolution.
3. Before its eighth meeting, the Working Group had elected H.E. Ambassador Hans Hoogeveen (Netherlands) as its new Co-chair, following his nomination by the European Region.
4. The Working Group held its eighth meeting from 10 to 12 October 2018 and its ninth meeting from 17 to 21 June 2019, both in Rome, Italy, and were co-chaired by Mr. Hans Hoogeveen (Netherlands) and Mr. Javad Mozafari (Iran).
5. The Working Group comprised up to five representatives each from Africa, Europe, Asia and GRULAC, up to three representatives from the Near East and up to two representatives each from North America and the Southwest Pacific, as well as two representatives each from farmers' organizations, the CGIAR, civil society organizations and the seed industry.
6. The Working Group benefited from the many contributions made by Contracting Parties and stakeholder groups during the biennium. These contributions were made through submissions and informal inputs to the Co-Chairs, as well as through participation in a number of informal consultations organized by the Co-Chairs. The Working Group thanked the stakeholder groups for all of their contributions throughout the process of negotiation of the enhancement of the Multilateral System.
7. A number of issues requiring further legal advice were raised during the informal consultations. As a result, the Co-chairs re-convened the Standing Group of Legal (SGLE) and requested it to provide advice on a set of legal questions. The SGLE accordingly met from 27 to 29 May 2019, in Rome, Italy, and developed legal opinions on these questions, as provided in the document, IT/OWG-EFMLS-9/19/Inf.4, *Report of the Standing Group of Legal Experts: Outcomes of the Fourth Meeting*. The Working Group noted the contributions made by the SGLE and thanked its facilitator for his dedication and generosity.
8. Finally, the Co-chairs, with the assistance of the Secretariat, commissioned a study to provide up-to-date information about sales and profitability within the seed sector to inform the negotiations of the revised Standard Material Transfer Agreement, including with regard to rates and thresholds.

II. DEVELOPMENT OF A PROPOSAL FOR A GROWTH PLAN TO ATTAIN THE ENHANCED MULTILATERAL SYSTEM

9. In Resolution 2/2017, the Governing Body requested the Working Group to develop a proposal for a Growth Plan to attain the enhanced Multilateral System.

10. The Working Group, at its eighth meeting, agreed that the Growth Plan could be useful in addressing the following issues: the interlinkages between the expansion of the coverage and the realization of benefit sharing and *vice versa*; and, trust building measures among Contracting Parties and between Contracting Parties and users of the Multilateral System, especially the private sector.

11. Based on the discussions held during the informal consultations, the Co-chairs made a compromise proposal for the package of measures on the enhancement of the Multilateral System. They proposed that those components of the growth plan that were considered useful would be incorporated into the text of the draft Resolution on the enhancement of the Multilateral System.

12. The Working Group considered and reviewed the compromise proposal of the Co-Chairs for the package of measures on the enhancement of the Multilateral System. Such review enabled the Working Group to prepare a number of decisions included Draft Resolution XX/2019: *Enhancement of the Multilateral System of Access and Benefit-Sharing of the International Treaty*, which is provided in Annex 1 to this Report.

13. The Working Group considered a recommendation for the Governing Body to approve a package of measures through a Resolution that would simultaneously adopt the revised SMTA and the Amendment of Annex I of the Treaty, with the following elements:

1. The revised SMTA will enter into effect in July 2020, including registration to the Subscription system.
2. The Subscription applies to current Annex I of the Treaty and to all other plant genetic resources for food and agriculture currently made available under the terms and conditions of the Multilateral System, until the entry into force of the Amendment.
3. Income generated by the Subscription System will be paid into the Benefit-sharing Fund. During the period prior to the entry into force of the Amendment, 50% of this income would be utilized to support projects in Contracting Parties that have ratified the Amendment. The remaining amount would be held in the Benefit-sharing Fund and only released when the Amendment enters into force.
4. The Amendment will enter into force after two-thirds of the Contracting Parties have ratified, accepted or approved it.
5. The Resolution will contain an inbuilt review of progress in the enhancement process. Consequently, the Resolution will state that the Governing Body agrees to review, at its Eleventh Session in 2025: (1) the status of ratification, acceptance or approval of the amended Annex I; (2) level of user-based income accruing to the Benefit-sharing Fund; (3) availability of and access provided to material within the Multilateral System.
6. Should the review in 2025 mentioned above show that the number of ratifications required for the entry into force of the Amendment has not been attained:
 - 1) Article 6.8 of the SMTA would then become voluntary again, until the entry into force of the Amendment.
 - 2) The registration to the Subscription System will be suspended until the entry into force of the Amendment.
 - 3) Subscribers will be given the option: (1) to terminate their subscription with immediate effect and revert to Articles 6.7 and 6.8 of the SMTA (single access system). In order to avoid double payment, any amounts paid shall be credited towards any payments that might fall due under the single access system within the following ten years from the starting date of the initial subscription; or (2) to voluntarily continue their subscriptions for a total of ten years from the starting date of their subscription.

- 4) Income generated by the Subscription System will be paid into the Benefit-sharing Fund. During the period prior to the entry into force of the Amendment, 50% of this income would be utilized to support projects in Contracting Parties that have ratified the Amendment. The remaining amount would be held in the Benefit-sharing Fund and only released when the Amendment enters into force.
7. The Governing Body may extend the period for giving effect to this package of measures should the review mentioned above show that the entry into force of the Amendment is within reach, in order to allow for more Contracting Parties to complete national ratification, acceptance or approval processes.

III. REVISION OF THE STANDARD MATERIAL TRANSFER AGREEMENT OF THE MULTILATERAL SYSTEM OF ACCESS AND BENEFIT-SHARING

14. The Governing Body, through Resolution 2/2017, requested the Working Group to use its Report to the Seventh Session of the Governing Body as the basis to further revise the Standard Material Transfer Agreement (SMTA). The Report contained the *Draft Revised Standard Material Transfer Agreement: Proposal by the Working Group*, as agreed by the Working Group at its sixth meeting, as well as a *List of Proposals by Working Group Members to Revise the Standard Material Transfer Agreement, Not Discussed and Decided by the Working Group at its Sixth Meeting*.

15. The Working Group, at its eighth and ninth meetings, pursuant to the request of the Governing Body, reviewed all elements of the draft revised SMTA.

16. The Draft Revised Standard Material Transfer Agreement proposed by the Working Group to the Governing Body, which incorporates changes made but not yet fully agreed upon, is provided in *Appendix 1* to the Draft Resolution XX/2019: *Enhancement of the Multilateral System of Access and Benefit-Sharing of the International Treaty*.

IV. ELABORATION OF CRITERIA AND OPTIONS FOR POSSIBLE ADAPTATION OF THE COVERAGE OF THE MULTILATERAL SYSTEM

17. The Working Group recalled that, in extending its mandate, the Governing Body requested it to elaborate criteria and options for the possible adaptation of the coverage of the Multilateral System, taking into account, *inter alia*, proposals presented at the Seventh Session of the Governing Body.

18. The proposal by the Working Group for an amendment to Annex I of the International Treaty is contained in *Appendix 2* of the Draft Resolution XX/2019: *Enhancement of the Multilateral System of Access and Benefit-Sharing of the International Treaty*.

V. LIAISON WITH THE AD HOC ADVISORY COMMITTEE ON THE FUNDING STRATEGY AND RESOURCE MOBILIZATION

19. The liaison with the *Ad Hoc* Advisory Committee on the Funding Strategy and Resource Mobilization comprised the Co-chairs of the Committee briefing the Working Group at each of its meetings on progress made in the updating of the Funding Strategy, in particular on the methodologies and discussions on the targets for the Funding Strategy and for the Benefit-sharing Fund. The Co-Chairs of the Working Group also participated in the Eleventh meeting of the Committee and provided an update on the status of the negotiations for the enhancement of the Multilateral System.

**VI. OTHER ISSUES RELATED TO THE PROCESS FOR THE ENHANCEMENT OF
THE MULTILATERAL SYSTEM**

20. No other issues related to the process for the enhancement of the Multilateral System were considered by the Working Group during the biennium.

