

Eighth Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture: 11-16 November 2019

The eighth session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture aims to reach consensus on measures to enhance the functioning of the Multilateral System of access and benefit-sharing, which have been under negotiation for six years. The meeting will also address policy, implementation, cooperation, and administrative and budgetary matters, including farmers' rights, the Global Information System, and digital sequence information, also addressed as genetic sequence data. A special event on the 15th Anniversary of the Treaty will convene on 9 November, to celebrate achievements and explore ideas for future directions.

Expectations for this Meeting

The main substantive item under discussion concerns the package of measures to enhance the functioning of the Treaty's Multilateral System (MLS), which would result in revising the coverage of the MLS and the Standard Material Transfer Agreement (SMTA) used for exchanges of MLS material. The Governing Body (GB) is expected to address the outcome of the *Ad Hoc* Open-ended Working Group to Enhance the Functioning of the MLS, including a draft resolution, a draft revised SMTA, and a proposed amendment to Annex I of the Treaty concerning the list of plant genetic resources for food and agriculture (PGRFA) in the MLS. The Working Group achieved significant progress in June 2019 and suspended its meeting to allow additional time for negotiations. However, the resumed meeting in October 2019 was unable to reach agreement on outstanding matters, in particular benefit-sharing payments from use of genetic sequence data. A small Friends of the Co-Chairs' group comprising members from all regions was expected to meet immediately before the Governing Body session, in a final attempt to reach consensus.

The GB will also consider:

- an updated Funding Strategy for the period 2020-2025, including an annual funding target;
- implementation of the work programme on the Global Information System (GLIS);
- a work programme 2020-2023 on conservation and sustainable use of PGRFA;
- an inventory of national measures on farmers' rights, and progress on the development of options for encouraging, guiding, and promoting the realization of farmers' rights; and

- submission of information on the potential implications of the use of digital sequence information (DSI) on PGRFA for the objectives of the Treaty, including exchange, access, and fair and equitable benefit-sharing.

A Brief History of the Treaty

Concluded under the auspices of the Food and Agriculture Organization of the UN (FAO), the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) is a legally-binding instrument that targets the conservation and sustainable use of PGRFA, and fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity (CBD), for sustainable agriculture and food security. It establishes an MLS for facilitated access to a specified list of PGRFA including 35 crop genera and 29 forage species (Annex I), and institutionalizes monetary and non-monetary benefit-sharing from the utilization of these resources in the areas of commercialization, information exchange, technology transfer, and capacity building.

The Treaty was adopted on 3 November 2001 by the FAO Conference, following seven years of negotiations. It entered into force on 29 June 2004, and currently has 146 parties.

Key Turning Points

GB 1: The first session of the Treaty's GB (June 2006, Madrid, Spain) adopted the SMTA and the Funding Strategy. The SMTA includes provisions on a benefit-sharing scheme, providing two options. First, the recipient can choose to pay 0.77% of gross sales from commercialization of new products incorporating material accessed from the MLS, if its availability to others for further research and breeding is restricted. Alternatively, the recipient can choose to pay 0.5% of gross sales on all PGRFA products of the species they accessed from the MLS, regardless of whether the products incorporate the material accessed and regardless of whether the new products are available without restriction. The GB further adopted:

- its rules of procedure, including decision making by consensus;
- financial rules with bracketed options on an indicative scale of voluntary contributions or voluntary contributions in general;
- a resolution establishing a Compliance Committee;
- the relationship agreement with the Global Crop Diversity Trust; and
- a model agreement with the CGIAR Consortium and other international institutions.

GB 2: The second session of the GB (October-November 2007, Rome, Italy) addressed, *inter alia*, the implementation of the Funding Strategy, the material transfer agreement for non-Annex I

crops, and sustainable use of PGRFA. The meeting also adopted a resolution on farmers' rights, as well as a joint statement of intent for cooperation with the FAO Commission on Genetic Resources for Food and Agriculture.

GB 3: The third session of the GB (June 2009, Tunis, Tunisia) agreed to: a set of outcomes for implementation of the Funding Strategy, including a financial target of USD 116 million for the period July 2009 - December 2014; a resolution on the implementation of the MLS, including setting up an intersessional advisory committee on implementation issues; procedures for the Third Party Beneficiary; and a resolution on farmers' rights.

GB 4: The fourth session of the GB (March 2011, Bali, Indonesia) adopted procedures and mechanisms on compliance, and reached consensus on the long-standing item of the financial rules of the GB. It also adopted resolutions on farmers' rights, sustainable use, and implementation of the Funding Strategy.

