



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



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

## **Item 8.1 of the Provisional Agenda**

### **EIGHTH SESSION OF THE GOVERNING BODY**

**Rome, 11–16 November 2019**

### **Report on the Operations of the Third Party Beneficiary**

#### **Executive Summary**

In accordance with Article 9 of the Third Party Beneficiary Procedures and the request of the Governing Body at its Seventh Session, this document contains the report on the operations of the Third Party Beneficiary for the biennium 2018–2019. The document includes information on the status of the Third Party Beneficiary Operational Reserve and the technical implementation of the Third Party Beneficiary Procedures through the operation of the Easy-SMTA Data Store.

#### **Guidance Sought**

The Governing Body is invited to give any further guidance it considers appropriate for the effective operation of the Third Party Beneficiary.

*This document can be accessed using the Quick Response Code on this page; an FAO initiative to minimize its environmental impact and promote greener communications. Other documents can be consulted at <http://www.fao.org/plant-treaty/meetings/meetings-detail/en/c/1111365/>*



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## Table of Contents

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	Paragraphs
I. INTRODUCTION.....	1 – 3
II. CASES FOR THE THIRD PARTY BENEFICIARY .....	4 – 6
III. STATUS OF THE THIRD PARTY BENEFICIARY OPERATIONAL RESERVE.....	7 – 10
IV. TECHNICAL IMPLEMENTATION OF THE THIRD PARTY BENEFICIARY PROCEDURES .....	11 – 14
V. POSSIBLE ELEMENTS OF A DECISION BY THE GOVERNING BODY .....	15

**APPENDIX:** DRAFT ELEMENTS FOR A RESOLUTION (to be integrated into DRAFT RESOLUTION \*\*/2019 on the implementation and operations of the Multilateral System)

## I. INTRODUCTION

1. At its Third Session, by Resolution 5/2009, the Governing Body adopted the Procedures for the Operation of the Third Party Beneficiary (Third Party Beneficiary Procedures).<sup>1</sup>
2. By Resolution 5/2009, Resolution 5/2011, Resolution 11/2013, Resolution 1/2015 and Resolution 4/2017, the Governing Body requested the Secretary to continue providing, at each Session of the Governing Body, a report in accordance with Article 9 of the Third Party Beneficiary Procedures.
3. This document constitutes the above report for the biennium 2018–2019.

## II. CASES FOR THE THIRD PARTY BENEFICIARY

4. According to Article 4.2 of the Third Party Beneficiary Procedures, the Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement (SMTA) from the parties to the SMTA or any other natural or legal persons.
5. In the biennium 2018–2019, the Third Party Beneficiary received no information on possible non-compliance with the obligations of the provider and recipient under an SMTA.
6. The Governing Body may wish to note that, in the context of the enhancement of the Multilateral System of Access and Benefit-Sharing, the revisions of the SMTA for consideration at this Eighth Session, do not alter the rights, roles and responsibilities of the Third Party Beneficiary. The Governing Body may, if it adopts the revised SMTA, wish to reaffirm that the Food and Agriculture Organization of the United Nations (“FAO”) will continue carrying out the roles and responsibilities of the Third Party Beneficiary, as identified and prescribed in the SMTA, including the possible revisions thereof, under the direction of the Governing Body and in accordance with the Third Party Beneficiary Procedures.<sup>2</sup>

## III. STATUS OF THE THIRD PARTY BENEFICIARY OPERATIONAL RESERVE

7. The Financial Rules of the Governing Body stipulate that the Third Party Beneficiary Operational Reserve (Reserve) shall be maintained at a level to be determined by the Governing Body for each biennium. An adequate part of the contributions to the Core Administrative Budget is to be credited as priority to the Reserve.<sup>3</sup>
8. At its Seventh Session, the Governing Body decided to maintain the Reserve for the 2018-2019 biennium at the level of USD 283,280, and to review such a level at this Session.<sup>4</sup>
9. At the date of this document, USD 269,772 or 95.2% of the amounts due to the Reserve, had been received from 76 Contracting Parties leaving a balance of USD 13,508 still payable.
10. Similarly to the previous biennium, the direct costs ensuing from the implementation of the Third Party Beneficiary Procedures in the current biennium were essentially those incurred to cover the contract for the hosting of the server by the United Nations International Computing Centre

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<sup>1</sup> Annex to Resolution 5/2009.

