FIFTH INTER-SESSIONAL CONTACT GROUP MEETING ON THE REVISION OF THE INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE, IN HARMONY WITH THE CBD: 5-10 FEBRUARY 2001

The Fifth Inter-sessional Contact Group Meeting on the Revision of the International Undertaking on Plant Genetic Resources for Food and Agriculture (IU), opens today at FAO Headquarters in Rome, Italy. Delegates of the 41 countries comprising the Contact Group will continue deliberations on a number of core provisions in the composite draft negotiating text for the revised IU, including Articles 12 (Coverage of the Multilateral System), 13 (Facilitated Access), 14 (Benefit-sharing), 16 (Financial Resources), 17 (Governing Body), 20 (Amendments of the Undertaking) and 21 (Amendments of Annexes), as well as Annex I (List of Crops) and a proposed Annex V (Conditions For Participation of International Institutions and Placing of International Ex Situ Collections in the Multilateral System). Delegates are under pressure to make significant progress, having missed their last deadline of November 2000. The 119th FAO Council recently set a new deadline for November 2001. The most contentious issues involve commercial benefit-sharing and intellectual property rights (IPR). Other major issues remaining to be resolved include, inter alia: crop types to be covered by the IU; terms for including collections held by the Future Harvest Centres of the Consultative Group on International Agricultural Research; and the functions of the IU’s Governing Body.

A BRIEF HISTORY OF THE PROCESS

THE FAO GLOBAL SYSTEM: The FAO established the inter-governmental Commission on Plant Genetic Resources in 1983. Renamed the Commission on Genetic Resources for Food and Agriculture (CGRFA) in 1995, the Commission is currently comprised of 166 countries, including the European Community. The CGRFA coordinates, oversees and monitors the development of the Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture (PGRFA), which is comprised of the Commission itself and the non-binding IU, the rolling Global Plan of Action (GPA) and the International Fund for Plant Genetic Resources, the World Information and Early Warning System, Codes of Conduct and Guidelines for the Collection and Transfer of Germplasm, the International Network of Ex Situ Collections under the auspices of FAO, and the international network of in situ conservation areas and crop-related networks.

THE INTERNATIONAL UNDERTAKING: The IU, the first comprehensive instrument on PGRFA, was established in November 1983 by FAO Conference Resolution 9/83. Its objective is to ensure that PGRFA are explored, collected, conserved, evaluated, utilized and made available for plant breeding and other scientific purposes. It was originally based on the principle that PGRFA should be "preserved ... and freely available for use, for the benefit of present and future generations" as part of the common "heritage of mankind." This principle, however, was subsequently subjected to "the sovereignty of States over their plant genetic resources" (FAO Resolution 3/91). Although a non-binding agreement, the IU was not adopted by consensus, as eight developed countries formally recorded reservations. To date, 113 countries have adhered to the IU, with Brazil, Canada, China, Japan, Malaysia and the US as notable exceptions. In April 1993, the Commission considered the implications of the 1992 UN Conference on Environment and Development, and the Convention on Biological Diversity (CBD) in particular, for the IU. Recognizing that the CBD would play a central role in determining policy on PGRFA, the Commission agreed that the IU should be revised to be in harmony with the Convention. At its First Extraordinary Session, held in November 1994, the Commission reviewed a First Negotiating Draft, which incorporated three interpretative annexes into the IU, and provided a more rational structure, grouped into 14 articles.

SIXTH SESSION OF THE CGRFA: The CGRFA held its sixth session at FAO Headquarters in Rome in June 1995. In addition to its regular agenda, the Commission considered a Second Negotiating Draft. At this meeting, the Commission focused its discussions on provisions for scope, access, farmers’ rights and the preamble.

SECOND EXTRAORDINARY SESSION OF THE CGRFA AND FOURTH INTERNATIONAL TECHNICAL CONFERENCE ON PGRFA: The CGRFA held its second extraordinary session in Rome in April 1996, in order to address several issues in preparation for the Fourth International Technical Conference on Plant Genetic Resources (ITCPGR-4), held in Leipzig, Germany, in June 1996. ITCPGR-4 agreed on an international programme for the conservation and utilization of PGRFA. Representatives of 148 States adopted the Leipzig Declaration and the GPA.

THIRD EXTRAORDINARY SESSION OF THE CGRFA: The CGRFA held its Third Extraordinary Session in Rome in December 1996. Delegates considered a Third Negotiating Draft
and returned to discussions on scope, access and farmers’ rights. Although the meeting did not produce any new negotiated text, it did make progress on difficult and often divisive issues.

SEVENTH SESSION OF THE CGRFA: The CGRFA held its seventh session in Rome in May 1997. Delegates continued negotiations on the revision of the IU in two working groups, addressing scope, access and farmers’ rights. The meeting’s most notable achievements were conceptual advances regarding farmers’ rights and the establishment of a Multilateral System (MS) to facilitate access to PGRFA.

FOURTH EXTRAORDINARY SESSION OF THE CGRFA: The CGRFA held its fourth extraordinary session in Rome in December 1997. Delegates considered a Fourth Negotiating Draft in one working group and one contact group. The working group produced consolidated text on: objectives; relationship of the IU with other international agreements; conservation, exploration, collection, characterization, evaluation and documentation of PGRFA; sustainable use of PGRFA; international cooperation; the GPA; the international network of PGRFA; global information systems on PGRFA; and farmers’ rights. The contact group continued discussions on issues related to access and benefit-sharing, and made progress as proposals began to take shape for a MS to facilitate access to PGRFA through a list of major crops. The first exchange of views on benefit-sharing was insightful, and the complexities of tackling the private/public sector interface and balancing IPR interests were acknowledged.

