

## FOURTH SESSION OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE: 14-18 MARCH 2011

The fourth session of the Governing Body (GB 4) of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) opens today and will continue until 18 March 2011, in Bali, Indonesia. It was preceded by a High-Level Ministerial Conference, organized by the Government of Indonesia (11 March 2011) and two days of regional consultations (12-13 March 2011).

The Governing Body is expected to review implementation of the Treaty's Multilateral System (MLS) on access and benefit-sharing (ABS), adopt procedures and operational mechanisms to promote compliance and address issues of non-compliance, and provide further guidance on the next project cycles of the Treaty's benefit-sharing fund. The meeting will also address: the financial rules of the Governing Body; implementation of the Treaty's Funding Strategy; operation of the Third Party Beneficiary; farmers' rights; implementation of Article 6 (Sustainable Use of Plant Genetic Resources); the draft business plan for the Treaty's implementation; cooperation with relevant organizations; and the work programme and budget for 2012-2013.

### A BRIEF HISTORY OF THE ITPGR

Negotiated under the auspices of FAO, the ITPGR is a legally binding instrument that targets the conservation and sustainable use of plant genetic resources for food and agriculture (PGRFA) and equitable benefit-sharing, in harmony with the 1992 Convention on Biological Diversity (CBD), for sustainable agriculture and food security. The Treaty contains sections on general provisions, farmers' rights, supporting components, and financial and institutional provisions. It establishes an MLS for facilitated access to a specified list of PGRFA including 35 crop genera and 29 forage species (Annex I), balanced by benefit-sharing in the areas of information exchange, technology transfer, capacity building and commercial development. The Treaty entered into force on 29 June 2004, and currently has 127 parties.

**NEGOTIATION PROCESS:** The Treaty's negotiations were based on the revision of the non-binding International Undertaking on PGRFA (IU). The IU was originally based on the principle that PGRFA should be "preserved ... and freely available for use" as part of the common heritage of mankind. This was subsequently subjected to "the sovereignty of States over their plant genetic resources," according to FAO Resolution

3/91. In April 1993, the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA) decided that the IU should be revised to be in harmony with the CBD.

Negotiations spanned seven years. From 1994 to 1998, the CGRFA met in five extraordinary and two regular sessions to develop the structure of, and refine, a draft negotiating text. From 1999-2001, a contact group consisted of 41 countries, chaired by Amb. Fernando Gerbasi (Venezuela), held six sessions to address contentious issues, including the list of crops to be included in the MLS, benefit-sharing, intellectual property rights (IPRs) to materials in the MLS, financial resources, genetic materials held by the International Agricultural Research Centers (IARCs) of the Consultative Group on International Agricultural Research (CGIAR) and definition of key terms. The 121st FAO Council and an Open-ended Working Group held under its auspices (October-November 2001, Rome, Italy) resolved outstanding issues and, on 3 November 2001, the 31st FAO Conference adopted the ITPGR by a vote of 116 in favor, zero against and two abstentions.

**ITPGR INTERIM COMMITTEE:** CGRFA, acting as the ITPGR Interim Committee, held two meetings (October 2002 and November 2004, Rome, Italy), where it adopted its rules of procedure, and set terms of reference for intersessional consideration of the rules of procedure and financial rules for the Governing Body, procedures for compliance, and the terms of the standard material transfer agreement (SMTA). An open-ended intersessional working group (December 2005, Rome, Italy) revised the rules of procedure and financial rules of the Governing Body, the funding strategy and procedures for compliance, and prepared a draft resolution on compliance for consideration by the first meeting of the Governing Body. An expert group on the SMTA (October 2004, Brussels, Belgium) considered options for the SMTA terms and draft structure, and recommended establishment of an intersessional contact group to draft its elements. This contact group held two meetings. At its first meeting (July 2005, Hammamet, Tunisia), it set out the basic structure of the SMTA. A number of controversial issues remained outstanding, such as: dispute settlement, including whether arbitration would be binding or not; the benefit-sharing mechanism and payment; and an African proposal to add a Third Party Beneficiary representing the Governing Body to monitor execution of the SMTA. The second meeting (April 2006, Alnarp, Sweden) agreed on a draft SMTA but left a number of issues unresolved, including: the Third Party Beneficiary's rights; the definitions of "product" and "sales," and the formula for benefit-sharing; obligations of the recipient in the case of subsequent transfers of material; dispute settlement; and applicable law. Contact group Chair Eng Siang Lim (Malaysia)

established an intersessional Friends of the Chair group to resolve pending issues prior to the first session of the Governing Body.

**ITPGR GB 1:** The first session of the ITPGR Governing Body (June 2006, Madrid, Spain) adopted the SMTA and the Funding Strategy. The SMTA includes provisions on a fixed percentage of 1.1% that a recipient shall pay when a product is commercialized but not available without restriction to others for further research and breeding; and 0.5% for an alternative payments scheme. The Governing Body 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 IARCs of the CGIAR and other international institutions.

**ITPGR GB 2:** The second session of the Governing Body (October–November 2007, Rome, Italy) addressed a series of items, including implementation of the Funding Strategy, the MTA for non-Annex I crops, cooperation with the CGRFA, and sustainable use of PGRFA. Following challenging budget negotiations, the meeting adopted the work programme and budget for 2008/09. It also adopted a resolution on farmers' rights, as well as a joint statement of intent for cooperation with the CGRFA.

**ITPGR GB 3:** The third session of the Governing Body (June 2009, Tunis, Tunisia) agreed to: a set of outcomes for implementation of the Funding Strategy, including a financial target of US\$116 million for the period July 2009 - December 2014; a resolution on 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. The meeting also adopted the work programme and budget for 2010/11; agreed to finalize the outstanding financial rules at GB 4; and established intersessional processes to finalize compliance procedures by GB 4 and review the SMTA.

### INTERSESSIONAL HIGHLIGHTS

**BARI POLICY SEMINAR:** A policy seminar (15-18 December 2009, Bari, Italy) addressed global challenges and future direction for the ITPGR. Participants assessed the Treaty's role in addressing the global challenges of agricultural biodiversity, food security and climate change. During the meeting, Spain announced a contribution of €2 million to the Treaty's benefit-sharing fund.

**HIGH-LEVEL ROUNDTABLE ON THE ITPGR:** Hosted by the Government of Italy with the support of the ITPGR Secretariat under the title "Leading the Field," the High-level Roundtable on the ITPGR (7 December 2010, Rome, Italy) focused on the role of the ITPGR in addressing food security in a time of climate change. Speakers emphasized: the need to continue exchanging and using PGRFA to achieve food security, particularly in the climate change context; the Treaty's role in that regard; that all parties should make their relevant PGRFA available through the MLS; that the Treaty's benefit-sharing fund should be used to assist small-scale farmers to adapt to climate change; and that investing in the Treaty should continue and the Treaty's Core Administrative Budget should be funded adequately.

**COMPLIANCE WORKING GROUP:** The *Ad Hoc* Working Group on compliance held two meetings (2-3 February 2010 and 17-18 January 2011, Rome, Italy). At its first meeting, the group emphasized the importance of cooperative and effective compliance procedures, noting they should be facilitative and supportive in nature, and developed new draft text regarding procedures and operational mechanisms to

promote compliance and address issues of non-compliance. At its second meeting, the group further developed the draft text and agreed on a draft resolution for the Governing Body to adopt. Outstanding issues include: linking compliance to countries' differentiated capacity; functions of the compliance committee and who could trigger the procedure; and publicity of the compliance committee decisions.

**ADVISORY COMMITTEE ON THE FUNDING STRATEGY:** The advisory committee convened twice (26-27 May 2010 and 13-15 October 2010) focusing on: resource mobilization; profiling and branding of the benefit-sharing fund; design of the 2010 call for proposals for the benefit-sharing fund, and review of the work involved; development of partnership strategies to support the implementation of the fund; preparation of a mid-term programme for the fund; establishment of procedures and institutional arrangements for reporting, monitoring and evaluation of projects and disbursement of funds; and advice on the autonomy and self-administration of the fund in the context of the review of statutory bodies of FAO.

