

## ITPGR GB 4 HIGHLIGHTS: WEDNESDAY, 16 MARCH 2011

ITPGR GB 4 delegates met in plenary to address farmers' rights, relationship with the CGRFA and the Global Crop Diversity Trust, and cooperation with other international organizations. Several contact and informal groups met during the day and into the night to address: the Funding Strategy; compliance; implementation of the MLS; the budget; financial rules of the GB; and farmers' rights.

### PLENARY

**THIRD PARTY BENEFICIARY:** On the mediation rules, BRAZIL proposed text to clarify that the candidates for each mediator position will be selected from the list of experts established by GB, in accordance with the rules of the SMTA. Delegates agreed, and the Secretariat will prepare a revised resolution.

**FARMERS' RIGHTS:** ETHIOPIA emphasized that farmers' rights are a cornerstone of the Treaty, and referred delegates to the report of the Global Consultation on Farmers' Rights (November 2010, Addis Ababa, Ethiopia) (IT/GB-4/11/Circ.1), which recommended: sufficient legal space for farmers' rights within seed and IPR laws; international legislation to avoid misappropriation of traditional knowledge; scaling up of local-level benefit-sharing arrangements; ensuring farmers' participation in decision making; and capacity-building, financial and technical support. Many delegates welcomed the consultation's outcomes, while some noted that participation was in a personal capacity and the outcomes were not negotiated. Many highlighted the concept of farmers' rights as one of the Treaty's greatest achievements.

MALAWI requested permission for a farmers' representative to speak before delegates on this issue, but CUBA opposed, urging the GB to follow the rules of procedure.

The ASIAN REGION, supported by many, requested that the GB draft a resolution on the basis of Resolution 6/2009 on farmers' rights to include, among others, the need to integrate traditional knowledge with scientific knowledge to broaden the PGRFA knowledge base. BRAZIL stressed the need to realize the regional workshops provided for in Resolution 6/2009.

The ASIAN REGION, the NEAR EAST and NORWAY supported creating an *ad hoc* technical committee on farmers' rights and sustainable use of PGRFA. The SOUTH WEST PACIFIC expressed concern about proliferation of committees.

The ERG, CANADA and the SOUTH WEST PACIFIC stressed that the responsibility of realizing farmers' rights rests with national governments. CAMEROON and MADAGASCAR pointed to the need for international action on farmers' rights in the wake of natural disasters.

The ERG, NEPAL, NORWAY and MALAYSIA supported development of voluntary guidelines, checklists and/or model clauses for promoting national legislation on farmers' rights. The SOUTH WEST PACIFIC and CANADA disagreed, noting that the Secretariat could invite information and prepare a model format for information sharing.

ECUADOR called for the ITPGR to move towards tangible action for the implementation of the Treaty, and hence the improvement of the condition of farmers. The ERG requested the FAO to assist in the provision of technical assistance for implementation of Treaty provisions on sustainable use and farmers' rights. NEPAL called for mechanisms to safeguard farmers' rights and for South-South and North-South cooperation on initiatives to promote farmers' rights. CUBA and MADAGASCAR requested capacity building for implementation. CANADA, INDIA, SUDAN and others reported on national initiatives and legislation on farmers' rights.

CIVIL SOCIETY stressed that realization of farmers' rights should be mandatory for national governments and the international community, supported the creation of an *ad hoc* working group on farmers' rights, and called for making significant funding directly available to small-scale farmers for on-farm conservation. VIA CAMPESINA said the lack of funding and implementation of farmers' rights should be regarded as a case of non-compliance.

UPOV said that instruments dealing with genetic resources and IPRs should be implemented in a mutually supportive manner, highlighting the role of plant breeders in the sustainable use of genetic resources, and recognizing the common practice of farm-saved seed, subject to safeguarding the legitimate interests of breeders. The INTERNATIONAL SEED FEDERATION said that plant breeders' rights provide plant variety protection and encourage investment in the development of new varieties, in line with Article 9.3 on farmers' right to save seeds "subject to national law."

Chair Hufler proposed that discussions on the resolution be carried out in informal consultations, headed by Malaysia.

**RELATIONSHIP WITH THE CGRFA:** Noting the close relationship between the ITPGR and CGRFA Secretariats, ITPGR Secretary Bhatti presented the vision paper on policy coherence and complementarity of the work of the CGRFA and the ITPGR GB (IT/GB-4/11/18). Linda Collette, CGRFA

Secretary, drew attention to the draft updated Global Plan of Action (GPA) for the Conservation and Sustainable Use of PGRFA (IT/GB-4/11/Inf.14), expressing hope that the updated GPA would be endorsed at CGRFA 13 in July 2011.

Chair Hufler reported on joint meetings of the ITPGR and CGRFA Bureaus, which considered the draft vision paper and the draft updated GPA. CGRFA Chair Mosafari said the second joint Bureau meeting focused on providing views and guidance on linkages between the Treaty and the draft updated GPA, including carrying out priority actions identified under the GPA through the funding strategy.

GRULAC and YEMEN raised concern about the lack of translation of substantive documents into all official languages, supported by MOROCCO who also called for translating the draft resolutions. The Secretariat pointed to a lack of resources and limits to FAO translation services, and Chair Hufler said the concern will be noted in the report.