FIFTH EXTRAORDINARY SESSION OF THE CGRFA: The CGRFA held its fifth extraordinary session in Rome in June 1998. Delegates continued discussions in an open-ended working group and a Chair’s contact group. The working group reviewed the provision on farmers’ rights. The contact group reviewed elements of an article on access to PGRFA and introduced new text on benefit-sharing and financial arrangements. Overall, the working group made little progress on the issue of farmers’ rights, as fundamental differences divided key regional groups, particularly on ascribing legal rights for farmers. The contact group made some progress on access, however, the relationship between facilitated multilateral access and IPR continued to be problematic.

115TH FAO COUNCIL: The FAO Council held its 115th session in Rome in November 1998. The Council recognized progress made to date and supported convening an informal meeting of experts to address benefit-sharing, farmers’ rights, the financial mechanism, the legal status of the revised IU, and other issues.

MONTREUX EXPERTS’ MEETING: The meeting of experts was held in Montreux, Switzerland, in January 1999. Participants attended in their personal capacity to discuss the IU’s legal status, its structure, the MS, farmers’ rights and financial resources. Based on the discussions, Chair Fernando Gerbasi (Venezuela) drafted a series of “Chairman’s Elements” reflecting areas of broad consensus as a basis for continuing the negotiations. There was general consensus that the IU should take the form of a legally binding instrument and that its structure should be dynamic. The Chairman’s Elements address: scope; objectives; national commitments, programmes and rural development policies; the MS, including components for facilitated access and benefit-sharing; farmers’ rights; financial resources; a legally-binding instrument; and provisions for amending the IU and its annexes.

EIGHTH SESSION OF THE CGRFA: The CGRFA’s eighth session was held in Rome in April 1999. The Commission decided to continue negotiations on the IU’s revision using a Composite Draft Text, and authorized the Chair to convene a Contact Group to advance negotiations, using the Chairman’s Elements derived from the Montreux meeting. The Contact Group consists of 41 countries selected according to regional representation and was formed to address the most contentious issues under debate. The Commission also authorized an Extraordinary Session of the Commission to adopt the final text when appropriate, so that the results could be submitted to the 119th Session of the FAO Council in November 2000. Negotiations proceeded on Articles 11 (Multilateral System of Access and Benefit-sharing), 12 (Coverage of the MS) and 15 (Farmers’ Rights). Significant progress was made on farmers’ rights with the adoption of agreed text.

FIRST INTER-SESSIONAL CONTACT GROUP MEETING: The first meeting of the Contact Group took place in Rome from 20-24 September 1999. The group focused on Article 14 (Benefit-sharing), on the basis of a submission by developing countries, addressing sub-articles on: exchange of information; access to and transfer of technology; capacity building; and the sharing of monetary benefits of commercialization. Consensus was reached on text for exchange of information, while text on access to and transfer of technology and its implications for IPR remained bracketed. On commercial benefit-sharing, the group recognized the link between the income derived from the commercial use of PGRFA and benefit-sharing, but there was insufficient time for review.

SECOND INTER-SESSIONAL CONTACT GROUP MEETING: The second meeting of the Contact Group took place in Rome from 3-7 April 2000. The group continued a general discussion on Articles 13 (Facilitated Access), 14 (Benefit-sharing) and 16 (Financial Resources), and made some progress on clarifying positions and agreeing on text.

THIRD INTER-SESSIONAL CONTACT GROUP MEETING: The third meeting of the Contact Group was held in Tehran, Iran, from 26-31 August 2000. The Contact Group continued negotiations on Articles 13, 14 and 16. The group made significant progress with a provisional package agreement on IPR and commercial benefit-sharing, which was subject to review by a few developed countries. Regions also submitted lists of crops for consideration under Annex I (List of Crops) with numbers ranging from nine to 287 crops.

FOURTH INTER-SESSIONAL CONTACT GROUP MEETING: The fourth meeting of the Contact Group was held in Neuchâtel, Switzerland, from 12-17 November 2000. Significant time was devoted to discussion of Article 16, where agreement was reached on most sub-provisions. Provisional progress made on IPR and commercial benefit-sharing at the third Contact Group meeting was called into question as four countries stated that a proposed compromise package was unacceptable based on consultations with their capitals. Delegates also engaged in extended discussions and considered input from external experts regarding intellectual property issues as related to the IU, CBD and the WTO’s Agreement on Trade-related Aspects of Intellectual Property Rights.

119TH FAO COUNCIL: The FAO held its 119th Council meeting in Rome from 20-25 November 2000, where it reviewed Chair Gerbasi’s report, detailing obstacles and areas of progress within the negotiations. The Council requested Chair Gerbasi to convene further sessions of the Contact Group as required, and a meeting of the CGRFA to finalize the IU’s revision for submission to the 31st FAO Conference in November 2001.

THINGS TO LOOK FOR TODAY OPENING SESSION: The Contact Group will meet at 10:00 am to hear opening remarks and review the meeting’s agenda, before initiating discussions on substantive issues.