**ADVISORY COMMITTEE ON THE SMTA AND MLS:** The *Ad Hoc* Advisory Technical Committee on the SMTA and the MLS met twice (18-19 January 2010, Rome, Italy, and 31 August-2 September 2010, Brasilia, Brazil). At its first meeting, the Committee addressed implementation questions raised by MLS and SMTA users, including: criteria for identifying PGRFA that are under the management and control of parties, and in the public domain; and incentive measures to encourage natural and legal persons to include their Annex I PGRFA in the MLS. At its second meeting, the Committee addressed issues including: reporting obligations of parties under the SMTA; restrictions on further transfer of PGRFA under development; non-food/feed uses of PGRFA; and restoration of germplasm.

**THIRD PARTY BENEFICIARY COMMITTEE:** The *Ad Hoc* Third Party Beneficiary Committee (7-8 October 2010) reviewed and finalized draft mediation rules and a corresponding amendment to the Third Party Beneficiary Procedures.

**CBD COP 10:** The tenth meeting of the Conference of the Parties (COP) to the CBD (18-29 October 2010, Nagoya, Japan) adopted the Nagoya Protocol on ABS, which sets out rules and procedures for implementing the Convention's third objective on fair and equitable benefit-sharing. The Protocol recognizes that the ITPGR is part of the international regime on ABS, and that specialized ABS instruments supersede its provisions as long as they are consistent with, and do not run counter to, the CBD and Protocol objectives.

**CONFERENCE ON FARMERS' RIGHTS:** The Global Consultation Conference on Farmers' Rights (23-25 November 2010, Addis Ababa, Ethiopia) focused on: rights to save, use, exchange and sell farm-saved seeds; protection of traditional knowledge; benefit-sharing; and participation in decision making. The meeting provided an overview of national measures affecting the realization of farmers' rights, achievements and success stories, farmers' views on required measures, major obstacles and options, gaps and needs, as well as recommendations to the Governing Body.

**BALI MINISTERIAL CONFERENCE:** Convened on 11 March 2011, the meeting adopted the Bali Ministerial Declaration on the ITPGR, in which participants: engage themselves to further enhancing Treaty implementation to help meet the challenges of agricultural biodiversity erosion, food insecurity, extreme poverty and the effects of climate change; and call upon parties and relevant stakeholders to prioritize activities relevant to the MLS, SMTA, sustainable use of PGRFA, and farmers' rights, and to mobilize more effective and timely contributions to the implementation of the Funding Strategy, including its benefit-sharing fund.

## ITPGR GB 4 HIGHLIGHTS: MONDAY, 14 MARCH 2011

Delegates to the fourth session of the Governing Body (GB 4) of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) met in plenary throughout the day, to hear statements and reports, address organizational matters, and begin discussions on the Funding Strategy.

### PLENARY

**OPENING:** Following a ceremony led by a Balinese priest and featuring traditional Balinese dancers, GB 4 Chair Cosima Hufler (Austria) expressed her appreciation to Indonesia for hosting the session. The meeting observed a minute of silence in memory of the victims of the earthquake and tsunami in Japan.

ITPGR Secretary Shakeel Bhatti highlighted Indonesia's support for the Treaty and its financial contribution to the benefit-sharing fund, the support of FAO and its Commission on Genetic Resources for Food and Agriculture (CGRFA) and the positive institutional relationship between the Treaty and the Convention on Biological Diversity (CBD). CBD Executive Secretary Ahmed Djoghlaif presented an overview of the outcomes of the tenth meeting of the CBD Conference of the Parties, including the new Strategic Plan and the Nagoya Protocol on access and benefit-sharing (ABS), noting the complementarities between the Treaty and the ABS Protocol and highlighting the need for the Protocol's early entry into force.

CGRFA Secretary Linda Collette emphasized recent collaboration between the Governing Body of the ITPGR and the Commission, highlighting the launch of the second Report on the State of the World's PGRFA, the draft updated Global Plan of Action, and draft revised genebank standards.

Director-General of the Indonesian Agency for Agricultural Research and Development Ir. Haryono announced that Indonesia pledged US\$100,000 to the Treaty. He informed delegates that 48 countries took part in the Ministerial Conference on Biodiversity for Agriculture and Food Security aimed at strengthening implementation of the ITPGR in view of climate change, which was held on 11 March and resulted in the Bali Ministerial Declaration.

In a keynote address, FAO Assistant Director-General Modibo Traoré commended the ITPGR for its fast rate of ratification. Noting the Treaty's benefit-sharing fund's disbursement of US\$10 million, including to assist farmers adapt crops to climate change, he called on all parties to fulfill their financial commitments.

**ORGANIZATIONAL MATTERS:** Chair Hufler announced replacement of vice-chairpersons, with the new ones being: Travis Power (Australia) for the South West Pacific Region;

Maria Cecilia Calvacante Vieira (Brazil) for Latin America and the Caribbean Region; and Mohd Saad Azman (Malaysia) for the Asian Region.

Morocco, for the G-77/CHINA, requested that implementation of the funding strategy be considered before compliance procedures. Delegates adopted the agenda (IT/GB-4/11/1) as amended, and the timetable (IT/GB-4/11/2 Rev.2) as revised following the Bureau meeting. They elected Kassahun Embaye (Ethiopia) as Rapporteur of the meeting; and established a credentials committee, as well as a budget committee, co-chaired by Lim Eng Siang (Malaysia) and Søren Skafte (Denmark). Chair Hufler noted that participation in the budget committee is restricted to parties.

ITPGR Secretary Bhatti acknowledged the financial restraints that parties are under and urged them to support the Treaty's growth. He underscored priorities for the 2012/13 work programme and budget, including consolidating public recognition of the Treaty's role and cooperation with the ABS Protocol.

**REPORTS:** Chair Hufler presented her report (IT/GB-4/11/4) highlighting that voluntary contributions to the budget have significantly increased, and the benefit-sharing fund has received greater political attention.

ITPGR Secretary Bhatti presented his report (IT/GB-4/11/5), praising delegates for the tremendous progress of the Treaty in the past ten years and calling for renewed commitment in the new biennium. He noted, among others, progress in inclusions of plant genetic resources for food and agriculture (PGRFA) in the Multilateral System (MLS), including from developing countries. He highlighted the Treaty's synergies with the Global Crop Diversity Trust and the CBD, and called for adequate allocation of resources to further ITPGR's implementation.

VIA CAMPESINA, for civil society, drew attention to corporate concentration in the seed sector, noting the Treaty cannot depend on corporate funding.

**STATEMENTS:** Stressing its support for the Treaty including an additional €2.2 million contribution to the benefit-sharing fund for the current biennium, SPAIN encouraged the GB to review the recommendations contained in the Cordoba Declaration on Agricultural Biodiversity in Addressing Hunger and Climate Change, adopted in September 2010. Brazil, for GRULAC, stressed the need for sustainable and predictable contributions to the core budget and agreement on financial rules, and called for the mandated regional workshops on farmers' rights to be undertaken.

G-77/CHINA prioritized work on farmers' rights, sustainable use of PGRFA, the Funding Strategy, budget and capacity development. Iran, for the NEAR EAST REGION, called on developed countries to meet their technology transfer

obligations. YEMEN called for awareness-raising about farmers' rights and national legislation to implement them. The US reported on Senate Committee hearings on the Treaty which recommended ratification, and expressed hope that the new Senate will consent to ratification.

The ETC Group and SEARICE, for civil society, presented José Ramon Lopez-Portillo (Mexico), Melaku Worede (Ethiopia) and César Gómez Campo (Spain) with the Herman Warsh Memorial Award for outstanding service to the PGRFA community.

**FINANCIAL RULES:** The Secretariat introduced the item (IT/GB-4/11/6) and called on parties to finalize outstanding issues. Chair Hufler proposed that a Friends of the Chair group, comprising one representative per region, meet to discuss the financial rules. CUBA opposed, citing logistical constraints faced by small delegations and the great interest by many parties in this issue. Chair Hufler said her proposal remains on the table, pending further consultations. SEARICE stressed that for the Treaty to be more effective, parties should agree to voluntary contributions based on an indicative scale.