ANNEX I:**DRAFT RESOLUTION **/2019: ENHANCEMENT OF THE MULTILATERAL SYSTEM OF ACCESS AND BENEFIT-SHARING OF THE INTERNATIONAL TREATY****[THE GOVERNING BODY,**

Recalling Resolution 2/2006, by which it adopted the Standard Material Transfer Agreement; (AGREED AD REF)

Recalling Resolution 2/2013, by which it established the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing (the “Working Group”), with the task of developing measures aimed at: (AGREED AD REF)

- (a) Increasing user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner, and
- (b) Enhancing the functioning of the Multilateral System by additional measures;

Recalling Resolutions 1/2015 and 2/2017, by which it extended the mandate of the Working Group for the 2016-2017 and 2018-2019 biennia; (AGREED AD REF)

Having considered the report of the Working Group on the results of its work, and particularly the results of the ninth meeting that included the draft revised Standard Material Transfer Agreement, proposed by the Working Group, and a draft text for amending Annex I of the International Treaty; (AGREED AD REF)

Thanking the Working Group for its productive work and constructive spirit; (AGREED AD REF)

Further thanking the Co-chairs for their commitment and able guidance, which facilitated the successful conclusion of the tasks it requested from the Working Group; (AGREED AD REF)

Recalling Article 1 of the International Treaty, which states that 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 Convention on Biological Diversity, for sustainable agriculture and food security, and also states that these objectives will be attained by closely linking the Treaty to the Food and Agriculture Organization of the United Nations and to the Convention on Biological Diversity; (AGREED AD REF)

Noting that the Standard Material Transfer Agreement should be in conformity with the International Treaty, be effective, and should ensure the efficient implementation of the Multilateral System; (AGREED AD REF)

Potential elements for the revised SMTA

1. *Adopts* the Standard Material Transfer Agreement as revised and contained in Appendix 1 to this Resolution; (AGREED AD REF)
2. *Decides* that the revised Standard Material Transfer Agreement as contained in Appendix 1 to this Resolution replaces the current Standard Material Transfer Agreement as of 1 July 2020; (AGREED AD REF)
3. *Decides* that the registration to the Subscription System under the revised Standard Material Transfer Agreement will be open as of 1 July 2020 and that facilitated access under the Subscription System is provided to the plant genetic resources for food and agriculture listed in the current Annex I and to all other plant genetic resources for food and agriculture made available under the terms and conditions of the Multilateral System. Payments under the Subscription System will be calculated based

on the list of plant genetic resources for food and agriculture listed in the current Annex I; (AGREED AD REF)

4. *Decides* that, notwithstanding the obligations and conditions laid down in the revised Standard Material Transfer Agreement, rights of farmers and indigenous communities to conserve, exchange and use the Material that is available in the Multilateral System are preserved; and the public institutions involved in research and breeding in the developing countries are exempted from any payment obligations arising out of access and use of Material from Multilateral System;

5. *Recognises* the need to ensure the access without restriction to any PGRFA in the form received from the MLS;

5. BIS *Recognises* that a certain amount of PGRFA put into the MLS are still being used *in-situ*;

5. TER *Recognises* that these uses, often on-farm, include, inter alia, food and agriculture production, reproduction, exchange and sell of reproductive material of these PGRFA;

5. QUATER *Recalls* that these uses on PGRFA in the form received from the MLS should be applied as appropriate, in accordance to relevant national laws;

5. QUINQUIES *Calls upon* every Contracting Party to take measures preventing Recipients of PGRFA from the MLS from claiming any new IP or other rights that limit these uses on PGRFA in the form received and provided to the MLS under the revised SMTA, notwithstanding the provisions of the article 6.2 of the revised SMTA;

6. *Recalls* that pursuant to Article 15 of the International Treaty, CGIAR Centers and other international institutions have signed a number of Agreements with the Governing Body, agreeing to provide Annex I materials in accordance with Part IV of the International Treaty and provide non-Annex I materials subject to guidance from the Governing Body; (AGREED AD REF)

7. *Recalling* that at its Second Session it endorsed that interpretative footnotes or series of footnotes would be included to relevant provisions of the Standard Material Transfer Agreement for transfers of non-Annex I material collected before the entry into force of the International Treaty to be used by CGIAR Centers, *confirms* that CGIAR Centers and other Article 15 institutions should start using the revised Standard Material Transfer Agreement as of July 2020, for distributions of both Annex I and non-Annex I materials and *appeals* to Contracting Parties and other governments, especially host countries, to facilitate the implementation of Article 15 Agreements, in particular their ability to exchange and transfer plant genetic resources for food and agriculture under the Treaty; (AGREED AD REF)

7. BIS *Decides* that, as of July 2020, CGIAR Centers and other Article 15 institutions should require the Recipients of in trust materials to make any genetic sequence data on these materials publicly available;

8. *Appreciates* there are limits to the ability of genebanks and, as highlighted in the statement issued by CGIAR Centers upon signature of their Article 15 agreements in 2006, CGIAR Centers to respond to large requests covering a broad range of materials; (AGREED AD REF)

9. *Further decides* that a Provider and a Recipient who signed or accepted a Standard Material Transfer Agreement before 1 July 2020 have the right to jointly agree on replacing such Standard Material Transfer Agreement with the revised Standard Material Transfer Agreement as contained in Appendix 1 to this Resolution; (AGREED AD REF)

10. *Urges* Contracting Parties to the International Treaty, as well as institutions that have concluded agreements with the Governing Body under Article 15 of the International Treaty, to take measures necessary for the implementation of the revised Standard Material Transfer Agreement as contained in Appendix 1 to this Resolution; (AGREED AD REF)

11. *Notes* that the revisions to the Standard Material Transfer Agreement do not alter the rights, roles and responsibilities of the third party beneficiary and *invites* the Food and Agriculture Organization of the United Nations, as the third party beneficiary, to continue to carry out the roles and responsibilities, as identified and prescribed in the revised Standard Material Transfer Agreement, under the direction of the Governing Body, in accordance with the procedures adopted by the Governing Body through Resolution 5/2009; (AGREED AD REF)

11. BIS *Requests* the Secretary to publicize the adoption and to promote the implementation of the revised Standard Material Transfer Agreement including through provision of technical support and background information as well as through communication efforts for various users, including regional or national capacity-building workshops, subject to the availability of financial resources; (AGREED AD REF)

11. TER *Recalling* Article 18.4 of the International Treaty and further *recalling* with appreciation the voluntary contributions made by Contracting Parties to the Benefit-sharing Fund in the past, *invites* Contracting Parties in a position to do so, especially Contracting Parties that are developed countries, the private sector, NGOs and other sources, at their earliest opportunity, to make pledges to the Benefit-sharing Fund for the period from 2020 to 2025 as an important trust building measure in light of the enhancement of the Multilateral System; (AGREED AD REF)

11. QUATER *Requests* the Secretary of the International Treaty to inform the Governing Body on the state of the pledges done; (AGREED AD REF)

12. *Requests* the Secretary of the International Treaty to monitor the implementation and operation of the revised Standard Material Transfer Agreement as contained in Appendix 1 to this Resolution, in particular the new Subscription System, with a view to provide a comprehensive report on progress to the Governing Body at each subsequent Session; (AGREED AD REF)

13. *Invites* Recipients under the revised Standard Material Transfer Agreement as contained in Appendix 1 to this Resolution, especially commercial users, to opt for the Subscription System; (AGREED AD REF)

14. *Emphasizes* the importance of the Multilateral System to enable access to plant genetic resources for food and agriculture to a wide range of users, in particular family farmers, indigenous peoples, small plant breeding companies and public institutions, and in doing so, *agrees* to exempt from the requirements of benefit-sharing in the revised Standard Material Transfer Agreement users that have less than [XX] seed sales a year and *requests* each Contracting Party to inform the Governing Body how these terms are defined in its respective national jurisdiction;

OR

14. ALT *Recognizing* the key importance and rights that family farmers, indigenous communities, and small plant breeding companies have in developing countries to conserve, make sustainable use exchange plant genetic resources for food and agriculture, and taking into account local economic, social and legal considerations in those countries, among others, *decides* that they will be exempted from any payment provision and legal provisions related of the Standard Material Transfer Agreement and that National Focal Points in developing countries will provide to the Governing Body with a limited list of small plant breeding companies and will certify that a Subscriber is a family farmer that shall be exempted from any payment and legal provisions associated;

14. ALT BIS *Recognizing* the key importance in developing countries of public institutions, from a social, economic and legal points of views among others, *decides* that they will be exempted from any payment provision and legal provisions related of the Standard Material Transfer Agreement and that National Focal Points in developing countries will provide to the Governing Body with a list of public institutions that should be exempted;

15. *Requests* the Committee of the Funding Strategy to prepare possible criteria for allocation of funds by the Benefit-sharing Fund, that could take into account, *inter alia*, payments made by entities in a given country; whether a country has ratified the amended Annex I and is actively sharing the material through the Multilateral System and has made its material fully available;

OR

15. ALT *Taking into account* the urgent needs of developing countries in relation to conservation and sustainable use of plant genetic resources for food and agriculture, *decides* that when a payment is made by a Recipient located in the territory of a Contracting Party that is in a developing country or in a territory of a Contracting Party with an economy in transition, or when the payment made by a Recipient has been calculated according to the Article 6.8 of the Standard Material Transfer Agreement based on the accounting records of the Recipient in the territory of a Contracting Party that is a developing country or a territory of a Contracting Party with an economy in transition, then 60%-80% of the amount effectively transferred into the mechanism established by the Governing Body will immediately be allocated to finance projects for the implementation of the International Treaty in that Contracting Party that is a developing country and from which the deposited funds came from / in the region of the Contracting Party from which the deposited funds came from. These funds will be administered by the Application Authority designated by each Contracting Party for this purpose, together with FAO. The progress in implementation of the projects will be informed to the Committee on the Funding Strategy and Resource Mobilization, which will regularly report to the Governing Body;

Potential elements for the amendment of Annex I

16. *Decides* to adopt the amendment to Annex I of the International Treaty as contained in *Appendix 2* to this Resolution, in accordance with Articles 23 and 24 of the International Treaty; (AGREED AD REF)

