



# Earth Negotiations Bulletin

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## LEIPZIG CONFERENCE HIGHLIGHTS WEDNESDAY, 19 JUNE 1996

The third day of the Fourth International Technical Conference on Plant Genetic Resources for Food and Agriculture (ITCPGR-4) commenced with a Working Group (WG) on the Global Programme of Action (GPA). In the afternoon, the WG created a Contact Group on Farmers' Rights (FR) which met following the WG's session. The Contact Group on implementation and financing of the GPA met for the second day. The WG reconvened in the evening to discuss results of the contact groups and continued deliberations into the night.

### OPEN-ENDED WORKING GROUP ON GPA

The Working Group (WG) continued deliberations on the GPA. VENEZUELA, supported by CANADA, COLOMBIA, GERMANY, NORWAY and the US, proposed text relating to the "desirability of sharing of benefits from the use of traditional knowledge, innovations and practices..." which was adopted. In a paragraph relating to *in situ* conservation and the role of farmers, the US proposed reference to "market based" farmer "owned" cooperatives, explaining that this was consensus language of the UN. ZIMBABWE and GHANA opposed this language. BANGLADESH proposed adding "agencies", "NGOs" and farmer "owned" cooperatives in relation to linkages between farmers and communities.

Delegates discussed bracketed text referring to "the concept of Farmers' Rights," as defined by FAO Resolution 5/89. Outlining several legal problems associated with FR, and the lack of internationally accepted "normative standards," the US emphasised that "the concept of" FR was the only acceptable formulation. VENEZUELA supported by PAPUA NEW GUINEA, CAMEROON, BANGLADESH, COLOMBIA, EGYPT, SUDAN, BRAZIL sought removal of "the concept of." SWEDEN proposed language to link FR, IU and CBD. MAURITIUS proposed adding the phrase "...and/or national legislation" to the end of the bracketed text. MALAYSIA, speaking on behalf of the developing countries of ASIA, stated that FR represents a form of crop insurance for all countries, a reward system to farming communities to conserve PGR. The CHAIR encouraged delegates to consult informally and return to this issue later.

COLOMBIA, on behalf of GRULAC, MEXICO, SENEGAL, MALAYSIA on behalf of the developing countries of ASIA,

EGYPT on behalf of the Middle East region, PERU, NIGERIA, ARGENTINA, PAPUA NEW GUINEA and CONGO supported the removal of brackets from the sentence ensuring "the observance of the sovereign rights of the countries of origin" in the paragraph on long-term objectives to sustain existing *ex situ* collections. CONGO noted that the principle of sovereignty is enshrined in the CBD, while SENEGAL highlighted the right to monitor material given to international centres. The EU, the US, AUSTRALIA and NEW ZEALAND requested deletion of the sentence. The CHAIR requested Colombia, the US, Italy and Malaysia to develop compromise text informally.

Delegates then addressed bracketed text on *ex situ* accessions which read: "[Inadequately duplicated materials should be multiplied and placed appropriately in secure storage. Excess [additional] *ex situ* duplications of accessions would be maintained at the discretion and expense of countries]." There was general agreement with POLAND's proposals to replace "inadequately duplicated materials" with "materials not yet duplicated", and to delete "excess" in the second sentence. BRAZIL, supported by COLOMBIA, noted its preference for deletion of the entire bracketed text.

CANADA stated the importance of maintaining the text to provide a guide for action in this area, including for funding agencies. BRAZIL, supported by COLOMBIA, and later by PERU suggested changing "should" to "could" in the first sentence, and deletion of the second sentence. CANADA, later supported by the PHILIPPINES, INDIA on behalf of developing countries of ASIA and POLAND strongly reiterated the need to retain "should" in order not to soften international obligations in this area, and to retain the second sentence, as a logical complement to the first. In response, BRAZIL proposed amended text which retained "should" but added "with the full observance of applicable international agreements, and national legislation" to the end of the sentence. He also proposed retaining the second sentence if the reference to "expense" was removed. The text was adopted with these amendments.

The US supported a reference to "unrestricted" in the subparagraph calling upon governments, the private sector, and institutions to "facilitate [unrestricted] access to PGRFA stored *ex situ*" stating that this is necessary to ensure world food security. SENEGAL noted that restriction would foster duplication. The EU, supported by ZIMBABWE, EGYPT, PAPUA NEW GUINEA, KENYA and MEXICO, proposed deleting the reference to "unrestricted". VENEZUELA, COLOMBIA, MALAYSIA and TANZANIA cited the need for consistency with the CBD. IRAN cautioned against the future

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implications of “unrestricted” for FR and sovereignty. ECUADOR noted that “unrestricted access” is inconsistent with the Code of Access negotiated by Andean countries. JAPAN stated that “unrestricted access” should apply to public domain PGRFA, not private sector PGRFA. PERU noted that “unrestricted” may impose future limitations. CANADA, supported by GERMANY, noted that “unrestricted” in the GPA would pre-judge IU negotiations. The US agreed to delete “unrestricted” and the subparagraph was adopted.