**BUDGET:** Reiterating that it is a major contributor to the Treaty, SPAIN expressed concern that the Treaty survives due to the generosity of a handful of countries, which is not sustainable in the long-term and runs counter to multilateralism. He expressed concern at the deficit in the core administrative budget, as contributions have not been received and therefore core activities had to be funded on the basis of loans from the special funds. He noted that the proposal for the next budget, at almost zero nominal growth, is in the same predicament due to the many mandated activities under the Treaty. He stressed that a core administrative budget for the Treaty has to be set aside and commitments have to be made to finance it. IRAN agreed, stressing that activities under the Treaty should not all be donor-driven, but based on decisions taken and funding agreed by the GB.

**FUNDING STRATEGY:** Bert Visser (the Netherlands), Co-Chair of the Advisory Committee on the Funding Strategy, presented the Committee's report (IT/GB-4/11/8), highlighting its recommendations on: resource mobilization; operation of the benefit-sharing fund; and implementation of the full Funding Strategy. Noting that further intersessional work is needed, he said that, with a renewed mandate, the Committee could address: oversight of the project cycle, in particular project management, monitoring and evaluation; oversight of resource mobilization efforts; and advice on establishment and implementation of partnerships.

Chair Hufler noted the Bureau's recommendation to give the panel of experts more time to complete their appraisal of proposals, for approval to be given by the GB 5 Bureau.

Cyprus, for the EUROPEAN REGIONAL GROUP (ERG), called for continued efforts to reach the target of US\$166 million. Among others, she recommended: intensifying cooperation between the benefit-sharing fund and the Global Crop Biodiversity Trust; and building partnerships beyond donor relations. She expressed concern over high overhead costs and suggested speeding up FAO recruitment processes to avoid delays in resource mobilization.

CANADA requested the Secretariat identify the budgetary implications of resolutions under consideration. AUSTRALIA praised the Secretariat for searching out non-traditional funding sources and drew attention to his country's contribution of US\$ 800,000 to the benefit-sharing fund.

AUSTRALIA opposed renewing the mandate of the Advisory Committee, with CANADA suggesting that the Bureau could fill the Committee's role. ANGOLA stressed that funding must reach farmers, and opposed dismantling the Advisory Committee.

BRAZIL suggested establishment of a permanent expert body to handle the calls for proposals. MALAYSIA further noted the need to fund projects in all regions. SWITZERLAND said the benefit-sharing fund must continue to be a pillar of the Funding Strategy and called for predictable funding and regular voluntary contributions.

The INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD) illustrated the importance of biodiversity for rural poverty reduction and stressed the need for biodiversity conservation through sustainable utilization. VIA CAMPESINA stressed that *ex situ* conservation should not monopolize funding, noting that on-farm conservation is far more important and should benefit from contributions by parties and industry. The INTERNATIONAL SEED FEDERATION highlighted the seed industry's support for genebanks, breeding programmes in developing countries and the Global Crop Diversity Trust, and called for innovative approaches for the Treaty's implementation. ITPGR Secretary Bhatti expressed his appreciation to the parties that contributed to the benefit-sharing fund.

Summarizing discussions, Chair Hufler highlighted, among others, agreement on: the need for sustainable, multi-year contributions; developing partnerships; and identifying implementing agencies. She underscored differing views on: reconvening the Advisory Committee; collaboration between the Treaty and the Global Crop Diversity Trust; and overhead costs, noting this issue will be addressed by the budget committee. A revised resolution will be tabled on Tuesday.

**COMPLIANCE:** René Lefeber, Co-Chair of the *Ad Hoc* Working Group on compliance, presented the Co-Chairs' report (IT/GB-4/11/7), highlighting the need for further discussion to finalize outstanding issues. Chair Hufler suggested establishment of a contact group mandated to finalize the rules and procedures on compliance and consider the accompanying resolution. She proposed the contact group comprise two spokespersons per region, and be open to parties and observers.

GRULAC and YEMEN opposed establishment of a contact group at this point, as well as to participation on the basis of regional groups. AUSTRALIA, the ERG, MALAYSIA, the PHILIPPINES, and Kenya, for the AFRICAN GROUP, supported its establishment. Discussion on the issue will continue.

### IN THE CORRIDORS

The Treaty's biannual Governing Body session opened under pouring rain in Bali. In a region that knows the devastation caused by tsunamis, delegates expressed heartfelt solidarity with Japan as it comes to terms with the effects of the recent natural disaster. Mindful of the heavy workload, they got into work-mode quickly. Lawyers especially seemed to look forward to the deliberations on compliance. One delegate claimed "we have done lots of intersessional work; we just need to resolve a few issues and we can build something really good here." At the same time, scientists focused on the need to improve MLS implementation, to accelerate inclusion of PGRFA into the system and generate benefit-sharing payments. Afternoon discussions centered around money: the key to ensuring Treaty implementation. Some delegates stressed that the crux of the matter is not just agreeing on a core budget and pledged contributions, but also having more than a handful of parties actually realize those pledges and donations. Everybody seemed to agree that unless long-term sustainable funding is put in place, the Treaty's potential and relevance could be undermined. The end of day one presented a further worry: how delegates are going to get through the agenda, with proposals for any and all break-out groups being seemingly nipped in the bud. "A break-out session may actually be in a warmer room!" joked one delegate as an incentive to get delegates out of the freezing plenary hall.

## ITPGR GB 4 HIGHLIGHTS: TUESDAY, 15 MARCH 2011

ITPGR GB 4 delegates met in plenary to address implementation of the Treaty's Multilateral System (MLS) and standard material transfer agreement (SMTA), operation of the Third Party Beneficiary, and implementation of Article 6 (Sustainable Use of Plant Genetic Resources). Contact groups on the Funding Strategy and compliance, as well as the budget committee met in the evening. Informal consultations on the financial rules of the Governing Body were held throughout the day.

### PLENARY

**PROCEDURAL MATTERS:** Following Bureau and informal consultations, Chair Hufler proposed, and delegates agreed to: hold inter-regional and informal consultations on the financial rules; establish a contact group on compliance, co-chaired by René Lefeber (the Netherlands) and Javad Mozafari (Iran); and establish a contact group on the Funding Strategy, co-chaired by Médi MOUNGUI (Cameroon) and Bert Visser (the Netherlands).

**IMPLEMENTATION OF THE MLS: Review of implementation of the MLS and review of the MTA used by IARCs for non-Annex-I PGRFA:** The Secretariat introduced the relevant documents (IT/GB-4/11/12 and Inf.5), highlighting, among others: the need to prioritize harmonious implementation of the Treaty and the Nagoya Protocol on ABS; information gaps, as many parties still need to report on their PGRFA that are covered by the MLS; the extensive experience of the international agricultural research centers (IARCs) of the Consultative Group on International Agricultural Research (CGIAR); and the continuing need for capacity building in the use of the SMTA.

Lim Eng Siang (Malaysia), Co-Chair of the Technical Advisory Committee on the MLS and the SMTA, presented the Committee's report (IT/GB-4/11/Inf. 7 and Inf. 8). He underscored the Committee's mandate to advise on implementation questions raised by SMTA users, and the opinions they have provided on such questions. He suggested the Committee be reconvened in the upcoming biennium. Brian Harvey (Canada), Committee Co-Chair, stressed that the amendments to the SMTA that the Committee proposed are technical and do not change the content.

Highlighting the need for national implementation, the ERG urged identifying why very few parties have included their material in the MLS. She reported on European experience and capacity-building activities, and invited parties to similarly assess their level of implementation. Noting that the reporting

system is voluntary, CANADA said the cost of storing increasing information should not be covered by the core administrative budget.

CANADA and the SOUTH WEST PACIFIC welcomed the SMTA amendments recommended by the Committee. The ERG proposed that the Secretariat prepare an options paper before the GB considers any amendments to the SMTA.

BRAZIL, the ASIAN REGION, the NEAR EAST REGION, the AFRICAN GROUP and INDIA supported reconvening the Committee, with ECUADOR supporting its proposed terms of reference and requesting that members be legal experts from all regions. The ERG suggested that the compliance committee provide advice on the Treaty and MLS interpretation. The SOUTH WEST PACIFIC called for continuing the work, either through reconvening the Committee or through other committees under the Treaty.

Malaysia, for the ASIAN REGION, the NEAR EAST REGION and ANGOLA called for a review of the MLS, including the level, form and manner of payments, and a mechanism to facilitate the flow of benefits and information to developing country farmers.