17. *Encourages* all Contracting Parties to consider ratifying, accepting or approving the amendment contained in *Appendix 2* as soon as possible to allow for its timely entry into force; (AGREED AD REF)

18. *Decides* that when ratifying, accepting or approving the amendment of Annex I of the International Treaty, a Contracting Party may, exceptionally, declare certain and a limited number of species native to its territory that it will not make available under the terms and conditions of the Multilateral System; *requests* the Secretary to make such lists publicly available; *invites* Contracting Parties who avail themselves of the right stipulated in this paragraph to consider eliminating plant genetic resources for food and agriculture from their list whenever possible and communicate such decision to the Secretary; *emphasizes* that such declared lists do not affect the rights and obligations of any other Contracting Party under the International Treaty or of the International Agricultural Research Centres or other International Institutions that concluded an agreement with the Governing Body under Article 15 of this Treaty;

19. *Calls upon* Contracting Parties to exercise restraint in making a declaration of exclusion under the amendment; (AGREED AD REF)

20. *Requests* Contracting Parties which are making a declaration to state clear reasons for any exclusion, which may include, *inter alia*, pre-existing legal restrictions, socio-economic or cultural reasons, bearing in mind food security and interdependence; (AGREED AD REF)

21. *Recalling* that the availability of and facilitated access to material in the Multilateral System is an incentive for subscription to the Multilateral System, *decides* to review the status of declarations of exclusions to the amendment as part of its review in 2025 relating to the availability of and facilitated access provided to material within the Multilateral System; (AGREED AD REF)

22. *Decides* that the Benefit-sharing Fund should not support projects related to excluded species in Contracting Parties that have excluded those species; (AGREED AD REF)

23. *Encourages* Contracting Parties to provide access according to the terms and conditions of the Multilateral System to all plant genetic resources for food and agriculture found in *in situ* conditions, in accordance with Article 12.3h of the Treaty, as appropriate;
24. *Requests* the Secretary to promote the ratification, acceptance or approval of the amendment of Annex I including through communication efforts and the provision of background information to Contracting Parties and others, to support or facilitate timely ratification, acceptance or approval by as many countries as possible; (AGREED AD REF)
25. *Invites* the Director General of FAO to inform the FAO Conference about the amendment of Annex I and to promote its ratification, acceptance or approval by Member Countries that are Contracting Parties of the International Treaty; (AGREED AD REF)
26. *Decides* that the Governing Body acts as the Governing Body for the amendment, comprising the Contracting Parties that have ratified, accepted or approved the amendment; (AGREED AD REF)
27. *Decides* that after the entry into force of this amendment, any ratification, acceptance or approval of or accession to the International Treaty includes this amendment; (AGREED AD REF)
28. *Invites* Contracting Parties, pending entry into force of the amendment, to already make available under the terms and conditions of the Multilateral System the full extent of their plant genetic resources for food and agriculture; (AGREED AD REF)

Potential elements for the draft Resolution related to PGRFA information.

29. *Reaffirms* that benefits arising from the use, including commercial, of plant genetic resources for food and agriculture under the Multilateral System shall be shared fairly and equitably through the exchange of information, access to and transfer of technology, capacity-building, and the sharing of monetary and other benefits arising from commercialization, as provided for in Article 13.2 of the Treaty;
30. *Reaffirms* that facilitated access to plant genetic resources for food and agriculture which are included in the Multilateral System constitutes itself a major benefit of the Multilateral System, as provided for in Article 13.1 of the Treaty;
31. *Reaffirms* that, in accordance with Treaty Article 12.3.c, all available passport data and, subject to applicable law, any other associated non-confidential descriptive information, shall be made available with the plant genetic resources for food and agriculture provided under the Multilateral System;
32. *Urges* Contracting Parties, and *invites* natural and legal persons, who hold information associated with plant genetic resources for food and agriculture to make such information publicly accessible, for example by linking it to the Global Information System;
33. *Encourages* users of plant genetic resources for food and agriculture from the Multilateral System to make available all new information generated on these plant genetic resources for food and agriculture, and to support capacity building efforts so that such information can be used and shared, in order to achieve the objectives of the Treaty to support sustainable agriculture and global food security;
34. *Invites* Contracting Parties, especially developed country Contracting Parties, to provide resources and support to developing country Contracting Parties and Contracting Parties with economies in transition to build capacities in the access to and use of information associated with plant genetic resources for food and agriculture;
35. *Agrees* that mandatory payments under the revised Standard Material Transfer Agreement contained in Appendix 1 to this Resolution also reflect the sales of information generated from the material from the Multilateral System that is commercialized;

Potential elements for the implementation and review of the enhanced Multilateral System

36. *Agrees* to review, at its Eleventh Session in 2025, the status of (1) ratifications to the amended Annex I; (2) the level of user-based income accruing to the Benefit-sharing Fund (3) availability of and access provided to material within the Multilateral System; (AGREED AD REF)
37. *Decides* that, should the review show that the number of ratifications required for the entry into force of the amendment has not been reached:
- i. Article 6.8 of the Standard Material Transfer Agreement would then become voluntary again, until the entry into force of the amendment; (AGREED AD REF)
 - ii. The registration to the Subscription System will be suspended until the entry into force of the amendment; (AGREED AD REF)
 - iii. Subscribers will be given the option to (1) terminate their subscription with immediate effect and revert to Articles 6.7 and 6.8 of the Standard Material Transfer Agreement (Single access system). In order to avoid double payment, any amounts paid shall be credited towards any payments that might fall due under the single access system within the following ten years from the starting date of the initial subscription; or to (2) voluntarily continue their subscriptions for a total of ten years from the starting date of their subscription; (AGREED AD REF)
38. *Decides* that income generated through the Subscription System is to be paid into the Benefit-sharing Fund. As a transitional measure and without prejudice to future allocation of funds available under the Benefit Sharing Fund, 50% of this income is to be utilized to support projects in Contracting Parties that are developing countries or with economies in transition that would have ratified the amendment, or that included material into the Multilateral System. The remaining amount is to be held in the Benefit-sharing Fund to be utilized when the amendment enters into force; (AGREED AD REF)
39. *Decides* that it may extend the period for giving effect to this package of measures should the review mentioned above show that the entry into force of the amendment is within reach in order to allow for more Contracting Parties to complete national ratification processes; (AGREED AD REF)
40. *Requests* the Secretary to submit a progress report on the number of ratifications and respective declarations and on income generated to the Benefit-sharing Fund through the revised Standard Material Transfer Agreement as contained in Annex I at each Session of the Governing Body; (AGREED AD REF)
41. *Decides* to reconvene the *Ad Hoc* Technical Advisory Committee on the Multilateral System and the Standard Material Transfer Agreement during the biennium 2020/2021 to provide advice on the implementation of the enhanced Multilateral System (AGREED AD REF)]

Appendix 1:

**[DRAFT REVISED STANDARD MATERIAL TRANSFER AGREEMENT:
PROPOSAL BY THE WORKING GROUP
TO THE EIGHTH SESSION OF THE GOVERNING BODY**

1 **PREAMBLE**

2
3 **WHEREAS**

4
5 The International Treaty on Plant Genetic Resources for Food and Agriculture (hereinafter referred to as
6 “the **Treaty**”¹) was adopted by the Thirty-first session of the FAO Conference on 3 November 2001 and
7 entered into force on 29 June 2004; (AGREED AD REF)

8
9 The objectives of the **Treaty** are the conservation and sustainable use of **Plant Genetic Resources for**
10 **Food and Agriculture** and the fair and equitable sharing of the benefits arising out of their use, in
11 harmony with the Convention on Biological Diversity, for sustainable agriculture and food security;
12 (AGREED AD REF)

13
14 The Contracting Parties to the **Treaty**, in the exercise of their sovereign rights over their **Plant Genetic**
15 **Resources for Food and Agriculture**, have established a **Multilateral System** both to facilitate access
16 to **Plant Genetic Resources for Food and Agriculture** and to share, in a fair and equitable way, the
17 benefits arising from the utilization of these resources, on a complementary and mutually reinforcing
18 basis; (AGREED AD REF)

19
20 Articles 4, 11, 12.4 and 12.5 of the **Treaty** are borne in mind; (AGREED AD REF)

21
22 The diversity of the legal systems of the Contracting Parties with respect to their national procedural
23 rules governing access to courts and to arbitration, and the obligations arising from international and
24 regional conventions applicable to these procedural rules, are recognized;

25
26 Article 12.4 of the **Treaty** provides that facilitated access under the **Multilateral System** shall be
27 provided pursuant to a Standard Material Transfer Agreement, and the **Governing Body** of the **Treaty**,
28 in its Resolution 1/2006 of 16 June 2006, adopted the Standard Material Transfer Agreement, which in
29 Resolution [XX]/2019 of [XX] November 2019 it decided to amend. (AGREED AD REF)

30

¹Defined terms have, for clarity, been put in bold throughout.