<sup>2</sup> See Draft Resolution \*\*/2019 on the enhancement of the Multilateral System of Access and Benefit-Sharing, as contained in document, IT/GB-8/19/8, *Report of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System*.

<sup>3</sup> Rule VI.5, Financial Rules of the Governing Body.

<sup>4</sup> Resolution 4/2017, para. 16.

(UNICC). In the 2018–2019 biennium, this amounted to USD 19,065 charged on a quarterly basis as part of the Core Administrative Budget.

#### **IV. TECHNICAL IMPLEMENTATION OF THE THIRD PARTY BENEFICIARY PROCEDURES**

11. At its Seventh Session, the Governing Body welcomed the functional and cost-effective information technology tools that the Secretary has developed to facilitate the submission, collection and storage of SMTA information in the implementation of Article 4.1 of the Third Party Beneficiary Procedures (i.e. Easy-SMTA). The Governing Body requested the Secretary to continue applying adequate measures to ensure the integrity of information and, where required, the confidentiality of the information provided.<sup>5</sup>

12. During the 2018–2019 biennium, improved Easy-SMTA statistics have been implemented to more closely match the indicators reported to the Governing Body. The Secretariat signed a new agreement with UNICC for the hosting of the Easy-SMTA server, which provides higher performance, improved security as well as reduced costs.

13. Major providers, such as the Nordic Genetic Resource Centre (NordGen), have adopted the XML reporting protocol. Other Providers, such as the International Potato Center (CIP), the International Institute of Tropical Agriculture (IITA), the Julius Kühn Institute for Resistance Research, and the World Vegetable Center, have transitioned from solutions developed in-house to Easy-SMTA for their SMTA workflow. Following the updates implemented by the International Maize and Wheat Improvement Center (CIMMYT), GRIN-Global now supports SMTA reporting and one genebank, namely CRI Czechia, has reported SMTAs using this service.

14. The integration between Easy-SMTA and the Global Information System has been improved with additional functions aimed at further facilitating the operation of the latter.

#### **V. POSSIBLE ELEMENTS OF A DECISION BY THE GOVERNING BODY**

15. Without prejudice to any guidance the Governing Body may wish to give on the matters covered in this document, elements of a possible Resolution are provided in the Appendix to this document.

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<sup>5</sup> Resolution 4/2017, para. 18.

**APPENDIX****DRAFT ELEMENTS FOR A RESOLUTION**

**(to be integrated into DRAFT RESOLUTION \*\*/2019 on the implementation and operations of the Multilateral System)**

**THE GOVERNING BODY**

**Recalling** that the Governing Body, at its Third Session, had approved the Third Party Beneficiary Procedures for the carrying out of the roles and responsibilities of Third Party Beneficiary as identified and prescribed in the Standard Material Transfer Agreement under the direction of the Governing Body;

**Recalling further** that, in accordance with Article 4.2 of the Third Party Beneficiary Procedures, the Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement from any natural or legal persons;

**Recognizing** that the Third Party Beneficiary will require adequate financial and other resources and that FAO acting as Third Party Beneficiary shall not incur any liabilities in excess of the funds available in the Third Party Beneficiary Operational Reserve;

1. **Notes** the Report on the Operation of the Third Party Beneficiary and further requests the Secretary and FAO to continue providing, at each Session of the Governing Body, such a report;
2. **Stresses** the importance for the effective functioning of the Third Party Beneficiary, of Article 4.2 of the Third Party Beneficiary Procedures, according to which the Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement from the parties under the Standard Material Transfer Agreement or any other natural or legal persons;
3. **Decides** to maintain the Third Party Beneficiary Operational Reserve for the 2020-2021 biennium at the current level of USD 283,280 and to review the same at its Ninth Session, and calls upon Contracting Parties that have not done so yet, intergovernmental organizations, non-governmental organizations and other entities to contribute to the Reserve;
4. **Authorizes** the Secretary to draw upon the Third Party Beneficiary Operational Reserve as may be needed for the implementation of the functions of the Third Party Beneficiary;
5. **Welcomes** the functional and cost-effective information technology tools and infrastructure that the Secretary has developed to facilitate the submission, collection and storage of information in the implementation of Article 4.1 of the Third Party Beneficiary Procedures and **requests** the Secretary to apply adequate measures to ensure the integrity and, where required, the confidentiality of information, while continuing the further development of the International Treaty information technology tools and infrastructure, including in accordance with the Vision and Programme of Work of the Global Information System of Article 17.