The NEAR EAST REGION and the AFRICAN GROUP said there is no need to review the list of Annex I crops.

The PHILIPPINES requested CGIAR to provide a mechanism to facilitate farmers' access to the MLS, including, among others: information dissemination; localized access to the MLS database; and capacity building. He further proposed exploring mechanisms to implement non-monetary benefit-sharing, and conducting a study on the extent to which intellectual property rights apply to material from the MLS.

BRAZIL asked to delete the provisions foreseeing further work on innovative approaches and developing standards under Article 12.3h (access to PGRFA *in situ*). The AFRICAN GROUP noted the lack of benefits accruing to the region, and called for capacity-building regarding use of the SMTA and sharing of non-monetary benefits such as technology transfer and information sharing. ANGOLA, supported by INDIA, stressed the need for benefits to reach farmers and encouraged countries to use the SMTA's alternative payments scheme.

Biodiversity International, for the CGIAR, drew attention to their report (IT/GB-4/11/Inf. 5), noting an increase in the number of samples distributed and that most of them consisted of center-improved material distributed as PGRFA under development without any additional conditions.

PRACTICAL ACTION expressed concern that no benefits are flowing to the custodians of PGRFA and no mandatory payments have been introduced. CIVIL SOCIETY recommended preparing a report on the potential of new storage technologies for long-term seed conservation; the implications of new genome-

mapping technologies on the Treaty; and possible violations of the Treaty by patent claims that extend to end-users of food and feed products.

Chair Hufler noted differing views on revising the SMTA and reconvening the Committee. She pointed out suggestions to focus on the level and manner of payment and non-monetary benefit-sharing in the terms of reference for the Committee; and to a proposed mechanism to consider direct and indirect benefits to farmers. A revised draft resolution will be prepared by the Secretariat.

**Inclusion of PGRFA held by natural and legal persons, and review of implementation of the SMTA:** The Secretariat introduced the document (IT/GB-4/11/13), inviting delegates to consider whether to commence or postpone the process for the reviews and assessments under Articles 11.4 (progress in inclusions by natural and legal persons) and 13.2d(ii) (level of payments).

The ERG, BRAZIL and CANADA supported postponing the reviews due to lack of information. The ERG drew attention to material included in the MLS by European genebanks outside government control. She stressed the need to address primarily the lack of sufficient implementation by collections under the direct responsibility of parties. She urged all parties to include material in the MLS, and to encourage natural and legal persons to include material and report on inclusions through their national focal points. CANADA said that the private sector and others can include material by donating it to a national or international institution. YEMEN expressed concern regarding lack of benefits to the region arising from the MLS, including technology transfer. He proposed adding elements on the source of the genetic resources and their most important assets to the SMTA.

**OPERATION OF THE THIRD PARTY BENEFICIARY:** *Ad Hoc* Third Party Beneficiary Committee Chair Mozafari reported on the Committee's deliberations (IT/GB-4/11/14), including development of draft rules of mediation and lack of conclusion on applying the Third Party Beneficiary procedures to transactions related to non-Annex I material. The Secretariat introduced relevant documentation (IT/GB-4/11/15).

The ERG expressed disappointment that the committee had not come to any conclusions on applying the procedures to non-Annex I material transferred with the SMTA. The ASIAN REGION noted that use of the procedures is at the discretion of IARCs and should not involve the GB. BRAZIL requested clarification about the role of the administrator under the mediation rules, before considering adoption of the rules. The AFRICAN GROUP suggested that any future questions on the Third Party Beneficiary be considered by the Committee on the MLS. The SOUTH WEST PACIFIC suggested parties may want to liaise with the Bureau before commencing any mediation procedures. Regarding identification of violations, the ETC GROUP requested wider participation in identification of violations, observing that biopiracy cases have been brought forward by farmers and civil society organizations.

Regarding the Third Party Beneficiary Operational Reserve, the ERG agreed that it should remain at the same level for the next biennium and called for setting priorities for the use of limited resources. ECUADOR noted that only parties should be called upon to contribute to the operational reserve. BRAZIL queried the level of contributions to date and how funds are being raised.

Chair Hufler noted parties' support for the draft mediation rules; and that the Committee on the MLS would deliberate on the issue of applying the Third Party Beneficiary procedures to transactions related to non-Annex I material.

**SUSTAINABLE USE:** The Secretariat introduced the relevant documents (IT/GB-4/11/17 and Inf. 3 and 4). Many delegates welcomed development of a toolbox to assist countries in designing measures to promote the sustainable

use of PGRFA. The ERG questioned whether a toolbox alone can achieve the objective and whether it can reach farmers, and requested information on the content and financial implications of the toolbox. The AFRICAN GROUP called for the toolbox to be all-inclusive and as interactive as possible. The PHILIPPINES suggested that it be participatory and inclusive, especially with regard to the views of farmers and indigenous peoples. ECUADOR, BRAZIL and CUBA proposed including farmers' rights within the toolbox's constituent elements, and BURKINA FASO stressed that the toolbox should include the practices of rural communities. CANADA suggested that the proposed stakeholder consultation on a work programme on sustainable use be an online forum. The NEAR EAST REGION called for promotion of regionally important crops and market opportunities for underutilized species, and innovative approaches to promote sustainable use through partnerships. NAMIBIA and YEMEN stressed that *in situ* conservation is an essential component of sustainability. VENEZUELA noted that Article 6 implementation will strengthen food security. The CGIAR drew attention to their wide range of activities related to sustainable use, involving countries, organizations and farmer communities.

ECUADOR welcomed establishment of an *ad hoc* technical committee. The SOUTH WEST PACIFIC suggested considering its budgetary and logistical implications. The ERG called for establishing the committee, subject to availability of funds, with broad participation, to address challenges in adaptation of global agricultural systems to climate change. CAMEROON suggested the committee could meet virtually. PERU announced the establishment of their Agriculture Ministry's new centre of plant genetic resources for the Andean region, and stressed the importance of working on orphan and underutilized crops.

SEARICE stressed that the proposed toolbox undermines the legally binding dimension of Article 6 implementation, namely national legislation, and called for a redirection from centralized *ex situ* conservation to decentralized seed systems. VIA CAMPESINA stressed the importance of local reproduction of seeds for adaptation to climate change, and called for a standing working group on sustainable use and farmers' rights, with full participation of farmers and indigenous peoples.

Chair Hufler noted general agreement to highlight the sustainable use aspect of Treaty implementation, and to develop a toolbox, further clarifying and simplifying its contents, with the involvement of all stakeholders, to ensure it benefits farmers.

### IN THE CORRIDORS

Throughout the day, delegates delved into complex, technical issues at the heart of the operation of the Treaty: implementation of its Multilateral System. Still, positions were divided along political lines: developed countries wondered how inclusions to the MLS could be accelerated, noting that facilitated access and data-sharing have major benefits of their own. Developing countries disagreed. "Facilitated access is a benefit as long as one has the capacity to use the system," one seasoned delegate declared, noting the lack of tangible benefits reaching farmers and communities. No doubt, implementation of the Treaty centers around the interplay of access and benefit-sharing, however, "prioritization is a matter of choice," one observer noted. He added that, according to the text of the Treaty, farmers are supposed to be its primary beneficiaries, but this objective has somehow been lost in translation from words to action. "Are we still on track?" wondered another.

## 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.



## ITPGR GB 4 HIGHLIGHTS: THURSDAY, 17 MARCH 2011

ITPGR GB 4 delegates met in plenary to continue discussions on the Global Crop Diversity Trust, and address a resolution on implementation of the MLS. The budget committee and several contact and informal groups met during the day and into the night to address: compliance; the Funding Strategy; implementation of the MLS; financial rules of the GB; and farmers' rights.

### PLENARY

ECUADOR expressed frustration about key substantive discussions being delegated to small groups, where non-parties and NGOs participate in negotiations, and whose chairs do no report back to plenary. She stressed that decisions have to be taken by plenary, further pointing out that new ideas are included in draft resolutions and then discussed in small groups, without reaching plenary.

Following a brief Bureau meeting and ensuing regional consultations, Chair Hufler proposed, and delegates agreed to, discuss the draft resolution on implementation of the MLS in the afternoon plenary, and convene the contact groups on compliance and the funding strategy over lunch.