ARTICLE 1 — PARTIES TO THE AGREEMENT

1.1 The present Standard Material Transfer Agreement (hereinafter referred to as “**this Agreement**”) is the Standard Material Transfer Agreement referred to in Article 12.4 of the **Treaty**. (AGREED AD REF)

1.2 **This Agreement** is:

BETWEEN: (*name and address of the provider or providing institution, name of authorized official, contact information for authorized official**) (hereinafter referred to as “the **Provider**”), (AGREED AD REF)

AND: (*name and address of the recipient or recipient institution, name of authorized official, contact information for authorized official**) (hereinafter referred to as “the **Recipient**”). (AGREED AD REF)

1.3 The parties to **this Agreement** hereby agree as follows: (AGREED AD REF)

ARTICLE 2 — DEFINITIONS

In **this Agreement** the expressions set out below shall have the following meaning:

“**Available without restriction**”: a **Product** is considered to be available without restriction to others for further research and breeding when it is available for research and breeding without any legal or contractual obligations, or technological restrictions, that would preclude using it in the manner specified in the **Treaty**. (AGREED AD REF)

“**Genetic material**” means any material of plant origin, including reproductive and vegetative propagating material, containing functional units of heredity. (AGREED AD REF)

“**Governing Body**” means the **Governing Body** of the **Treaty**. (AGREED AD REF)

“**Multilateral System**” means the **Multilateral System** established under Article 10.2 of the **Treaty**. (AGREED AD REF)

“**Plant Genetic Resources for Food and Agriculture**” means any **genetic material** of plant origin of actual or potential value for food and agriculture. (AGREED AD REF)

“**Plant Genetic Resources for Food and Agriculture under Development**” means material derived from the **Material**, and hence distinct from it, that is not yet ready for **commercialization** and which the developer intends to further develop or to transfer to another person or entity for further development. The period of development for the **Plant Genetic Resources for Food and Agriculture under Development** shall be deemed to have ceased when those resources are **commercialized** as a **Product**. (AGREED AD REF)

* *Insert as necessary. Not applicable for shrink-wrap and click-wrap Standard Material Transfer Agreements.*

A “shrink-wrap” Standard Material Transfer Agreement is where a copy of the Standard Material Transfer Agreement is included in the packaging of the **Material**, and the **Recipient’s** acceptance of the **Material** constitutes acceptance of the terms and conditions of the Standard Material Transfer Agreement.

A “click-wrap” Standard Material Transfer Agreement is where the agreement is concluded on the internet and the **Recipient** accepts the terms and conditions of the Standard Material Transfer Agreement by clicking on the appropriate icon on the website or in the electronic version of the Standard Material Transfer Agreement, as appropriate.

1
2 **“Product”** means **Plant Genetic Resources for Food and Agriculture** that incorporate² the **Material** or
3 any of its genetic parts or components that are ready for **commercialization**, excluding commodities and
4 other products used for food, feed and processing. (AGREED AD REF)

5
6 **“Sales”** means the gross income resulting from the **commercialization** of a **Product** or **Products**, by
7 the **Recipient**, its affiliates, contractors, licensees and lessees.]

8 [ALT **“Sales”** means the gross income received by the **Recipient** and its affiliates in the form of license
9 fees [for **Plant Genetic Resources for Food and Agriculture**] and from **commercialization**. [and from
10 commercial use of genetic sequence data.]]

11
12 **“To commercialize”** means to sell a **Product** or **Products** [or any associated information including
13 genetic sequence data] for monetary consideration on the open market, and **“commercialization”** has a
14 corresponding meaning. **Commercialization** shall not include any form of transfer of **Plant Genetic
15 Resources for Food and Agriculture under Development**.]

16 [ALT **“To commercialize”** means to exchange **Plant Genetic Resources for Food and Agriculture** [or
17 any associated information including genetic sequence data] for monetary consideration on the open
18 market, and **“commercialization”** has a corresponding meaning. **Commercialization** shall not include
19 any form of transfer of **Plant Genetic Resources for Food and Agriculture under Development**, nor
20 shall it include the sale of commodities and other products used for food, feed and processing.]

21 22 23 24 **ARTICLE 3 — SUBJECT MATTER OF THE MATERIAL TRANSFER AGREEMENT**

25
26 The **Plant Genetic Resources for Food and Agriculture** specified in *Annex 1* to **this Agreement**
27 (hereinafter referred to as the **“Material”**) and the available related information referred to in Article 5b
28 and in *Annex 1* are hereby transferred from the **Provider** to the **Recipient** subject to the terms and
29 conditions set out in **this Agreement**. (AGREED AD REF)

30 31 32 **ARTICLE 4 — GENERAL PROVISIONS**

33
34 4.1 **This Agreement** is entered into within the framework of the **Multilateral System** and shall be
35 implemented and interpreted in accordance with the objectives and provisions of the **Treaty**. (AGREED
36 AD REF)

37
38 4.2 The parties recognize that they are subject to the applicable legal measures and procedures, that
39 have been adopted by the Contracting Parties to the **Treaty**, in conformity with the **Treaty**, in particular
40 those taken in conformity with Articles 4, 12.2 and 12.5 of the **Treaty**.³ (AGREED AD REF)

41
42 4.3 The parties to **this Agreement** agree that the Food and Agriculture Organization of the United
43 Nations acting on behalf of the **Governing Body** of the **Treaty** and its **Multilateral System**, is the third
44 party beneficiary under **this Agreement**. (AGREED AD REF)

45
46 4.4 The third party beneficiary has the right to request the appropriate information as required in
47 Articles 5e, 6.5c, 8.3, *Annex 2*, paragraph 5, and *Annex 3*, Article 3.5, to **this Agreement**. (AGREED AD
48 REF)

49

² As evidenced, for example, by pedigree or notation of gene insertion.

³ In the case of the International Agricultural Research Centres of the Consultative Group on International Agricultural Research (CGIAR) and other international institutions, the Agreement between the **Governing Body** and the CGIAR Centres or other relevant institutions will be applicable.

1 4.5 The rights granted to the Food and Agriculture Organization of the United Nations above do not
 2 prevent the **Provider** and the **Recipient** from exercising their rights under **this Agreement**. (AGREED
 3 AD REF)

6 **ARTICLE 5 — RIGHTS AND OBLIGATIONS OF THE PROVIDER**

7
 8 The **Provider** undertakes that the **Material** is transferred in accordance with the following provisions of
 9 the **Treaty**: (AGREED AD REF)

- 10
 11 a) Access shall be accorded expeditiously, without the need to track individual accessions and
 12 free of charge, or, when a fee is charged, it shall not exceed the minimal cost involved;
 13 (AGREED AD REF)
- 14
 15 b) All available passport data and, subject to applicable law, any other associated available
 16 non-confidential descriptive information, shall be made available with the **Plant Genetic**
 17 **Resources for Food and Agriculture** provided; (AGREED AD REF)
- 18
 19 c) Access to **Plant Genetic Resources for Food and Agriculture under Development**,
 20 including material being developed by farmers, shall be at the discretion of its developer,
 21 during the period of its development; (AGREED AD REF)
- 22
 23 d) Access to **Plant Genetic Resources for Food and Agriculture** protected by intellectual and
 24 other property rights shall be consistent with relevant international agreements, and with
 25 relevant national laws; (AGREED AD REF)
- 26
 27 e) The **Provider** shall inform the **Governing Body** at least once every two calendar years, or
 28 within an interval that shall be, from time to time, decided by the **Governing Body**, about
 29 the Material Transfer Agreements entered into,⁴ (AGREED AD REF)

30
 31 either by:

32
 33 Option A: Transmitting a copy of the completed Standard Material Transfer Agreement,⁵
 34 (AGREED AD REF)

35 or

36
 37 Option B: In the event that a copy of the Standard Material Transfer Agreement is not
 38 transmitted, (AGREED AD REF)

- 39 i. ensuring that the completed Standard Material Transfer Agreement is at the
 40 disposal of the third party beneficiary as and when needed;
- 41 ii. stating where the Standard Material Transfer Agreement in question is stored,
 42 and how it may be obtained; and

⁴ This information should be submitted by the Provider to:

The Secretary
 International Treaty on Plant Genetic Resources for Food and Agriculture
 Food and Agriculture Organization of the United Nations
 I-00153 Rome, Italy
 Email: ITPGRFA-Secretary@FAO.org

or through EasySMTA: <https://mls.planttreaty.org/itt/>.

⁵ In the event that the copy of the completed Standard Material Transfer Agreement that is transmitted is shrink-wrap, in accordance with Article 10, Option 2 of the Standard Material Transfer Agreement, the **Provider** shall also include information as to (a) the date on which the shipment was sent, and (b) the name of the person to whom the shipment was sent.

- 1 iii. providing the following information:
- 2 a) The identifying symbol or number attributed to the Standard Material
- 3 Transfer Agreement by the **Provider**;
- 4 b) The name and address of the **Provider**;
- 5 c) The date on which the **Provider** agreed to or accepted the Standard Material
- 6 Transfer Agreement, and in the case of shrink-wrap, the date on which the
- 7 shipment was sent;
- 8 d) The name and address of the **Recipient**, and in the case of a shrink-wrap
- 9 agreement, the name of the person to whom the shipment was made;
- 10 e) The identification of each accession in Annex 1 to the Standard Material
- 11 Transfer Agreement, and of the crop to which it belongs.

