




The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



How to
*Become a
Contracting Party*
to the International Treaty
on Plant Genetic Resources
for Food and Agriculture

“equity and food for all”

What is the objective of the Treaty?

The International Treaty on Plant Genetic Resources for Food and Agriculture is an international legally binding instrument aimed at 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.

Which are the general benefits of becoming a Contracting Party?

The State will be able to ensure that its national interests are taken into account and its voice is listened to, as the Treaty has established itself as a major new intergovernmental policy-making body for genetic resources for food and agriculture.

The country will be guaranteed facilitated access to plant genetic resources from other Contracting Parties and from the International Network of Ex Situ Collections. This is very important because all countries are highly dependent on genetic resources from abroad for their sustainable agricultural development. The Multilateral System rationalizes costs and procedures.

Contracting Parties take advantage of benefits to be derived from the benefit-sharing provisions under the Multilateral System. These will include exchange of information, access to and transfer of technology, capacity building and sharing of monetary and other benefits of commercialization. Under Article 13.3 of the Treaty, the benefits arising from the use of plant genetic resources for food and agriculture that are shared under the Multilateral System should flow primarily, directly and indirectly, to farmers in all countries, especially in developing countries and countries with economies in transition, who conserve and sustainably utilize plant genetic resources for food and agriculture.



Countries may also participate in the benefits derived under the Funding Strategy. This will provide resources for the implementation of the Treaty, including through plans and programmes to be adopted by the Governing Body. One essential element of the Funding Strategy is the Global Crop Diversity Trust, which provides funding for ex situ collections.

Obligations under the Treaty

Most of the obligations under the Treaty are of a general nature, which leave a good deal of flexibility to the individual Contracting Party. For example, the obligation to “promote an integrated approach to the exploration, conservation and sustainable use of plant genetic resources for food and agriculture”. The four main obligations assumed by Contracting Parties under the Treaty are the following:

- To take the necessary legal or other appropriate measures to provide facilitated access to other Contracting Parties through the Multilateral System. To this effect, “such access shall also be provided to legal and natural persons under the jurisdiction of any Contracting Party” (Art. 12.2) . Contracting Parties shall only include in the Multilateral System plant genetic resources for food and agriculture that are under their management and control, and in the public domain. Other resources may be included on a voluntary basis.
- To ensure that an opportunity to seek recourse is available, consistent with applicable jurisdictional requirements, under their legal systems, in case of contractual disputes arising under the Standard Material Transfer Agreements (SMTA), “recognizing that obligations arising under such MTAs rest exclusively with the parties to those MTAs” (Art.12.5). Most judicial systems, if not all common law countries, will allow for such recourse.
- To take appropriate measures to “encourage natural and legal persons within their jurisdiction who hold plant genetic resources for food and agriculture listed in Annex I to include such plant genetic resources



for food and agriculture in the Multilateral System” (Art. 11.3). Such appropriate measures are likely to be of a public information and administrative nature.

- To ensure the conformity of its laws, regulations and procedures with its obligations as provided in the Treaty (Art. 4).

What does ratification, acceptance, approval or accession mean?

Ratification, acceptance, approval, accession are acts by which a State establishes on the international plane its consent to be bound by a treaty (Vienna convention on the Law of Treaty, 1969, Article 2 b). The common feature of these actions is that the deposit of the relevant instrument with the depositary, in this case the Director-General of the Food and Agriculture Organization of the United Nations (FAO) as indicated in Article 34, binds the State concerned as to international law.

As indicated in Article 25, the Treaty was opened for signature from 3 November 2001 to 4 November 2002 by all Members of FAO, and any States that are not Members of FAO but are Members of the United Nations, or any of its specialized agencies or of the International Atomic Energy Agency.

There are two options for States to become a Contracting Party:

(i) States who have signed the Treaty by 4 November 2002 can deposit an instrument of ratification, acceptance or approval, as stipulated in Article 26.

(ii) States who have not signed the Treaty may access it by depositing an instrument under Article 27 which provides that “This Treaty shall be open to accession by all Members of FAO [...] from the date on which the Treaty is closed for signature. Instruments of accession shall be deposited with the Depositary”.

Models of instrument of ratification, acceptance, approval and accession can be downloaded from the website

www.planttreaty.org, as well as information on the number of Contracting Parties and copies of the Treaty in all the official languages:

http://www.planttreaty.org/members_en.htm



Possible Steps to Become a Contracting Party

Step 1 - Prepare analyses and collect documentation: The ministry or authority for the International Treaty may wish to prepare a cost-benefit analysis of becoming a Contracting Party, including any legislative or administrative actions that will be necessary for its national implementation, and to collect all relevant documentation. The scope of this step is to prepare a dossier to be shared with the authorities involved in the process.

Step 2 - Contact authority for issuing ratification instruments and identification of the person authorized to sign: The ministry or authority would consult with their government branch responsible for drafting ratification instruments for international agreements. This is normally a legal unit within the Ministry of Foreign Affairs. The responsible authority would identify who at the national level, would, as a rule, take a decision on ratification, acceptance, accession or approval to the Treaty. The decision would provide the basis for the issuance of the pertinent instrument for the International Treaty. The instrument must be signed by the Head of State, Head of Government, Minister of Foreign Affairs, or the minister of the concerned government department or agency.

Step 3 - Identify or undertake processes that lead to the endorsement of the ratification: The office or administration of the national authority entitled to decide on ratification would be contacted to identify the appropriate steps that would lead to the endorsement of the ratification and the obtaining of the necessary approval.

Step 4 - Prepare and sign the instrument: Following the completion of the domestic procedures, the Government office responsible for doing so will prepare the instrument of ratification, acceptance, accession or approval and any ancillary instruments of declaration.

Step 5 - To deposit the original instrument with the Director-General of FAO: The date of deposit is normally recorded as that on which the instrument is received. States are advised to deliver such instruments directly to the Legal Office of FAO. The Treaty enters into force on the ninetieth day after deposit of the instrument.

A Number of Summits and High-level Meetings Have Urged Countries to Accede to or Ratify the Treaty:

- In the Johannesburg Declaration on Sustainable Development, countries which were represented at its highest level in the World Summit on Sustainable Development (26 August–4 September, 2002) stated that they committed themselves to the Johannesburg Plan of Implementation, in which they “invite countries that have not done so to ratify the international Treaty on Plant Genetic Resources for Food and Agriculture”.
- The Declaration adopted by the World Food Summit: five years later (10-13 June 2002, Rome) recognizes “the importance of the International Treaty on Plant Genetic Resources for Food and Agriculture, in support of food security objective”, and calls “on all countries that have not yet done so to consider signing and ratifying the International Treaty on Plant Genetic Resources for Food and Agriculture, in order that it shall enter into force as soon as possible”.
- The Sixth Meeting of the Conference of the Parties to the Convention on Biological Diversity (7-19 April 2002, The Hague), in its Ministerial Declaration, which was agreed by the delegations of 176 countries, including some 130 Ministers, also “urged all States to ratify and fully implement [...] the International Treaty on Plant Genetic Resources for Food and Agriculture”.
- The Second Committee of the 59th Session of the United Nations General Assembly (New York, December 2004) adopted resolution A/C.2/59/L.55 in which it takes note of the entry into force of the International Treaty on Plant Genetic Resources for Food and Agriculture and invites countries to consider ratifying or acceding to the International Treaty.

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