CUBA requested legal advice on the functions of the Bureau. The FAO legal advisor explained that while the traditional role of the Bureau is that of organization of meetings, the trend in FAO has been to expand the Bureau's mandate to include substantive issues. He added that the Bureau's functions are for parties to decide. CUBA, supported by ECUADOR and IRAN, called for more discussion on this issue. AUSTRALIA agreed, but noted that there is no need to revise the functions of the Bureau at this point.

At the end of the afternoon plenary, CUBA formally requested that the meeting of the budget committee take place in plenary, with translation. Following consultations, Chair Hufler announced that the budget committee would meet in the evening, reserving the possibility of discussing priority items for the budget in plenary on Friday.

**GLOBAL CROP DIVERSITY TRUST:** SAMOA stressed the important role of the Trust in the South West Pacific, including in conservation of taro varieties. The PHILIPPINES urged the Trust to increase support for genebanks in national institutions.

CAMEROON opposed a provision in the draft resolution delegating powers to the Bureau to select members of the Executive Board of the Trust, suggesting instead to continue with the current procedure. He further sought clarification about the issue of location of the Trust's Headquarters.

Trust Executive Director Cary Fowler explained that the Trust's interim Headquarters are in Rome, hosted at FAO, and provided an overview of the Trust's efforts to secure a host agreement with Italy. Noting that no such agreement is currently in place, he informed delegates that the Executive Board of the Trust has developed a tender for hosting its headquarters and a committee has been set up to consider offers, currently from three countries. FAO clarified that the FAO Secretary-General had offered to continue hosting the Trust.

ANGOLA requested that part of donations to the Trust should go into the benefit-sharing fund to implement participatory breeding and sustainable use projects. The REPUBLIC OF KOREA highlighted the availability to other countries of their genebank and safety backup system. The CGIAR emphasized the need for long-term support for the collections, and the danger of materials being lost forever if support is not forthcoming. CIVIL SOCIETY requested more research on how to save seeds in long-term storage, citing the important role of community seed banks.

**MLS IMPLEMENTATION:** Delegates considered a draft resolution on implementation of the MLS. MLS contact group Co-Chair Leontino Taveira (Brazil) reported on the deliberations and points of contention, including: the terms of reference of the *ad hoc* advisory technical committee on the SMTA and the MLS; and the inclusion of the Germplasm Resource Information System Global project as a tool to document PGRFA within the MLS.

Delegates agreed to merge the core elements of the background documents on MLS implementation into one resolution. On the composition of the committee, the ERG proposed, and delegates agreed, that the committee will comprise up to two members per region and up to five technical experts, including CGIAR representatives, serving as observers.

On the function and role of the committee, delegates agreed that it would advise the Secretary on implementation questions raised by users of the SMTA and MLS; and that it would hold up to two meetings, subject to availability of financial resources. Delegates discussed proposals regarding the committee's reports

to the GB and other outputs, including whether it would issue “interim opinions,” “opinions” or “recommendations.” They eventually agreed that the committee would provide a report to the GB containing sections on its opinions and recommendations, to be considered by the GB, adopted if agreed upon, and passed on to SMTA users as agreed recommendations; and that it would also provide, through the Secretary, day-to-day opinions to SMTA users.

Delegates then discussed the issues the committee would consider. They agreed that it would address any outstanding issues from previous meetings and issues it had identified for further development. Delegates agreed to invite parties and CGIAR centers to provide questions to the Secretary that will clarify such issues. Delegates further agreed not to include the issue of the application of the Third Party Beneficiary procedures to transactions related to non-Annex I material transferred by the CGIAR centers.

Angola, for the AFRICAN GROUP, requested that the committee deal with: a review of the levels of payments to achieve fair and equitable sharing of benefits; suggestions on whether mandatory payment requirements in the SMTA will apply to cases where such commercialized products are available without restriction to others for further research and breeding; and a review of the alternative payments scheme. The ERG said these issues are too political to be considered by the committee, and suggested addressing them elsewhere. CANADA pointed to the lack of sufficient information for initiating such reviews. ANGOLA and MALAYSIA insisted that these reviews have to be initiated.

The ERG suggested that the Secretary compile a report based on information obtained from parties. CANADA suggested that this include summary information about parties’ contributions to the MLS, how many accessions are in the MLS, whether these accessions have been declared as part of the MLS, how many SMTAs parties have entered into, and the benefits that have accrued from these. ANGOLA suggested also including information on the levels of payment.

The ERG suggested including reference to Articles 11.4 and 13.2d(ii) on assessment of progress and review of the level of payments, in preparation for the reviews foreseen under those articles. MALAYSIA suggested, and delegates agreed, to request the Secretary to also identify any further information needed and provide recommendations to the GB on the organization of the assessment and reviews.

The ERG suggested the compliance committee develop a standard format for reporting on use of the SMTA. ECUADOR opposed, saying that such a format should be developed by a technical *ad hoc* committee. Delegates agreed to just refer to a standard format to be adopted by the GB.

Regarding a request to parties to provide a mechanism to facilitate farmers’ access to the MLS for purposes of research and breeding, the ERG said the issue should be further explored by the committee, whereas the PHILIPPINES instead suggested commissioning a study. Delegates agreed to add this to the issues to be considered by the MLS committee.

## CONTACT GROUPS

**COMPLIANCE:** The contact group on compliance resumed discussion over lunchtime, starting with a section entitled “Other procedures regarding the promotion of compliance.” Delegates debated whether the committee may seek or receive and consider relevant information from the Secretariat and other sources in considering statements and questions. No agreement was reached and the provision was removed.

Regarding a section on monitoring and reporting, delegates agreed that the reporting period for subsequent reports should be five years or in accordance with any further decision of the GB. Delegates agreed to replace two provisions with one foreseeing that the committee shall submit to the GB a synthesis on the basis of the reports that it has considered, including an analysis of general trends and specific issues related to the promotion of compliance and issues of non-compliance, which may include recommendations. During discussion, delegates disagreed over the committee’s power to make recommendations, while one proposal was to limit the provision to submitting the synthesis. Discussions continued in the evening.

**FUNDING STRATEGY:** Meeting over lunchtime, the contact group focused on new text in the draft resolution, reflecting major issues raised in plenary. Participants considered the role of the Secretariat in facilitating implementation of the first round of the project cycle under the benefit-sharing fund, and agreed that the Secretariat should develop guidelines for implementation. They also discussed at length two alternative proposals regarding synergies between the benefit-sharing fund and the Global Crop Diversity Trust, and eventually agreed to take note of the Trust’s report and request the ITPGR Secretary and the Trust Executive Director to enhance synergies. Outstanding issues include: a proposal to acknowledge the importance of regional balance in the sharing of benefits through the Funding Strategy; and whether the Bureau or the *ad hoc* advisory committee on the Funding Strategy will engage in intersessional work.

## IN THE CORRIDORS

Thursday started off with a big bang: complaints were aired about executive decisions taken by the Bureau, and about discussions of key issues being delegated to small groups rather than being held in plenary. Taking it in their stride, plenary then shifted into fifth gear, completing consideration of the draft resolutions on the MLS faster than any contact group ever could. Some delegates pointed out that much of the underlying frustration was linked to the Bureau’s suggestion to resolve the seemingly never-ending debate on the financial rules in a small group. One delegate commented, “Anyone who has ever chaired a meeting knows that it takes innovative approaches and executive decisions to try and break deadlocks,” adding, “some discussions are best held in back rooms.” Financial rules, along with the budget and a number of other critical issues are yet to be finalized; still, the progress made on Thursday bodes well for a successful outcome of the meeting as a whole.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of ITPGR GB 4 will be available online on Monday, 21 March 2011 at: <http://www.iisd.ca/biodiv/itpgrgb4/>

## SUMMARY OF THE FOURTH SESSION OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE: 14-18 MARCH 2011

The fourth session of the Governing Body (GB 4) of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) convened from 14-18 March 2011, in Bali, Indonesia. Approximately 400 participants from parties and other governments, international, non-governmental and farmer organizations, and industry attended the session, which was preceded by a High-Level Ministerial Conference, organized by the Government of Indonesia (11 March 2011), and two days of regional consultations (12-13 March 2011).