The paragraph on policy and strategy of governments cooperating with organisations “in particular, the CGIAR,” and the private sector to expand core PGR collections to facilitate use was adopted as amended by CANADA and MALAYSIA to read cooperation with “organisations including international agricultural research centres.” The subparagraph referring to “financial support” of evaluation programmes for crop species was adopted with amendments by the US, later modified by EGYPT on behalf of AFRICA and the NEAR EAST and supported by COLOMBIA, to “give appropriate financial support.” The paragraph on “technical and financial support” for multiplication of core collection germplasm was amended by the US to read “appropriate technical and financial support” and adopted.

Delegates accepted the CHAIR’s proposal to delete brackets around the words “[Support should be given to] national systems, regional networks...” in capacity building for genetic enhancement. In a subsequent paragraph on promoting higher levels of genetic diversity, COLOMBIA’s proposal, later supported by CANADA, to delete text which read “[to minimize regulatory and legislative obstacles to these objectives]” was accepted. In a following paragraph, the US proposed adding the qualifier “relevant” to text on coordinating requests for “[financial and technical] assistance” in promoting commercialization of under-utilized crops. The text was adopted as amended.

Delegates then discussed bracketed text in a reference to a programme “to assist in the creation of specialized niche markets for biodiverse food crops to act as a positive stimulus to farmers to grow landraces/farmers’ varieties, [heritage and traditional] varieties, and other under-utilized crops.” CANADA clarified that “heritage varieties” referred to those that were not in modern use, and that such varieties were extremely important to his country’s farmers. After delegates pointed to the difficulty of translating “heritage varieties” into Russian, Spanish, and French, CANADA, later supported by POLAND and the US, proposed the term “obsolete varieties” as taken from the IU. BRAZIL, noting that it was not a member of the IU, concurred with the change, and the text was adopted as amended.

Delegates discussed a paragraph concerning whether to “help guide” or “cooperate with” international research centres. The US, supported by the EU, IRAN and TURKEY, claimed that the GPA was referring to partnerships and hence should use “cooperate with.” TANZANIA (on behalf of the AFRICAN GROUP) supported by BUKINA FASO preferred “help guide,” but later agreed with BRAZIL that both formulations were appropriate. IRAN sought reference to “regional” networks, but TURKEY and BRAZIL opposed this.

In a new section entitled “Developing Effective Mechanisms for Technology Transfer,” FRANCE, supported by ITALY, TURKEY, CANADA, the US and AUSTRALIA, proposed that

reference to technology transfer should be incorporated throughout the text rather than comprise a separate section. COLOMBIA supported by ETHIOPIA and BANGLADESH wanted this new text to remain. He emphasized that technology transfer needed separate consideration, because of the linkage between the transfer of genetic technologies and intellectual property rights. The matter was referred for informal consultations.

MALAYSIA, on behalf of developing countries of ASIA, proposed priority activities for benefit-sharing, one of the GPA’s three key objectives which had yet to be operationalized. Several delegations, including EGYPT, PERU and INDIA registered their strong support for the proposal. CAMEROON on behalf of AFRICA supported the proposal, citing the need to enshrine FR in a legal mechanism without which farmers are marginalized and exploited.

SWEDEN, later supported by NORWAY, noted that while he favors the elements of the proposal, FR as a legal mechanism has not been agreed upon internationally and the proper place for such consideration was within the revision of the IU in harmony with the CBD. Affirming that it did not accept the concept of FR as any form of legal mechanism, the US stated that the text was “totally unacceptable,” “totally outside the scope of the GPA” and “prejudicial” to the outcome of the IU process as agreed upon by the CGFRA. JAPAN, the EU and SWITZERLAND maintained that the IU rather than the GPA was the appropriate element within the FAO Global System to address FR. AUSTRALIA and FRANCE noted that wording in the GPA which recognizes the IU process might serve as a goodwill gesture.

Noting the polarized positions on the issue, the CHAIR called on Malaysia, Egypt, Colombia, Italy, the US, Sweden, Japan and any other interested governments to form a small contact group on FR, to be chaired by Australia.

### **IN THE CORRIDORS I**

Discussions on Farmers’ Rights dominated talk in the corridors today, and was the subject of an NGO press conference, where the US position calling for retention of the phrase “the concept of” before Farmers Rights was denounced. Some delegations suggested that reference to Farmers’ Rights should be removed entirely from the GPA, however, many others preferred its retention.

### **IN THE CORRIDORS II**

The Contact Group on technology transfer decided to incorporate language on technology transfer throughout the text of the GPA rather than as a separate priority activity. The Contact Group on finance continued its consideration of a synthesized text incorporating reference to “new and additional financial resources,” though some observers predicted compromise language without strong funding commitments. The Contact Group on FR continued its deliberations.

## **THINGS TO LOOK FOR TODAY**

**PLENARY:** Plenary is scheduled to reconvene today and seek adoption of the GPA, and then consider the outcome of the CG on the implementation and financing of the GPA. The Plenary will next decide how to negotiate the Leipzig Declaration, given that only seven sentences are not in brackets. A Working Group to negotiate the Declaration is expected.