GB 5: The fifth session of the GB (September 2013, Muscat, Oman) established the *Ad hoc* Open-ended Working Group to Enhance the Functioning of the MLS, with the mandate to develop measures to increase user-based payments and contributions to the Benefit-sharing Fund (BSF), as a priority, as well as additional measures to enhance the functioning of the MLS. GB 5 also adopted a resolution on the funding strategy for the BSF containing a list of innovative approaches to increase voluntary contributions and a work programme on sustainable use.

The Working Group met four times during the intersessional period (May 2014, December 2014, June 2015, and October 2015).

GB 6: The sixth session of the GB (October 2015, Rome, Italy) extended the mandate of the Working Group on the MLS, and requested that it, among other issues:

- elaborate a full draft revised SMTA;
- elaborate options for adapting coverage of the MLS, based on different scenarios and income projections; and
- consider issues regarding genetic information associated with material accessed from the MLS.

The meeting adopted a work programme for the GLIS, and resolutions on a series of substantive, cooperation-related, and administrative items, with a focus on addressing the shortfall in the BSF and on strengthening the implementation of Treaty provisions regarding conservation and sustainable use of PGRFA on-farm, through the work programme on sustainable use and farmers' rights.

The Working Group met three times during the intersessional period (July 2016, March 2017, and September 2017).

GB 7: The seventh session of the GB (October-November 2017, Kigali, Rwanda) extended the mandate of the Working Group on the MLS, requesting it to:

- continue revision of the SMTA;
- develop a proposal for a growth plan to attain the enhanced MLS; and
- elaborate criteria and options for possible adaptation of the coverage of the MLS.

GB 7 further established an *Ad Hoc* Technical Expert Group on farmers' rights; reconvened the *Ad Hoc* Advisory Committee on the Funding Strategy and Resource Mobilization to develop the updated Funding Strategy; and decided to put DSI on the GB 8 agenda.

Intersessional Highlights

UN Biodiversity Conference: The fourteenth meeting of the Conference of the Parties (COP 14) to the CBD, the ninth meeting of the COP serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety, and the third meeting of the COP serving as the Meeting of the Parties to the Nagoya Protocol on access and benefit-sharing (ABS) (17-29 November 2018, Sharm El-Sheikh, Egypt) adopted a number of decisions on a series of strategic, administrative, financial, and ecosystem-related issues of relevance to the implementation of the Convention and its Protocols. The Conference set up an intersessional Working Group on the post-2020 global biodiversity framework; established an intersessional process, including an *Ad Hoc* Technical Expert Group (AHTEG) to continue work on DSI on genetic resources under the Convention and the Nagoya Protocol; adopted the Rutzolijirisaxik voluntary guidelines for repatriation of traditional knowledge; and extended the online forum and AHTEG on synthetic biology.

CGRFA 17: At its 17th meeting (18-22 February 2019, Rome, Italy), the FAO Commission on Genetic Resources for Food and Agriculture witnessed the launch of the report on the State of the World's Biodiversity for Food and Agriculture, which was lauded as a major milestone that will contribute to achieving several Sustainable Development Goals, and communicate the Commission's inputs to the development of the post-2020 global biodiversity framework. The Commission also considered matters related to ABS, DSI, and genetic resources for food security and nutrition.

Expert Group on Farmers' Rights: At its two meetings (September 2018 and May 2019), the Expert Group initiated work on an inventory of national measures, best practices, and lessons learned, and the development of options for the realization of farmers' rights.

Committee on the Funding Strategy: At its two meetings (September 2018 and May 2019), the Committee discussed target ranges for the BSF and developed an updated Funding Strategy for the period 2020-2025.

Working Group on the MLS: At its eighth meeting (October 2018), the Working Group continued negotiations on specific clauses of the SMTA. Its ninth meeting (June 2019) reached tentative compromise to amend Annex I of the Treaty (list of crops in the MLS), to include all PGRFA under the management and control of parties and in the public domain, in *ex situ* conditions, while allowing for reasoned national exemptions regarding a limited number of native species. The Working Group also agreed on a package of measures, allowing for simultaneous adoption of the revised SMTA and the amendment of Annex I. Negotiations continued on the draft revised SMTA. Consensus was reached on several provisions, with genetic sequence data and rates for benefit-sharing payments remaining as the main outstanding issues, and the meeting was suspended, to allow for additional time to finalize negotiations. However, at the resumed meeting (October 2019), the Working Group was unable to bridge positions between the developed and the developing world. Co-Chairs Hans Hoogeveen (Netherlands) and Javad Mozafari (Iran) issued a compromise proposal on a package of elements, addressing benefit-sharing payment rates, benefit-sharing from genetic sequence data, and the review of the enhanced MLS, but consensus was elusive. Deep principled divergences remained, in particular regarding benefit-sharing payments from use of genetic sequence data.