



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



**International Treaty
on Plant Genetic Resources
for Food and Agriculture**

Item 9.1 of the Provisional Agenda

TENTH SESSION OF THE GOVERNING BODY

Rome, Italy, 20–24 November 2023

Report on the Operations of the Third Party Beneficiary

Executive Summary

In accordance with Article 9 of the Third Party Beneficiary Procedures and the corresponding request of the Governing Body, at its Ninth Session, this document contains the report of the Third Party Beneficiary for the period between the Ninth and Tenth Sessions of the Governing Body. The document includes information on the status of the Third Party beneficiary Operational Reserve and the technical implementation of the Third Party Beneficiary through information technology tools.

Guidance Sought

The Governing Body is invited to give any further guidance it considers appropriate for the effective operation of the Third Party Beneficiary, taking into consideration the elements of draft Resolution contained in the Annex to this document.

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).¹
2. Article 9 of the *Third Party Beneficiary Procedures* requires the Third Party Beneficiary to submit a report to the Governing Body at each of its Regular Sessions. At its Ninth Session, the Governing Body requested the Secretary and FAO to continue providing such a report.²
3. This document constitutes the above report for the period between the Ninth and Tenth Sessions of the Governing Body.

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 period between the Ninth and Tenth Sessions of the Governing Body, the Third Party Beneficiary received no information on possible non-compliance with SMTA obligations.

III. STATUS OF THE THIRD PARTY BENEFICIARY OPERATIONAL RESERVE

6. 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.
7. At its Ninth Session, the Governing Body decided to maintain the Third Party Beneficiary Operational Reserve for the 2022–2023 biennium at the current level of USD 283 280 and to review such level at this Session.³
8. At the date of this document, USD 270 337 or 95% of the amounts due to the Reserve, had been received from 82 Contracting Parties, leaving a balance of USD 12 943 still payable.
9. Similarly to the previous biennium, the direct costs ensuing from the implementation of the *Third Party Beneficiary Procedures* were essentially those incurred for the hosting of the server by the United Nations International Computing Centre (UNICC). For the year 2023, the costs amounted to USD 5 832, charged as part of the Core Administrative Budget.

IV. TECHNICAL IMPLEMENTATION OF THE THIRD PARTY BENEFICIARY PROCEDURES

10. At its Ninth Session, the Governing Body welcomed the functional and cost-effective information technology tools and infrastructure that the Secretary has developed to facilitate the submission, collection and storage of information for the implementation of Article 4.1 of the *Third Party Beneficiary Procedures*, and requested the Secretary to continue applying adequate measures to ensure the integrity and, where required, the confidentiality of information.⁴
11. In the period between the Ninth and Tenth Sessions of the Governing Body, the Secretariat delivered several awareness raising and capacity building webinars and workshops for the submission of SMTA

¹ Annex to Resolution 5/2009.

² Resolution 2/2022, paragraph 13; available at: www.fao.org/3/nk237en/nk237en.pdf.

³ Paragraph 15.

⁴ Paragraph 17.

information. Participants included genebank managers, farmers, breeders, researchers, students and policy-makers. Assistance was also provided to SMTA users for the registration on Easy-SMTA.

12. With regard to data integrity and confidentiality, the Easy-SMTA server continues to be hosted at the UNICC in Geneva, Switzerland, under a cluster configuration to improve reliability and performance and UNICC's advanced security measures.

13. Further information on the management of SMTA information, in the context of the Global Information System, is available in the document, IT/GB-10/23/11, *Report on the Implementation of the Global Information System*.

V. POSSIBLE ELEMENTS OF A DECISION BY THE GOVERNING BODY

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

DRAFT ELEMENTS FOR A RESOLUTION

(to be integrated into DRAFT RESOLUTION **/2023 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 (SMTA), 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 SMTA 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** of Article 4.2 of the Third Party Beneficiary Procedures for the effective functioning of the Third Party Beneficiary, according to which the Third Party Beneficiary may receive information, on possible non-compliance with the obligations of the provider and recipient under an SMTA, from the parties under the SMTA or any other natural or legal persons;
3. **Decides** to maintain the Third Party Beneficiary Operational Reserve for the 2024–2025 biennium at the current level of USD 283 280 and to review the same at its Eleventh 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 established 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 the Programme of Work of the Global Information System.