12 (AGREED AD REF)

13

14 This information shall be made available by the **Governing Body** to the third party

15 beneficiary. Such information shall be treated as confidential business information and shall

16 be used to develop aggregated reporting only, subject to national legislation, as appropriate.

17

18

19 **ARTICLE 6 — RIGHTS AND OBLIGATIONS OF THE RECIPIENT**

20

21 6.1 The **Recipient** undertakes that the **Material** shall be used or conserved only for the purposes of

22 research, breeding and training for food and agriculture. Such purposes shall not include chemical,

23 pharmaceutical and/or other non-food/feed industrial uses. (AGREED AD REF)

24

25 6.2 The **Recipient** shall not claim any intellectual property or other rights that limit the facilitated

26 access to the **Material** provided under **this Agreement**, or its genetic parts or components, in the form

27 received from the **Multilateral System**.

28

29 6.3 In the case that the **Recipient** conserves the **Material** supplied, the **Recipient** shall make the

30 **Material**, and the related information referred to in Article 5b, available to the **Multilateral System**

31 using the Standard Material Transfer Agreement. (AGREED AD REF)

32

33 6.4 In the case that the **Recipient** transfers the **Material** supplied under **this Agreement** to another

34 person or entity (hereinafter referred to as “the **subsequent recipient**”), the **Recipient** shall (AGREED

35 AD REF)

36

37 a) do so under the terms and conditions of the Standard Material Transfer Agreement, through

38 a new Standard Material Transfer Agreement; and (AGREED AD REF)

39

40 b) notify the **Governing Body**, in accordance with Article 5e. (AGREED AD REF)

41

42 On compliance with the above, the **Recipient** shall have no further obligations regarding the actions of the

43 **subsequent recipient**. (AGREED AD REF)

44

45 6.5 In the case that the **Recipient** transfers a **Plant Genetic Resource for Food and Agriculture**

46 **under Development** to another person or entity, until a period of twelve years after signing or accepting

47 of **this Agreement** has lapsed, the **Recipient** shall: (AGREED AD REF)

48

49 a) do so under the terms and conditions of the Standard Material Transfer Agreement, through

50 a new Standard Material Transfer Agreement, provided that Article 5a of the Standard

51 Material Transfer Agreement shall not apply; (AGREED AD REF)

52

1 b) identify, in Annex 1 to the new Standard Material Transfer Agreement, the **Material**
2 received from the **Multilateral System**, and specify that the **Plant Genetic Resources for**
3 **Food and Agriculture under Development** being transferred are derived from the
4 **Material**; (AGREED AD REF)

5
6 c) notify the **Governing Body**, in accordance with Article 5e; and (AGREED AD REF)

7
8 d) have no further obligations regarding the actions of any **subsequent recipient**. (AGREED
9 AD REF)

10
11 e) The obligations in this Article 6.5 do not apply to **Plant Genetic Resources for Food and**
12 **Agriculture under Development**, for which both of the following applies: does contain a
13 genetic contribution of less than 12.5% by pedigree of the **Material** and does not contain a
14 trait of commercial value that was contributed by the **Material**. (AGREED AD REF)

15
16
17 6.6 Entering into a Standard Material Transfer Agreement under paragraph 6.5 shall be without
18 prejudice to the right of the parties to attach additional conditions, relating to further product
19 development, including, as appropriate, the payment of monetary consideration. (AGREED AD REF)

20
21 6.11 The **Recipient** may, at the time of signing of **this Agreement** or at the time of acceptance of **this**
22 **Agreement** or at any time after that, opt for the **Subscription System**, as set out in *Annex 3* to **this**
23 **Agreement**, by returning the **Registration Form** contained in *Annex 4* to **this Agreement**, duly completed
24 and signed, to the **Governing Body** of the **Treaty**, through its Secretary ("**Subscription**"). If the
25 **Registration Form** is not received by the Secretary, the modality of payment specified in Articles 6.7 and
26 6.8 will apply unless the **Recipient** has already opted for the **Subscription System** earlier (AGREED AD
27 REF)

28
29 6.11bis Should the **Recipient** opt for the **Subscription System**, the terms and conditions of the
30 **Subscription System**, as set out in *Annex 3* to **this Agreement**, apply. In this case, *Annex 3* to **this**
31 **Agreement** constitutes an integral part of **this Agreement** and any reference to **this Agreement** shall be
32 understood, where the context permits and *mutatis mutandis*, to also include *Annex 3*-(AGREED AD REF)

33
34 6.11ter By opting for the **Subscription System**, the **Recipient**, as **Subscriber**, shall have no payment
35 obligations with regard to the **Material** received, during the term of the **Subscription**, and the **Product**
36 that incorporates the **Material**, other than the payment obligations provided for under the **Subscription**
37 **System**. (AGREED AD REF)

38
39
40 [6.7 In the case that the **Recipient** does not opt for the Subscription System and the **Recipient** or any
41 of its affiliates **commercializes a Product** that is a **Plant Genetic Resource for Food and Agriculture**
42 and that incorporates **Material** as referred to in Article 3 of **this Agreement**, and where such **Product** is
43 **not available without restriction** to others for further research and breeding, the **Recipient** shall pay,
44 for the period for which the restriction is applicable, a fixed percentage of the **Sales** of the
45 **commercialized Product** into the mechanism established by the **Governing Body** for this purpose, in
46 accordance with *Annex 2* to **this Agreement**. After the restriction comes to an end, the **Recipient** or any
47 of its affiliates commercializing the **Product** will continue to make payments at the rate referred to in
48 Article 6.8 below.

49 6.8 In the case that the **Recipient** does not opt for the Subscription System and the **Recipient** or any
50 of its affiliates **commercializes a Product** that is a **Plant Genetic Resource for Food and Agriculture**
51 and that incorporates **Material** as referred to in Article 3 of **this Agreement** and where that **Product** is
52 **available without restriction** to others for further research and breeding, the **Recipient** shall pay for a

1 period of ten years a fixed percentage of the **Sales** of the **commercialized Product** into the mechanism
2 established by the **Governing Body** for this purpose, in accordance with *Annex 2* to **this Agreement**.

3 6.8 BIS For a particular **Product** the **Recipient** shall be required to make payments for not more than 25
4 years combined under the terms of 6.7 and 6.8.]

5
6
7 6.9 The **Recipient** shall make available to the **Multilateral System**, through the information system
8 provided for in Article 17 of the **Treaty**, all non-confidential information [and all genetic sequence data]
9 that results from research and development carried out on the **Material** and is encouraged to share
10 through the **Multilateral System** non-monetary benefits expressly identified in Article 13.2 of the
11 **Treaty** that result from such research and development. The **Recipient** is encouraged to place a sample
12 of any **Product** that incorporates the **Material** into a collection that is part of the **Multilateral System**,
13 for research and breeding.

14
15 6.10 A **Recipient** who applied for or obtains intellectual property rights on any **Products** developed
16 from the **Material** or its components, obtained from the **Multilateral System**, and assigns such
17 application or intellectual property rights to a third party, shall transfer the benefit-sharing obligations of
18 **this Agreement** to that third party. Such transfer shall only take place once the third party has accepted
19 these benefit-sharing obligations.

20 21 22 **ARTICLE 7 — APPLICABLE LAW**

23
24 The applicable law shall be the General Principles of Law, including the UNIDROIT Principles of
25 International Commercial Contracts 2016 and as subsequently updated, the objectives and the relevant
26 provisions of the **Treaty**, and, when necessary for interpretation, the decisions of the **Governing Body**.
27 (AGREED AD REF)

28 29 30 **ARTICLE 8 — DISPUTE SETTLEMENT**

31
32 8.1 Dispute settlement may be initiated by the **Provider** or the **Recipient** or the third party
33 beneficiary acting on behalf of the **Governing Body** of the **Treaty** and its **Multilateral System**.
34 (AGREED AD REF)

35
36 8.2 The parties to **this Agreement** agree that the Food and Agriculture Organization of the United
37 Nations, representing the **Governing Body** and the **Multilateral System**, has the right, as a third party
38 beneficiary, to initiate dispute settlement procedures regarding rights and obligations of the **Provider**
39 and the **Recipient** under **this Agreement**. (AGREED AD REF)

40
41 8.3 The third party beneficiary has the right to request that the appropriate information, including
42 samples as necessary, be made available by the **Provider** and the **Recipient**, regarding their obligations
43 in the context of **this Agreement**. Any information or samples so requested shall be provided by the
44 **Provider** and the **Recipient**, as the case may be. (AGREED AD REF)

45
46 8.4 Any dispute arising from **this Agreement** [exemption Art. 4.5 of Annex 3] shall be resolved in
47 the following manner:

- 48
49 a) Amicable dispute settlement: The parties shall attempt in good faith to resolve the dispute by
50 negotiation. (AGREED AD REF)
- 51 b) Mediation: If the dispute is not resolved by negotiation, the parties may choose mediation
52 through a neutral third party mediator, to be mutually agreed. (AGREED AD REF)