Regarding the vision paper, CANADA supported the option foreseeing transfer of all PGRFA activities from the CGRFA to the GB, including sectoral activities such as updating the report on the State of the World's PGRFA, the GPA, and genebank standards. The ASIAN REGION supported the option foreseeing a case-by-case gradual transfer of specific tasks and activities to the GB, noting that this should apply only to activities mentioned in the Treaty. This option was also supported by the AFRICAN GROUP, the NEAR EAST, the SOUTH WEST PACIFIC, and the ERG who proposed to invite the CGRFA to jointly agree on a case-by-case process for decisions regarding gradual transfer. ECUADOR and BRAZIL supported the option on enhancing the ongoing cooperation framework. PRACTICAL ACTION concurred, noting the Commission's advantage within the FAO's structure in keeping oversight of all genetic resources.

Chair Hufler noted that more information is needed on the administrative, legal and financial implications of the three options.

#### **COOPERATION WITH OTHER ORGANIZATIONS:**

The Secretariat introduced relevant documents (IT/GB-4/11/22 and 23). The ERG suggested the GB request the CBD COP to formally recognize the use of the SMTA as being in harmony with the ABS Protocol and an equivalent to the international certificate of compliance. BRAZIL and CANADA stressed the importance of respecting the mandate of each international organization. INDIA asked the GB to note and encourage the development of regional agro-biodiversity initiatives, such as the Asia-Pacific Association of Agricultural Research Institutions, in implementing Articles 5 and 6 on conservation and sustainable use.

The GLOBAL FORUM ON AGRICULTURAL RESEARCH committed to continuing work on collective actions with the Treaty especially on sustainable use. CIVIL SOCIETY suggested the Secretariat convene meetings jointly with relevant organizations on long-term seed storage and implications of rapid technological advances; and address the issue of patent applications that potentially violate the Treaty.

WIPO reported on work under its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which is mandated to engage in text-based negotiations and recently focused on technical discussions regarding traditional knowledge and genetic resources.

In summary, Chair Hufler highlighted the importance of cooperation and synergies while respecting the autonomy of international organizations; and noted the need for guidance on prioritization to be provided by the Bureau. A revised draft resolution will be prepared.

#### **RELATIONSHIP WITH THE GLOBAL CROP**

**DIVERSITY TRUST:** ITPGR Secretary Bhatti introduced relevant documents (IT/GB-4/11/20 and 21), welcoming the Global Crop Diversity Trust's support for many of the Treaty's activities. Trust Executive Secretary Cary Fowler reported on the work of the Trust, stressing that before benefits can be shared or even generated, the MLS must maintain its unique crop diversity at a high standard and make samples available. Underscoring that the Trust is far from achieving its fundraising target, he appealed to countries to summon the political will to achieve this target. He detailed a multi-year initiative, supported by Norway, to promote the use of traits contained in crop wild relatives to strengthen adaptation to climate change. Many welcomed the work of the Trust.

The AFRICAN GROUP requested the Trust to review its mandate and consider proposals submitted under the benefit-sharing fund. The NEAR EAST expressed concern that the Trust may turn into a body competing with the Funding Strategy and, with MALAYSIA, proposed that the GB Chair and one Vice-Chair be permanent members of the Trust Board. AUSTRALIA supported the proposed arrangements as outlined in the document and, with CANADA, opposed any changes to the relationship agreement with the Trust or the manner of cooperation. CANADA further stressed that the independence of the Trust is key to its fundraising.

NAMIBIA noted that the Treaty shows good progress on *ex situ* conservation, with the support of the Trust, but is lagging behind on *in situ* conservation, and urged the GB to seek ways to correct this imbalance. ECUADOR also highlighted the need for the Trust to support *in situ* activities. NORWAY highlighted its support for the Trust's initiative on crop wild relatives and provided an update on the Svalbard Seed Vault. BENIN reported on Trust projects in his country.

The ERG underscored the need to further enhance the relationship between the Treaty's benefit-sharing fund and the Trust, and supported the draft resolution on procedures for the selection and appointment of members of the Trust Board. Discussions will continue on Thursday.

#### **IN THE CORRIDORS**

Despite some procedural hiccups, delegates worked swiftly through the agenda by moving the more technical and controversial issues into smaller groups and holding strategic discussions on farmers' rights and cooperation with other organizations in plenary. As a result, Wednesday turned out to be the day when a plethora of small groups were vying for time to consider key outstanding issues.

The busy evening schedule commenced in a backroom with informals on the financial rules. The contact group on compliance continued Tuesday's deliberations, focusing on bracketed outstanding issues in the compliance procedures, including references to the special needs of developing countries and reporting requirements. At the same time, the committee functions are still in the making: will it have the mandate to issue recommendations? Will it be able to address implementation-related questions? One of the issues that delegates seemed to agree on was that the committee should receive questions from parties regarding their own obligations. But could others address the committee, such as the Secretariat or the CGIAR centers? As the compliance group plunged into such legal issues, groups on the Funding Strategy and the MLS prepared for a very, very late night.