The meeting was tasked with: reviewing implementation of the Treaty's Multilateral System (MLS) on access and benefit-sharing (ABS); adopting procedures and operational mechanisms to promote compliance and address issues of non-compliance; reviewing implementation of the Treaty's Funding Strategy; and resolving the outstanding financial rules of the Governing Body. Delegates also discussed: operation of the Third Party Beneficiary; farmers' rights; implementation of Article 6 (Sustainable Use of Plant Genetic Resources); cooperation with relevant organizations; and the work programme and budget for 2012-2013.

Marked by streamlined processes and a focus on substantive debates, the session was successful in tackling its diverse agenda and adopting significant outcomes. The Governing Body adopted nine resolutions. In particular, it adopted procedures and mechanisms on compliance, and reached consensus on the long-standing item of the financial rules of the Governing Body. It also adopted a work programme and budget for the 2012-2013 biennium, including a moderate budget increase, and resolutions on a number of items, including farmers' rights, sustainable use and implementation of the Funding Strategy. The Governing Body also outlined the intersessional process, including meetings of the Compliance Committee and *ad hoc* committees on MLS implementation, the Funding Strategy and sustainable use.

## A BRIEF HISTORY OF THE ITPGR

Concluded under the auspices of the UN Food and Agriculture Organization (FAO), the ITPGR is a legally binding instrument that targets the conservation and sustainable use of plant genetic resources for food and agriculture (PGRFA) and equitable benefit-sharing, in harmony with the 1992 Convention on Biological Diversity (CBD), for sustainable agriculture and food security. The Treaty contains sections on general provisions, farmers' rights, supporting components, and financial and institutional provisions. It establishes an MLS for facilitated access to a specified list of PGRFA including 35 crop genera and 29 forage species (Annex I), balanced by benefit-sharing in the areas of information exchange, technology transfer, capacity

### IN THIS ISSUE

A Brief History of the ITPGR .....	1
ITPGR GB 4 report .....	3
Financial Rules of the Governing Body .....	4
Compliance .....	4
Implementation of the Funding Strategy .....	6
Business Plan .....	7
Implementation of the Multilateral System .....	7
Operation of the Third Party Beneficiary .....	10
Sustainable Use .....	10
Farmers' Rights .....	11
Cooperation with Other International Organizations ..	12
Relationship with the Global Crop Diversity Trust ..	12
FAO External Evaluation .....	13
Work Programme and Budget for 2012-2013 .....	13
Closing Plenary .....	14
A Brief Analysis of the Meeting .....	14
Upcoming Meetings .....	15
Glossary .....	16

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Tallash Kantai, Delia Paul, Nicole Schabus, and Elsa Tsioumani. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org>. The Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Danish Ministry of Foreign Affairs, the German Federal Ministry for Economic Cooperation and Development (BMZ), the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), the European Commission (DG-ENV), and the Italian Ministry for the Environment, Land and Sea. General Support for the *Bulletin* during 2011 is provided by the Norwegian Ministry of Foreign Affairs, the Government of Australia, the Ministry of Environment of Sweden, the New Zealand Ministry of Foreign Affairs and Trade, SWAN International, Swiss Federal Office for the Environment (FOEN), the Finnish Ministry for Foreign Affairs, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI) and the United Nations Environment Programme (UNEP). Specific additional funding for daily issues of the *Earth Negotiations Bulletin* at this meeting has been provided by the Swiss Federal Office of Agriculture. Funding for translation of the *Bulletin* into French has been provided by the Government of France, the Belgium Walloon Region, the Province of Québec, and the International Organization of the Francophone (OIF and IEPF). The opinions expressed in the *Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 300 East 56th St., 11D, New York, NY 10022, United States of America.

building and commercial development. The Treaty entered into force on 29 June 2004, and currently has 127 parties.

**NEGOTIATION PROCESS:** The Treaty's negotiations were based on the revision of the non-binding International Undertaking on PGRFA (IU). The IU was originally based on the principle that PGRFA should be "preserved ... and freely available for use" as part of the common heritage of mankind. This was subsequently subjected to "the sovereignty of States over their plant genetic resources," according to FAO Resolution 3/91. In April 1993, the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA) decided that the IU should be revised to be in harmony with the CBD.

Negotiations spanned seven years. From 1994 to 1998, the CGRFA met in five extraordinary and two regular sessions to develop the structure of, and refine, a draft negotiating text. From 1999-2001, a contact group consisted of 41 countries, chaired by Amb. Fernando Gerbasi (Venezuela), held six sessions to address contentious issues, including the list of crops to be included in the MLS, benefit-sharing, intellectual property rights (IPRs) to materials in the MLS, financial resources, genetic materials held by the International Agricultural Research Centers (IARCs) of the Consultative Group on International Agricultural Research (CGIAR) and definition of key terms. The 121st FAO Council and an Open-ended Working Group held under its auspices (October-November 2001, Rome, Italy) resolved outstanding issues and, on 3 November 2001, the 31st FAO Conference adopted the ITPGR by a vote of 116 in favor, zero against and two abstentions.

**ITPGR INTERIM COMMITTEE:** The CGRFA, acting as the ITPGR Interim Committee, held two meetings (October 2002 and November 2004, Rome, Italy), where it adopted its rules of procedure, and set TORs for intersessional consideration of the rules of procedure and financial rules for the Governing Body, procedures for compliance, and the terms of the standard material transfer agreement (SMTA). An open-ended intersessional working group (December 2005, Rome, Italy) revised the rules of procedure and financial rules of the Governing Body, the funding strategy and procedures for compliance, and prepared a draft resolution on compliance for consideration by the first meeting of the Governing Body. An expert group on the SMTA (October 2004, Brussels, Belgium) considered options for the SMTA terms and draft structure, and recommended establishment of an intersessional contact group to draft its elements. This contact group held two meetings. At its first meeting (July 2005, Hammamet, Tunisia), it set out the basic structure of the SMTA. A number of controversial issues remained outstanding, such as: dispute settlement, including whether arbitration would be binding or not; the benefit-sharing mechanism and payment; and an African proposal to add a Third Party Beneficiary representing the Governing Body to monitor execution of the SMTA. The second meeting (April 2006, Alnarp, Sweden) agreed on a draft SMTA but left a number of issues unresolved, including: the Third Party Beneficiary's rights; the definitions of "product" and "sales," and the formula for benefit-sharing; obligations of the recipient in the case of subsequent transfers of material; dispute settlement; and applicable law. Contact group Chair Eng Siang Lim (Malaysia) established an intersessional Friends of the Chair

group to resolve pending issues prior to the first session of the Governing Body.

**ITPGR GB 1:** The first session of the ITPGR Governing Body (June 2006, Madrid, Spain) adopted the SMTA and the Funding Strategy. The SMTA includes provisions on a fixed percentage of 1.1% that a recipient shall pay when a product is commercialized but not available without restriction to others for further research and breeding; and 0.5% for an alternative payments scheme. The Governing Body 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 IARCs of the CGIAR and other international institutions.

**ITPGR GB 2:** The second session of the Governing Body (October-November 2007, Rome, Italy) addressed a series of items, including implementation of the Funding Strategy, the MTA for non-Annex I crops, cooperation with the CGRFA, and sustainable use of PGRFA. Following challenging budget negotiations, the meeting adopted the work programme and budget for 2008-09. It also adopted a resolution on farmers' rights, as well as a joint statement of intent for cooperation with the CGRFA.

**ITPGR GB 3:** The third session of the Governing Body (June 2009, Tunis, Tunisia) agreed to: a set of outcomes for implementation of the Funding Strategy, including a financial target of US\$116 million for the period July 2009 - December 2014; a resolution on 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. The meeting also adopted the work programme and budget for 2010-11; agreed to finalize the outstanding financial rules at GB 4; and established intersessional processes to finalize compliance procedures by GB 4 and review the SMTA.

**HIGH-LEVEL ROUNDTABLE ON THE ITPGR:** Hosted by the Government of Italy with the support of the ITPGR Secretariat under the title "Leading the Field," the High-level Roundtable on the ITPGR (7 December 2010, Rome, Italy) focused on the role of the ITPGR in addressing food security in a time of climate change. Speakers emphasized: the need to continue exchanging and using PGRFA to achieve food security, particularly in the climate change context; the Treaty's role in that regard; that all parties should make their relevant PGRFA available through the MLS; that the Treaty's benefit-sharing fund should be used to assist small-scale farmers to adapt to climate change; and that investing in the Treaty should continue and the Treaty's Core Administrative Budget should be funded adequately.