- 1 c) Arbitration: If the dispute has not been settled by negotiation or mediation, any party may submit
2 the dispute for arbitration under the Arbitration Rules of an international body as agreed by the
3 parties to the dispute. Failing such agreement, the dispute shall be settled under the Rules of
4 Arbitration of the International Chamber of Commerce, by one or more arbitrators appointed in
5 accordance with the said Rules. Either party to the dispute may, if it so chooses, appoint its
6 arbitrator from such list of experts as the Governing Body may establish for this purpose; both
7 parties, or the arbitrators appointed by them, may agree to appoint a sole arbitrator, or presiding
8 arbitrator as the case may be, from such list of experts. The result of such arbitration shall be
9 binding. (AGREED AD REF)
- 10 d) Aggrieved parties may avail themselves of opportunities made available under the provisions of
11 Article 12.5 of the Treaty. (AGREED AD REF)

12
13 8.5 In case of a proven breach of Articles 6.1 or 6.2, the **Recipient** may be liable for damages. With
14 respect to Article 6.1, damages should be in proportion to the income received by the **Recipient** as a
15 result of the proven breach. With respect to Article 6.2, damages should be in proportion to the income
16 received by the **Recipient** as a result of the intellectual property or other rights that limit the facilitated
17 access to the **Material**, or its genetic parts or components, in the form received from the **Multilateral**
18 **System**, and may additionally result in assignment of the intellectual property or other rights involved, in
19 accordance with relevant international law and national legislation. (AGREED AD REF)

20 21 22 **ARTICLE 9 — ADDITIONAL ITEMS**

23 **Warranty**

24
25
26 9.1 The **Provider** makes no warranties in **this Agreement** as to the safety of or title to the **Material**,
27 nor as to the accuracy or correctness of any passport or other data provided with the **Material**. Neither does
28 it make any warranties as to the quality, viability, or purity (genetic or mechanical) of the **Material** being
29 furnished. The phytosanitary condition of the **Material** is warranted only as described in any attached
30 phytosanitary certificate. The **Recipient** assumes full responsibility for complying with the recipient nation's
31 quarantine, invasive alien species and biosafety regulations and rules as to import or release of **genetic**
32 **material**. (AGREED AD REF)

33 34 **Withdrawal from this Agreement**

35
36 9.2 The **Recipient** may withdraw from **this Agreement** in accordance with Annex 3 (Subscription
37 System) or Annex 2 (single access system), respectively. (AGREED AD REF)

38 39 **Amendments to the Standard Material Transfer Agreement**

40
41 9.5 If the **Governing Body** amends the terms and conditions of the Standard Material Transfer
42 Agreement, the **Recipient** shall, as of the date decided by the **Governing Body**, utilize the amended
43 SMTA for subsequent transfers of the **Material** to third parties. The other rights and obligations of the
44 **Recipient** shall remain unchanged, unless the **Recipient** explicitly agrees in writing to the amended
45 Standard Material Transfer Agreement. (AGREED AD REF)

46 47 **[Transitional Phase**

48
49 9.6 In the event that the Amendment of Annex I of Treaty, as contained in Resolution [XX]/2019,
50 does not enter into force by 31 July 2025 and unless the Governing Body extends the period or decides
51 otherwise:

52 Article 6.8 will read as follows:

1 In the case that the **Recipient** or any of its affiliates **commercializes** a **Product** that is a **Plant**
 2 **Genetic Resource for Food and Agriculture** and that incorporates **Material** as referred to in
 3 Article 3 of **this Agreement** and where that **Product** is **available without restriction** to others for
 4 further research and breeding, the **Recipient** is encouraged to make voluntary payments into the
 5 mechanism established by the **Governing Body** for this purpose in accordance with *Annex 2* to **this**
 6 **Agreement**, *mutatis mutandis*.

7 Article 6.11 and related Annexes will cease to apply for new Subscribers and no new Subscription will
 8 be allowed under **this Agreement**. A **Recipient** that became a **Subscriber** before 31 July 2025 may,
 9 within [XX] days, either:

- 10 1) Notify the Secretary that it will maintain its Subscription for a total of ten years; or
 11 2) Withdraw from its Subscription with immediate effect. Should the Subscriber choose this
 12 option, the Subscription Terms shall cease to apply and shall be replaced by the terms and
 13 conditions of the ‘single access system’, and Articles 6.7, 6.8 and Annex 2 of **this Agreement**
 14 shall apply. Following such withdrawal, any amount paid by the Subscriber under the
 15 Subscription will be credited towards any payments that might fall due under the single access
 16 system within the following ten years from the starting date of the initial Subscription].

17 **ARTICLE 10 — SIGNATURE/ACCEPTANCE (AGREED AD REF)**

18 The **Provider** and the **Recipient** may choose the method of acceptance unless either party requires **this**
 19 **Agreement** to be signed.

20 **Option 1 –Signature***

21 I, (*Full Name of Authorized Official*), represent and warrant that I have the authority to execute
 22 **this Agreement** on behalf of the **Provider** and acknowledge my institution’s responsibility and
 23 obligation to abide by the provisions of **this Agreement**, both by letter and in principle, in order to
 24 promote the conservation and sustainable use of **Plant Genetic Resources for Food and**
 25 **Agriculture**.

26 I understand and expressly agree that the third party beneficiary shall have the rights provided in
 27 Articles 4 and 8 of **this Agreement**.

28 Signature..... Date.....

29 Name of the **Provider**

30 I, (*Full Name of Authorized Official*), represent and warrant that I have the authority to execute
 31 **this Agreement** on behalf of the **Recipient** and acknowledge my institution’s responsibility and
 32 obligation to abide by the provisions of **this Agreement**, both by letter and in principle, in order to
 33 promote the conservation and sustainable use of **Plant Genetic Resources for Food and**
 34 **Agriculture**.

35 I understand and expressly agree that the third party beneficiary shall have the rights provided in
 36 Articles 4 and 8 of **this Agreement**.

37 * Where the **Provider** chooses signature, only the wording in Option 1 will appear in the Standard Material Transfer Agreement.
 38 Similarly, where the **Provider** chooses either shrink-wrap or click-wrap, only the wording in Option 2 or Option 3, as
 39 appropriate, will appear in the Standard Material Transfer Agreement. Where the “click-wrap” form is chosen, the **Material**
 40 should also be accompanied by a written copy of the Standard Material Transfer Agreement.
 41
 42
 43
 44
 45
 46
 47
 48
 49

1 □ (Only for Subscribers) I hereby declare that the **Recipient's Sales** do not exceed US\$ [xx]
 2 in accordance with *Annex 3*, Article 3.3. The **Recipient** commits to making annual payments and
 3 submit annual reports as of the time that its **Sales** exceed US\$ [xx]. The right of the third party
 4 beneficiary to request the appropriate information in accordance with Article 4.4 of **this**
 5 **Agreement** is understood and expressly acknowledged.

6
 7 Signature..... Date.....

8
 9 Name of the **Recipient**.....

10 11 12 13 **Option 2 – Shrink-wrap Standard Material Transfer Agreements***

14
 15 The **Material** is provided conditional on acceptance of the terms of **this Agreement**. The
 16 provision of the **Material** by the **Provider** and the **Recipient's** acceptance and use of the
 17 **Material** constitutes acceptance of the terms of **this Agreement**.

18
 19 The **Recipient** understands and expressly agrees that the third party beneficiary shall have the
 20 rights provided in Articles 4 and 8 of **this Agreement**.

21
 22 (Only for Subscribers) If the **Recipient** is a Subscriber and its **Sales** do not exceed US\$ [xx], it
 23 shall submit the following statement in writing and duly signed to the **Governing Body** through its
 24 Secretary, or otherwise the exemption provided in *Annex 3*, Article 3.3 does not apply: "I hereby
 25 declare that the **Recipient's Sales** do not exceed US\$ [xx] in accordance with *Annex 3*, Article 3.3.
 26 The **Recipient** commits to making annual payments and submit annual reports as of the time that
 27 its **Sales** exceed US\$ [xx]. The right of the third party beneficiary to request the appropriate
 28 information in accordance with Article 4.4 of **this Agreement** is understood and expressly
 29 acknowledged."

30 31 32 **Option 3 – Click-wrap Standard Material Transfer Agreement**

33
 34 □ I hereby agree to the above conditions.

35
 36 □ I understand and expressly agree that the third party beneficiary shall have the rights
 37 provided in Articles 4 and 8 of **this Agreement**.

38
 39 □ (Only for Subscribers) I hereby declare that the **Recipient's Sales** do not exceed US\$
 40 [xx] in accordance with *Annex 3*, Article 3.3. The **Recipient** commits to making annual
 41 payments and submit annual reports as of the time that its **Sales** exceed US\$ [xx]. The
 42 right of the third party beneficiary to request the appropriate information in accordance
 43 with Article 4.4 of **this Agreement** is understood and expressly acknowledged.

