

## ITPGR GB 3 HIGHLIGHTS: THURSDAY, 4 JUNE 2009

Delegates to the third session of the Governing Body (GB 3) of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) met in plenary to address the implementation of Article 6 (Sustainable Use of Plant Genetic Resources) and Article 9 (Farmers' Rights), the relationship with the Commission on Genetic Resources for Food and Agriculture (CGRFA), cooperation with other organizations, and the independent FAO evaluation. Contact groups on the funding strategy and on compliance, and the budget committee, as well as informal groups on the Third Party Beneficiary and implementation of the Multilateral System (MLS) met throughout the day and night.

A late night plenary adopted resolutions on: the funding strategy; the Third Party Beneficiary, including its procedures and operations; the business plan; cooperation with other organizations; relationship with the CGRFA; and farmers' rights. Following the closure of plenary after midnight, the contact group on MLS implementation and the budget committee met into the early morning hours of Friday.

### PLENARY

**ORGANIZATIONAL MATTERS:** Plenary heard reports on Wednesday night's contact group meetings. François Pythoud (Switzerland), Co-Chair of the budget committee, reported that the group addressed the resource requirements of statutory and overhead expenditures for 2010/11 (IT/GB-3/09/21, Annex I). René Lefeber (the Netherlands), Co-Chair of the contact group on compliance, reported that the group had a limited mandate, and thus had proceeded with a first reading of the document allowing delegates to table new proposals. Delegates then held a lengthy discussion on the day's work schedule, with a number of developing countries insisting that the new text on compliance be translated before proceeding with negotiations. Following explanations by the Secretariat on the time needed for translation and requests by other developing countries to resolve the issue to allow for a meeting of the contact group on the funding strategy, delegates finally agreed to the original proposal to hold the meeting of the compliance contact group over lunch time.

**MLS IMPLEMENTATION:** Shakeel Bhatti, ITPGR Secretary, introduced a consolidated draft resolution. Delegates established an informal group to consider outstanding issues, which was later transformed into a contact group.

**IMPLEMENTATION OF ARTICLE 6:** The Secretariat introduced the item on implementation of Article 6 (Sustainable Use of Plant Genetic Resources) (IT/GB-3/09/16 and Inf. 10), and highlighted the work of the CGRFA on the second report on the State of the World's plant genetic resources for food and agriculture (PGRFA).

Belgium, for the EUROPEAN REGIONAL GROUP (ERG), highlighted the links between Article 6 and farmers' rights, and the work of the Global Crop Diversity Trust and CGRFA. Ecuador, for GRULAC, noted that the funding strategy will be crucial for work on sustainable use. Iran, for the NEAR EAST, underscored the need for building national research and breeding capacity to increase agricultural production in developing countries, and for returning new germplasm and improved material to the MLS. CANADA highlighted its new policy framework on sustainable use to ensure an environmentally sustainable agriculture sector.

The Philippines, for the ASIAN REGION, supported by NORWAY, stressed that the benefit-sharing fund should also support sustainable use through informal farmers' systems and on-farm conservation. BRAZIL requested increased international cooperation and collection of information from relevant stakeholders. Kenya, for the AFRICAN GROUP, said sustainable use is a pillar of the Treaty as it enhances diversity and food security. ETHIOPIA called for special emphasis on the role of small and subsistence farmers; MADAGASCAR for an integrated approach to assist with implementation of sustainable use; and KENYA for coordinated national legislation and harmonization. AUSTRALIA recognized the importance of sustainable agricultural industries, noting that farmers decide on crops according to market demand.

The GLOBAL COMMUNITY-BASED BIODIVERSITY CONSERVATION AND DEVELOPMENT NETWORK stressed food sovereignty and community-led approaches as the way out of the current food crisis, and called for a global fund to support farmers' sustainable use.

**WORK PROGRAMME AND BUDGET:** ITPGR Secretary Shakeel Bhatti presented the financial report (IT/GB-3/09/20 Rev.1), highlighting the disparity between the adopted core administrative budget and actual contributions received.

**FARMERS' RIGHTS:** The Secretariat introduced the item, highlighting the compilation of views on implementation of Article 9 (IT/GB-3/09/Inf. 6). GRULAC stressed the need for progress at the national level on: instruments for protection of traditional knowledge; identification of a national competent authority for farmers' rights; and incorporation of farmer organizations in advisory structures. The AFRICAN GROUP called for capacity building to implement farmers' rights. ECUADOR announced full recognition of farmers' rights in its new constitution. The ASIAN REGION called for amending existing seed legislation in line with farmers' rights, and supported stronger initiatives by the Secretariat to involve farmers in policy-making processes.

BRAZIL, supported by GRULAC and the AFRICAN GROUP, proposed that the Governing Body consider ways to support national efforts and presented a draft resolution.

CANADA disagreed that the Governing Body should provide assistance and, with AUSTRALIA, stressed that under the Treaty implementation rests with national governments. NORWAY said that the Governing Body should ensure full implementation of the Treaty including farmer's rights. The ERG agreed to work on a resolution and proposed a number of amendments.

BRAZIL then presented a revised draft, which was supported by GRULAC, the AFRICAN GROUP, the SOUTH WEST PACIFIC and the ERG, inviting parties to consider reviewing seed legislation to implement Article 9; encouraging continuing exchange of experiences; requesting the Secretariat to convene regional workshops; and appreciating the involvement of farmer organizations. SAUDI ARABIA wondered how the Governing Body could ask countries to change their seed laws. COSTA RICA stressed the need for Governing Body action to translate farmers' rights into operational mechanisms for their implementation. CANADA highlighted willingness to discuss seed legislation under Article 6, but not to include such a reference in a resolution on farmers' rights, and called for specifying the funding sources for the regional workshops.

The INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS (UPOV) said that the UPOV Convention foresees exemptions for breeders and subsistence farmers collecting seeds for use on their own farms and called for mutually supportive implementation with the ITPGR. The INTERNATIONAL SEED FEDERATION said that to ensure continued investment in breeding plant varieties "adequate protection against inadequate access" has to be provided and the intellectual property rights (IPRs) of breeders have to be respected. The ANDES ASSOCIATION stressed that indigenous peoples and farmers look to the Treaty to help them address challenges when seeking to protect their ancestral heritage and to secure fair and equitable benefit-sharing. The INTERNATIONAL COMMITTEE ON PLANNING FOR FOOD SOVEREIGNTY noted that benefit-sharing agreements fail to oblige IPR holders to respect the rights of farmers to save and exchange seeds. The GLOBAL COMMUNITY-BASED BIODIVERSITY CONSERVATION AND DEVELOPMENT NETWORK argued that the Treaty requires all parties to revise their legislation to recognise farmers' and breeders' collective rights. The LOCAL INITIATIVE FOR BIODIVERSITY RESEARCH AND DEVELOPMENT (Nepal) noted that the life of farmers is interlinked with seeds and farmers' participation must be ensured.

At midnight, plenary adopted the resolution as revised during informal consultations.

**RELATIONSHIP WITH THE CGRFA:** The Secretariat presented the item, including possible elements for a decision (IT/GB-3/09/17), highlighting progress in updating the report on the State of the World's PGRFA and the rolling Global Plan of Action. The AFRICAN GROUP stressed the need to define the relationship to avoid inconsistencies. CANADA expressed satisfaction with ongoing cooperation, and proposed that all sectoral matters concerning PGRFA, especially on the Treaty's supporting components, should be addressed by the Governing Body. The ERG stressed the importance of close collaboration to optimize potential synergies and, with CANADA, opposed requesting the CGRFA to update the Code of Conduct for Plant Germplasm Collecting and Transfer.

**COOPERATION WITH OTHER ORGANIZATIONS:** The Secretariat introduced the item (IT/GB-3/09/18). The CONVENTION ON BIOLOGICAL DIVERSITY (CBD) provided an update on the ongoing negotiations on access and benefit-sharing (ABS) and recent developments related to the Global Strategy for Plant Conservation. The ARAB ORGANIZATION FOR AGRICULTURAL DEVELOPMENT reported on how it coordinates Treaty implementation in Arab countries. The ERG stressed that the ITPGR should continue

enhancing collaboration with the CBD, especially on ABS negotiations, and recommended that the ITPGR Secretariat follow negotiations under UPOV, WIPO and WTO.

**FAO EVALUATION:** The Secretariat introduced the item (IT/GB-3/09/19). SWITZERLAND stressed that the Governing Body should express interest in the FAO reform process. AUSTRALIA proposed that the new Bureau ask FAO to present it with the reform's implications for the Treaty, and the ERG requested the issue be reviewed at GB 4. PAKISTAN and BRAZIL said increasing the Governing Body's administrative and financial authority may be premature for the Treaty.

#### **CONTACT GROUP ON THE FUNDING STRATEGY**

The contact group addressed the draft decision on the strategic plan for implementation of the benefit-sharing fund. Delegates discussed potential activities for the reconvened *ad hoc* advisory committee on the funding strategy, agreeing that the committee should address "in particular funds not under the direct control of the Governing Body." Delegates also agreed to engage goodwill ambassadors to increase public awareness of the fund, and to request the Secretary to engage fundraising services.

Delegates then considered the draft decision on the strategy's operationalization. They debated the list of developing countries eligible to apply to the fund and the selection of experts, and agreed that the Bureau oversee the next project cycle. They also agreed to GRULAC's proposal to specify that only Annex I material resulting from projects under the fund would be made available in the MLS. The contact group approved the decisions with no remaining brackets.

#### **CONTACT GROUP ON COMPLIANCE**

Delegates initiated negotiations on the basis of the draft procedures on compliance, which included new text and brackets introduced during deliberations on Wednesday night. Regarding the objective, delegates addressed language added by GRULAC that the mechanism shall promote compliance with "all" provisions of the Treaty, "in particular Articles 18, 11.3 and 12"; and by the ERG specifying that "such legal advice or assistance could include recommendations to the Governing Body concerning interpretation of the SMTA." Delegates agreed to simply refer to "all provisions" and delete other specifications.

Regarding the principles, delegates agreed to further specify that compliance procedures should be cost-effective and non-legally binding, and also referenced accountability and good faith. GRULAC proposed that the operation of the compliance procedures "shall take into account the capacities of contracting parties," to which NORTH AMERICA could not agree. The remaining regional groups supported inclusion of this wording in return for deletion of a paragraph referring to an adequate balance between developed and developing countries. Discussions resumed briefly in the late evening.

#### **IN THE CORRIDORS**

Thursday saw a marathon plenary session and so many contact and informal groups happening in parallel, that at times it was difficult to keep track of them all. In the end, the contact group on the funding strategy and the informal group on the Third Party Beneficiary reached consensus allowing a late-night plenary to adopt its first substantive resolutions. Agreement in the latter group was made possible due to the inclusion of a provision ensuring confidentiality of information provided to the Third Party Beneficiary. A number of delegates, still concerned that the meeting is running out of time to tie up all the loose ends, stand to be corrected by optimists predicting that "all will magically come together at the very end."

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of ITPGR GB 3 will be available on Monday, 8 June 2009 online at: <http://www.iisd.ca/biodiv/itpgrgb3/>