**COMPLIANCE WORKING GROUP:** The *Ad Hoc* Working Group on compliance held two meetings (2-3 February 2010 and 17-18 January 2011, Rome, Italy). At its first meeting, the group emphasized the importance of cooperative and effective compliance procedures, noting they should be facilitative and supportive in nature, and developed new draft text regarding procedures and operational mechanisms to

promote compliance and address issues of non-compliance. At its second meeting, the group further developed the draft text and agreed on a draft resolution for the Governing Body to adopt. Outstanding issues include: linking compliance to countries' differentiated capacity; functions of the Compliance Committee and who could trigger the procedure; and publicity of the Compliance Committee decisions.

#### **ADVISORY COMMITTEE ON THE FUNDING**

**STRATEGY:** The advisory committee convened twice (26-27 May 2010 and 13-15 October 2010) focusing on: resource mobilization; profiling and branding of the benefit-sharing fund; design of the 2010 call for proposals for the benefit-sharing fund, and review of the work involved; development of partnership strategies to support the implementation of the fund; preparation of a mid-term programme for the fund; establishment of procedures and institutional arrangements for reporting, monitoring and evaluation of projects and disbursement of funds; and advice on the autonomy and self-administration of the fund in the context of the review of statutory bodies of FAO.

#### **ADVISORY COMMITTEE ON THE SMTA AND MLS:**

The *Ad Hoc* Advisory Technical Committee on the SMTA and the MLS met twice (18-19 January 2010, Rome, Italy, and 31 August - 2 September 2010, Brasilia, Brazil). At its first meeting, the Committee addressed implementation questions raised by MLS and SMTA users, including: criteria to identify PGRFA that are under the management and control of parties, and in the public domain; and incentive measures to encourage natural and legal persons to include their Annex I PGRFA in the MLS. At its second meeting, the Committee addressed issues including: reporting obligations of parties under the SMTA; restrictions on further transfer of PGRFA under development; non-food/feed uses of PGRFA; and restoration of germplasm.

**THIRD PARTY BENEFICIARY COMMITTEE:** The *Ad Hoc* Third Party Beneficiary Committee (7-8 October 2010) reviewed and finalized draft mediation rules and a corresponding amendment to the Third Party Beneficiary Procedures.

**CONFERENCE ON FARMERS' RIGHTS:** The Global Consultation Conference on Farmers' Rights (23-25 November 2010, Addis Ababa, Ethiopia) focused on: rights to save, use, exchange and sell farm-saved seeds; protection of traditional knowledge; benefit-sharing; and participation in decision making. The meeting provided an overview of national measures affecting the realization of farmers' rights, achievements and success stories, farmers' views on required measures, major obstacles and options, gaps and needs, as well as recommendations to the Governing Body.

**BALI MINISTERIAL CONFERENCE:** Convened on 11 March 2011, this ministerial conference adopted the Bali Ministerial Declaration on the ITPGR, in which participants: engage themselves to further enhancing Treaty implementation to help meet the challenges of agricultural biodiversity erosion, food insecurity, extreme poverty and the effects of climate change; and call upon parties and relevant stakeholders to prioritize activities relevant to the MLS, SMTA, sustainable use of PGRFA, and farmers' rights, and to mobilize more effective and timely contributions to the implementation of the Funding Strategy, including its benefit-sharing fund.

## **ITPGR GB 4 REPORT**

On Monday, 14 March 2011, following a ceremony led by a Balinese priest and featuring traditional Balinese dancers, GB 4 Chair Cosima Hufner (Austria) expressed her appreciation to Indonesia for hosting the session. Delegates observed a minute of silence in memory of the victims of the earthquake and tsunami in Japan.

ITPGR Secretary Shakeel Bhatti highlighted Indonesia's support for the Treaty and its financial contribution to the benefit-sharing fund, the support of the FAO and the CGRFA, and the positive institutional relationship between the Treaty and the CBD. CBD Executive Secretary Ahmed Djoghlaif presented an overview of the outcomes of the tenth meeting of the CBD Conference of the Parties (COP), including the new Strategic Plan and the Nagoya Protocol on access and benefit-sharing, noting the complementarities between the Treaty and the Nagoya Protocol and highlighting the need for the Protocol's early entry into force.

CGRFA Secretary Linda Collette emphasized recent collaboration between the ITPGR Governing Body and the Commission, highlighting the launch of the second Report on the State of the World's Plant Genetic Resources for Food and Agriculture, the draft updated Global Plan of Action (GPA), and draft revised genebank standards.

Director-General of the Indonesian Agency for Agricultural Research and Development Haryono announced Indonesia's pledge of US\$100,000 to the Treaty. He informed delegates that 48 countries took part in the Ministerial Conference on Biodiversity for Agriculture and Food Security aimed at strengthening implementation of the ITPGR in view of climate change, which was held on 11 March 2011 and resulted in the Bali Ministerial Declaration.

FAO Assistant Director-General Modibo Traoré commended the ITPGR for its speedy rate of ratification. Noting the benefit-sharing fund's impending disbursement of US\$10 million, including to assist farmers adapt crops to climate change, he called on all parties to fulfill their financial commitments.

Stressing its support for the Treaty, including an additional €2.2 million contribution to the benefit-sharing fund for the current biennium, Spain encouraged the GB to review the recommendations contained in the Cordoba Declaration on Agricultural Biodiversity in Addressing Hunger and Climate Change, adopted in September 2010. Brazil, for the Latin American and Caribbean Group (GRULAC), stressed the need for sustainable and predictable contributions to the core budget and agreement on financial rules, and called for the mandated regional workshops on farmers' rights to be undertaken.

Morocco, for the Group of 77 and China (G-77/China) prioritized work on farmers' rights, sustainable use of PGRFA, the Funding Strategy, budget and capacity development. Iran, for the Near East, called on developed countries to meet their technology transfer obligations. The US reported on Senate Committee hearings on the Treaty that recommended ratification, and expressed hope that the new Senate will consent to ratification.

Via Campesina, for civil society, drew attention to corporate concentration in the seed sector, noting the Treaty cannot depend on corporate funding. The ETC Group and SEARICE, for civil

society, then presented José Ramon Lopez-Portillo (Mexico), Melaku Worede (Ethiopia) and César Gómez Campo (Spain) with the Herman Warsh Memorial Award for outstanding service to the PGRFA community.

**ORGANIZATIONAL MATTERS:** On Monday, Chair Hufler announced the replacement of vice-chairs, with the new ones being: Travis Power (Australia) for the South West Pacific Region; Maria Cecilia Cavalcante Vieira (Brazil) for Latin America and the Caribbean Region; and Mohd Saad Azman (Malaysia) for the Asian Region.

Morocco, for the G-77/China, requested that implementation of the funding strategy be considered before compliance procedures. Delegates adopted the agenda (IT/GB-4/11/1) as amended, and the timetable (IT/GB-4/11/2 Rev.2), as revised following the Bureau meeting. They elected Kassahun Embaye (Ethiopia) as Rapporteur of the meeting; and established a credentials committee, as well as a budget committee, co-chaired by Lim Eng Siang (Malaysia) and Søren Skafte (Denmark).

ITPGR Secretary Bhatti acknowledged the financial restraints that parties are under and urged them to support the Treaty's growth. He underscored priorities for the 2012-13 work programme and budget, including consolidating public recognition of the Treaty's role and cooperation with the ABS Protocol.

Following regional nominations, on Friday the Governing Body elected the GB 5 Bureau: Zachary Muthamia (Kenya) for the African Group; Marco Valicenti (Canada) for North America; Javad Mozafari (Iran) for the Near East; Cosima Hufler (Austria) for the European Regional Group (ERG); P.L. Gautam (India) for Asia; Travis Power (Australia) for South West Pacific; and Monica Martinez Menduño (Ecuador) for GRULAC. Javad Mozafari (Iran) was elected as GB 5 Chair. Plenary also adopted the report on credentials.