* Where the **Provider** chooses signature, only the wording in Option 1 will appear in the Standard Material Transfer Agreement. Similarly, where the **Provider** chooses either shrink-wrap or click-wrap, only the wording in Option 2 or Option 3, as appropriate, will appear in the Standard Material Transfer Agreement. Where the "click-wrap" form is chosen, the **Material** should also be accompanied by a written copy of the Standard Material Transfer Agreement.

Annex 1 (AGREED AD REF)

LIST OF MATERIALS PROVIDED

This *Annex* lists the **Material** provided under **this Agreement**, including the associated information referred to in Article 5b.

The following information is included, or the source indicated from which it may be obtained, for each **Material** listed: all available passport data and, subject to applicable law, any other associated, available, non-confidential descriptive information.

Table A

Materials:

Crop:	
Accession number or other identifier	Associated information, if available, or source from which it may be obtained (URL)

Table B

Materials that are Plant Genetic Resources for Food and Agriculture under Development:

Crop:	
Accession number or other identifier	Associated information, if available, or source from which it may be obtained (URL)

In accordance with Article 6.5b, the following information is provided regarding the materials received under an SMTA or which were brought into the **Multilateral System** by an agreement pursuant to Article 15 of the **Treaty**, from which the **Plant Genetic Resources for Food and Agriculture under Development** listed in Table B are derived:

Crop:	
Accession number or other identifier	Associated information, if available, or source from which it may be obtained (URL)

Annex 2

[RATE AND MODALITIES OF PAYMENT UNDER ARTICLES 6.7 AND 6.8 OF THIS AGREEMENT]

[Terms and conditions of the “single access system” (Articles 6.7 and 6.8)]

1
2
3
4
5
6
7
8 1. If a **Recipient** or any of its affiliates **commercializes a Product or Products** that are not
9 **available without restriction** to others for further research and breeding in accordance with Article 2 of
10 **this Agreement**, the **Recipient** shall pay each year [one point-one percent (1.1 %) of the annual **Sales** of
11 the **Product or Products** less thirty percent (30%)] [{yy} percent (yy %) of the annual **Sales** of the
12 **Product or Products**].

13 2. If a **Recipient** or any of its affiliates commercializes a **Product or Products** that are **available**
14 **without restriction** to others for further research and breeding in accordance with Article 2 of **this**
15 **Agreement**, the **Recipient** shall pay each year [xx] percent ([xx] %) of the annual **Sales** of the **Product**
16 or **Products** [less thirty percent (30%)].

17 3. No payment shall be due from the **Recipient** when the **Product or Products**:

18 (a) have been purchased or otherwise obtained from another person or entity who has already
19 made payment on the **Product or Products**; (AGREED AD REF)

20 (b) are sold or traded as a commodity; or (AGREED AD REF)

21 (c) contains a genetic contribution of less than 6.25% by pedigree of the **Material** and does
22 not contain a trait of commercial value that was contributed by the **Material**. (AGREED AD
23 REF)

24 4. Where a **Product** contains a **Plant Genetic Resource for Food and Agriculture** accessed from
25 the **Multilateral System** under two or more material transfer agreements based on the Standard Material
26 Transfer Agreement only one payment shall be required under paragraphs 1 and 2 above. (AGREED AD
27 REF)

28 5. The **Recipient** shall submit to the **Governing Body**, within sixty (60) days after closure of
29 accounts each financial year, an annual report setting forth: (AGREED AD REF)

30 (a) the **Sales** of the **Product or Products** by the **Recipient**, and any of its affiliates, for the
31 twelve (12) month period preceding the annual closure of accounts; (AGREED AD REF)

32 (b) the amount of the payment due; (AGREED AD REF)

33 (c) information that allows for the identification of the applicable payment rate or rates; and
34 (AGREED AD REF)

35 (d) the verifiable source of the information provided. (AGREED AD REF)

36 Such information shall be treated as confidential business information, to the extent specified by the
37 **Recipient** within the limits set by **this Agreement**, and shall be made available to the third party
38 beneficiary, in the context of dispute settlement, as provided for in Article 8 of **this Agreement**, and to
39 the **Governing Body** for aggregated reporting purposes on income to the fund established by the
40 **Governing Body** in accordance with Article 19.3f of the **Treaty**. (AGREED AD REF)

41 6. Payment shall be due and payable upon submission of each annual report. All payments due to
42 the **Governing Body** shall be payable in *United States dollars (US\$)* at the exchange rate that prevailed
43 at the date of closure of accounts for the following account established by the **Governing Body** in
44 accordance with Article 19.3f of the **Treaty**: (AGREED AD REF)

1 **FAO Trust Fund (USD) GINC/INT/031/MUL,**
2 **IT-PGRFA (Benefit-sharing),**
3 **Citibank**
4 **399 Park Avenue, New York, NY, USA, 10022,**
5 **Swift/BIC: CITIUS33, ABA/Bank Code: 021000089, Account No. 36352577**

6 7. A **Recipient** who has not opted for the **Subscription System** may withdraw from **this**
7 **Agreement** upon six months written notice to the **Governing Body** through its Secretary, not less than
8 ten years from the date of signing of **this Agreement** by the **Provider** or the **Recipient**, whichever date
9 is later, or from the date of acceptance of **this Agreement** by the **Recipient**. (AGREED AD REF)

10 8. In the case that the **Recipient** has begun before withdrawal to **commercialize a Product**, in
11 respect of which payment is due in accordance with Articles 6.7, 6.8 and 6.8 BIS and *Annex 2* of **this**
12 **Agreement**, such payment shall continue while that **Product** is **commercialized** and in accordance with
13 the terms of Articles 6.7, 6.8 and 6.8 BIS and *Annex 2* of **this Agreement**. (AGREED AD REF)

14 9. Upon withdrawal from **this Agreement**, the **Recipient** shall no longer use the **Material**. The
15 Recipient may conserve the Material and make it available to the Multilateral System in accordance with
16 Article 6.3. The Recipient may also offer to return any remaining Material in its possession to the
17 **Provider**. If this is not possible or the **Provider** declines the offer, the **Recipient** shall offer to transfer
18 the **Material** to an international institution that has signed an agreement with the **Governing Body** under
19 Article 15 of the **Treaty** or any other genebank that operates under the terms and conditions of the
20 Multilateral System. If the offer is declined or such transfer is not possible, as a last resort, the Material
21 may be destroyed, and evidence of its destruction is provided to the third party beneficiary. (AGREED
22 AD REF)

23 10. Notwithstanding the above, only Articles 4, 6.2, 6.3, 6.9, 6.10 and 8 of **this Agreement** shall
24 continue to apply after the withdrawal has taken effect. (AGREED AD REF)

Annex 3

TERMS AND CONDITIONS OF THE SUBSCRIPTION SYSTEM (ARTICLE 6.11)

ARTICLE 1 — SUBSCRIPTION

1.1 The **Recipient**, who opts for the **Subscription System** in accordance with Article 6.11 (hereinafter referred to as the “**Subscriber**”), agrees to be bound by the following additional terms and conditions (the “**Subscription Terms**”). (AGREED AD REF.)

1.2 The **Subscription** shall take effect upon receipt by the Secretary of the **Governing Body** of the duly signed **Registration Form** contained in *Annex 4*. The Secretary shall notify the **Subscriber** of the date of receipt. The **Subscriber** shall not be required to sign *Annex 4* of any subsequent Standard Material Transfer Agreement, during the period of **Subscription**. (AGREED AD REF)

1.3 The **Subscriber** shall be relieved of any obligation to make payments under any previously signed Standard Material Transfer Agreement, and only the payment obligations in these **Subscription Terms** shall apply. (AGREED AD REF.)

1.4 The **Governing Body** may amend the **Subscription Terms** at any time. Such amended Subscription Terms shall not apply to any existing **Subscription**, unless the **Subscriber** notifies the **Governing Body** of its agreement to be subject to the amended **Subscription Terms**. Should the **Subscriber** agree to the amended **Subscription Terms**, such agreement shall not affect the date on which the **Subscription** had taken effect. (AGREED AD REF)

ARTICLE 2 — REGISTER

The **Subscriber** agrees that its full name, contact details and the date at which **Subscription** took effect, shall be placed on a public register (the “**Register**”), and undertakes to immediately communicate any changes to this information to the **Governing Body** of the **Treaty**, through its Secretary. (AGREED AD REF.)

ARTICLE 3 — MONETARY BENEFIT-SHARING

[3.1 In order to share the monetary benefits from the use of **Plant Genetic Resources for Food and Agriculture** under the **Treaty**, the **Subscriber** shall make annual payments based on the [Sales] of [products that are] **Plant Genetic Resources for Food and Agriculture** covered by the **Multilateral System**[**Plant Genetic Resources for Food and Agriculture** listed in Annex I of the **Treaty**][or associated information or genetic sequence data].]

[3.2 The following rates of payment shall apply to [Sales] of [products that are] **Plant Genetic Resources for Food and Agriculture** covered by the **Multilateral System**[**Plant Genetic Resources for Food and Agriculture** listed in Annex I of the **Treaty**] [or associated information or genetic sequence data]:

[xx]% when [such products] [the **Products** or] products] are available without restriction, and

[yy]% when [such products] [the **Products** or] products] are not available without restriction.

3.2 BIS At the request of the **Subscriber**, [the higher rate][an adjusted rate of ..%] of payment shall apply to [Sales] without distinction.]

1 [3.2 ALT The applicable rate of payment in relation to **Sales** of [products that are] [**Plant**
2 **Genetic Resources for Food and Agriculture** covered by the **Multilateral System**][**Plant Genetic**
3 **Resources for Food and Agriculture** listed in Annex I of the **Treaty**] [or associated information or
4 genetic sequence data] shall be [zz]%.]

5
6 OR

7 3.2 The applicable rate of payment on Sales in relation to Plant Genetic Resources for Food and
8 Agriculture listed in Annex I of the Treaty [including Sales of associated information or genetic
9 sequence data] shall be [zz]%.]

10 3.2 BIS At the request of the Subscriber, the following rates of payment shall apply to Sales of
11 Plant Genetic Resources for Food and Agriculture listed in Annex I of the Treaty [or Sales of associated
12 information or genetic sequence data]:

13 [xx]% when such products are available without restriction, and

14 [zz]% when such products are not available without restriction.

15
16 3.3 Notwithstanding the above, no payment shall be required for a **Subscriber** in a year in which its
17 **Sales** do not exceed US\$ [xxx].

18 3.4 Payment shall be made within sixty (60) days after closure of accounts each financial year, for
19 the previous year. Whenever the **Subscription** took effect during the year, the **Recipient** shall make a
20 proportionate payment for the first year of its **Subscription**. (AGREED AD REF)

21 3.5 The **Subscriber** shall submit to the **Governing Body** of the **Treaty**, through its Secretary,
22 within sixty (60) days after closure of accounts each financial year a statement of account,
23 including in particular the following: (AGREED AD REF)

24 a) Information on the **Sales** for which payment was made; (AGREED AD REF)

25 b) Information that allows for the identification of the applicable payment rate or rates; and
26 (AGREED AD REF)

27 c) the verifiable source of the information provided; (AGREED AD REF)

28 or a signed declaration showing that it is exempted from payment in accordance with Article 3.3 above.
29 (AGREED AD REF)

30 Such information shall be treated as confidential business information, to the extent specified by the
31 **Subscriber** within the limits set by **this Agreement**, and shall be made available to the third party
32 beneficiary, in the context of dispute settlement, as provided for in Article 8 of **this Agreement**, and to
33 the **Governing Body** for aggregated reporting purposes on income to the fund established by the
34 **Governing Body** in accordance with Article 19.3f of the **Treaty**.
35 (AGREED AD REF)

36 3.6 All payments due to the **Governing Body** shall be payable in *United States dollars (US\$)* at the
37 exchange rate that prevailed at the date of closure of accounts for the following account established by
38 the **Governing Body** in accordance with Article 19.3f of the **Treaty**: (AGREED AD REF)

39 **FAO Trust Fund (USD) GINC/INT/031/MUL,**
40 **IT-PGRFA (Benefit-sharing),**
41 **Citibank**
42 **399 Park Avenue, New York, NY, USA, 10022,**
43 **Swift/BIC: CITIUS33, ABA/Bank Code: 021000089, Account No. 36352577**
44

ARTICLE 4 —WITHDRAWAL FROM AND TERMINATION OF THE SUBSCRIPTION

4.1 The **Subscription** shall be in force until the **Subscriber** withdraws from it, or the **Governing Body** terminates it as provided for in Article 4.5 below. (AGREED AD REF.)

4.2 The **Subscriber** may withdraw from its **Subscription** upon six months written notice to the **Governing Body** through its Secretary, not less than 10 years from the date that the **Subscription** took effect. (AGREED AD REF.)

4.3 Upon withdrawal from its **Subscription**, the Subscriber shall no longer use the **Material**. The Subscriber may conserve the Material and make it available to the Multilateral System in accordance with Article 6.3. The Subscriber may also offer to return any remaining Material in its possession to the **Provider**. If this is not possible or the **Provider** declines the offer, the **Subscriber** shall offer to transfer the **Material** to an international institution that has signed an agreement with the **Governing Body** under Article 15 of the **Treaty** or any other genebank that operates under the terms and conditions of the Multilateral System. If the offer is declined or such transfer is not possible, as a last resort, the Material may be destroyed, and evidence of its destruction is provided to the third party beneficiary. (AGREED AD REF)

[4.4 The monetary benefit-sharing provisions of Article 3 of these **Subscription Terms** shall continue for [two] years from the end of the **Subscription**. Notwithstanding the foregoing, only Articles 4, 6.1, 6.2, 6.3, 6.4, 6.9, [6.10] and 8 [9.4] of **this Agreement** shall continue to apply after the end of the **Subscription**.]

[4.5 In the case of a [presumed, alleged or suspected] material breach of any of the obligations by the **Subscriber**, the third party beneficiary shall inform the **Subscriber** in writing of the alleged breach. If such breach is not remedied within thirty (30) days of notice being given, the third party beneficiary has the right to initiate dispute settlement in accordance with Article 8 of **this Agreement**. [In case the dispute is not satisfactorily resolved within six months, the third party beneficiary may terminate the **Subscription** and claim damages, as appropriate.][In case the Subscriber is found at fault for material breach, the third party beneficiary may terminate the **Subscription**.] [The third party beneficiary may decide that the **Subscriber** shall not have the right to opt for the **Subscription System** in any Standard Material Transfer Agreement signed by it in the future, until the **Governing Body** decides otherwise.] The third party beneficiary [shall][may] bring the matter to the attention of the following session of the **Governing Body**.]

[4.5 BIS Notwithstanding Article 4.2, the Subscriber may withdraw from its Subscription upon three months' written notice to the Governing Body through its Secretary that a material breach of the terms of its Subscription have occurred, such that it is not duly receiving PGRFA under the MLS as per the Subscription terms. It shall include in such written notice a statement setting forth the circumstances of the material breach and documentation to support the statement. Notwithstanding Article 4.4, under such circumstances, the monetary benefit sharing provisions of Article 3 of these Subscription terms shall cease immediately, while [Articles 4, 6.1, 6.3, 6.4, 6.9, and 8 of this Agreement] shall continue to apply after the end of the Subscription. If the Governing Body disputes that a material breach has occurred, it shall direct the third party beneficiary to initiate dispute settlement in accordance with Article 8 of this Agreement.]

Annex 4 (AGREED AD REF)

REGISTRATION FORM

The **Recipient** hereby declares to opt for the **Subscription System**, in accordance with Article 6.11 of **this Agreement**.

It is understood and expressly agreed that **Recipient**'s full name, contact details and the date at which **Subscription** took effect, shall be placed on a public register of **Subscribers** (the "**Register**"), and that any changes to this information is communicated immediately to the **Governing Body** of the **Treaty**, through its Secretary, by the **Recipient** or its authorised official.

Signature..... Date.....

Full name of Recipient:

Address:

Telephone: Email:

Recipient's authorised official:

Address:

Telephone: Email:

NB: The **Subscriber** must also sign or accept **this Agreement**, as provided for in Article 10, without which **Registration** is not valid.

The **Subscriber** shall signify acceptance by returning a signed **Registration Form** to the Governing Body, through its Secretary, at the address below. A signed **Registration Form** must be accompanied by a copy of **this Agreement**.

The Secretary,
International Treaty on Plant Genetic Resources for Food and Agriculture
Food and Agriculture Organization of the United Nations

I-00153 Rome, Italy]

Appendix 2:

**DRAFT TEXT FOR AN AMENDMENT TO ANNEX I OF THE INTERNATIONAL TREATY,
IN ACCORDANCE WITH ITS ARTICLES 23 AND 24:****Article 1: Amendment**

In Annex I, the following two paragraphs shall be inserted after the list of plant genetic resources for food and agriculture:

“1. In furtherance of the objectives and scope of this Treaty, in accordance with Article 3 of this Treaty, and without prejudice to Article 12.3 h of this Treaty, the Multilateral System shall, in addition to the Food Crops and Forages listed above, cover all other plant genetic resources for food and agriculture, including those plant genetic resources for food and agriculture previously excepted or excluded in the list above, that are under the management and control of the Contracting Parties and in the public domain and that are found in *ex situ* conditions.”

“2. At the time of its ratification, acceptance or approval of this Amendment, a Contracting Party may, exceptionally, declare certain and a limited number of species native to its territory that it will not make available under the terms and conditions of the Multilateral System. Such a declaration shall not affect the rights and obligations of any other Contracting Party related to the species, nor those of the International Agricultural Research Centres or other International Institutions that concluded an agreement with the Governing Body under Article 15 of this Treaty. A Contracting Party may withdraw its declaration at any time, or eliminate plant genetic resources for food and agriculture from its list at any time, but shall not make any additional declaration.”

Article 2: Relationship with the International Treaty on Plant Genetic Resources for Food and Agriculture (2001)

After the entry into force of this Amendment, any accession, acceptance or approval of or accession to the International Treaty on Plant Genetic Resources for Food and Agriculture shall include this Amendment.