The Governing Body convened in plenary throughout the week. Contact groups met to address: compliance; implementation of the MLS; and implementation of the Funding Strategy. The budget committee met throughout the week to address the work programme and budget for 2012-2013. Informal consultations were held to address the outstanding financial rules of the GB and farmers' rights. This report summarizes the meeting's discussions and decisions on each agenda item.

**REPORTS:** On Monday, Chair Hufler presented her report (IT/GB-4/11/4) highlighting that voluntary contributions to the budget have significantly increased, and the benefit-sharing fund has received greater political attention.

ITPGR Secretary Bhatti presented his report (IT/GB-4/11/5), praising delegates for the tremendous progress of the Treaty in the past ten years and calling for renewed commitment in the new biennium. He noted, among others, progress in inclusions of PGRFA in the MLS, including from developing countries. He highlighted the Treaty's synergies with the Global Crop Diversity Trust and the CBD, and called for adequate allocation of resources to further ITPGR implementation.

#### **FINANCIAL RULES OF THE GOVERNING BODY**

On Monday, the Secretariat introduced the item (IT/GB-4/11/6) and called on parties to finalize the outstanding issue relating to whether or not parties' voluntary contributions to the

Treaty's Core Administrative Budget should be "based on an indicative scale of contributions." Civil society stressed that for the Treaty to be more effective, parties should agree to voluntary contributions based on an indicative scale.

Chair Hufler proposed that a Friends of the Chair group, comprising one representative per region, meet to discuss the remaining outstanding issue. Cuba opposed, citing the great interest by many parties in this issue. On Tuesday, plenary decided that inter-regional and informal consultations will be held throughout the week.

On Friday morning, Chair Hufler reported to plenary that consultations were still ongoing. In the evening, the Governing Body considered a draft resolution on the financial rules, including consensus language regarding the outstanding issue under Rule V on provision of funds, and adopted it without amendments. Canada stated for the record its principled opposition on use of the indicative scale of contributions, but its wish to join the consensus and make progress. Following a suggestion by Brazil, plenary applauded Chair Hufler for her role in bringing the informal discussions to a successful conclusion.

**Final Outcome:** The agreed rule states that the resources of the Treaty shall comprise voluntary contributions to the Core Administrative Budget from parties with an indicative scale of contributions available to a party, to serve as guidance regarding the possible level of its contribution. This voluntary indicative scale of contributions shall be based on the scale of contributions adopted from time to time by the UN, and adjusted so as to ensure that no party contributes less than 0.01% of the total, that no contribution exceeds 22% of the total, and that no contribution from a least developed country party exceeds 0.01% of the total. The scale shall be maintained and updated by the Secretariat, in accordance with the work programme and budget for each biennium, as approved by the GB.

In the accompanying resolution, the GB adopts the finalized financial rules, and notes that parties will continue to receive the voluntary indicative scale unless they request otherwise.

#### **COMPLIANCE**

Delegates briefly discussed compliance in plenary on Monday and in a contact group from Tuesday to Friday.

In plenary, René Lefebvre, Co-Chair of the *Ad Hoc* Working Group on compliance, presented the Co-Chairs' report (IT/GB-4/11/7), highlighting the need for further discussion to finalize outstanding issues. On Tuesday, following informal consultations, delegates established a contact group on compliance, co-chaired by René Lefebvre (the Netherlands) and Javad Mozafari (Iran).

The contact group first discussed its composition and agreed that it would be open-ended and that observers would be permitted at the discretion of the Co-Chairs. Delegates agreed to the rules of engagement that there would be two readings: one to resolve the bracketed text, where new proposals can be reflected for further consideration if there is consensus, and a second reading to address the whole text, where changes could only be made by consensus.

Discussions focused on acknowledging the special needs of developing countries, with developing countries insisting that they have common but differentiated responsibilities, a reference that was not supported by some developed countries.

Regarding monitoring and reporting, the main outstanding issues included: whether the committee should have the power to make recommendations; and the periodicity of reporting after the first report, and whether a period should be specified, or remain at the discretion of the GB. Delegates finally agreed that the reporting period for subsequent reports should be five years or in accordance with any further decision of the GB. Delegates also agreed to a provision foreseeing that the committee shall submit a synthesis report to the GB on the basis of the reports that it has considered, including an analysis of general trends and specific issues related to the promotion of compliance and issues of non-compliance, which may include recommendations.

Regarding provisions on other procedures to promote compliance, delegates engaged in an initial conceptual discussion on promotion of compliance by addressing questions related to implementation. There was general agreement that parties should be able to address questions regarding their own obligations to the committee. Regions debated if IARCs or the Secretariat should be able to directly address questions to the Committee and discussed an alternative solution foreseeing that the Secretariat could submit a list of its questions to the GB who would consider whether it should be referred to the Committee. Similarly, the proposal was made that the IARCs could request the Bureau to refer questions to the Committee. Delegates further debated whether the Committee may seek or receive and consider relevant information from the Secretariat and other sources in considering statements and questions. No agreement was reached and the provision was removed. Discussions continued throughout the night on Thursday, and the contact group managed to agree on language on all outstanding issues except the wording of the provision on special needs of developing countries.

In Friday's plenary, contact group Co-Chair Lefebvre reported on the negotiations that had resulted in agreement in principle, pending resolution of the issue of special needs of developing countries. He proposed to delete bracketed references that the operation of the compliance procedures shall take into account parties' capacities and the difficulties developing countries face in the implementation of the Treaty, retaining text stating that it shall pay particular attention to the special needs of parties that are developing countries and parties with economies in transition. He said that this text is agreed under the Basel Convention, adding that, if agreement is reached on this wording, all remaining brackets throughout the document could be removed. Regarding the budgetary implications of the Compliance Committee, he said the proposal was to have one five-day meeting, with 14 persons acting in their personal capacity whose travel and daily allowance should be covered from the Treaty budget.

The African Group indicated readiness to accept the proposal. GRULAC, supported by the Philippines, called for regional consultations. Ecuador questioned whether the proposed six-month timeframe for submission of nominations of committee members was sufficient. Reflecting on the contact group discussions, Co-Chair Lefebvre said the timeframe could be expanded to 12 months. Delegates agreed, and the resolution was amended accordingly.

Following regional consultations, the African Group proposed wording that the compliance procedures and mechanisms shall pay particular attention to the needs of developing countries and countries with economies in transition. Canada opposed, noting its position that all parties have to be in compliance, but saying that a distinction could be made in terms of measures and remedies. He proposed to instead state that "actions taken" shall pay particular attention to such needs. Brazil opposed, noting that this would change the meaning of the provision, and urged parties to accept the Co-Chairs' proposal. Plenary eventually agreed to the proposal and all brackets were removed throughout the text. The resolution and compliance procedures were adopted as amended.

**Final Outcome:** The adopted resolution has an annex containing the procedures and operational mechanisms to promote compliance and address issues of non-compliance.

In the resolution, the GB approves these procedures; and affirms that they are separate from any other procedures and mechanisms. It also decides that the Compliance Committee shall develop further rules of procedure relevant to its work, and a succinct standard reporting format for approval by GB 5. The GB further decides that the seven FAO regions shall submit no later than 12 months after GB 4, nominations of two committee members; and the Bureau shall appoint such members in the interim until GB 5, which will elect the committee members.

It further recommends that funds be made available through the Special Fund to Support the Participation of Developing Countries to facilitate participation in relevant committee meetings by representatives of parties that are developing countries or countries with economies in transition.

The adopted procedures and operational mechanisms to promote compliance and address issues of non-compliance consist of ten sections on:

- objectives;
- principles;
- institutional mechanisms;
- committee functions;
- monitoring and reporting;
- procedures regarding submissions relating to issues of non-compliance;
- measures to promote compliance and address issues of non-compliance;
- information;
- other procedures regarding the promotion of compliance; and
- review of the procedures and mechanisms.

The section on objectives sets out that the objective of the procedures shall be to promote compliance with all provisions of the Treaty and to address issues of non-compliance. The section on principles stipulates that the procedures and mechanisms shall be simple, cost-effective, facilitative, non-adversarial, non-judicial, legally non-binding and cooperative in nature. Their operation shall be guided by the principles of transparency, accountability, fairness, expeditiousness, predictability, good faith, and reasonableness. It shall pay particular attention to the needs of parties that are developing countries and countries with economies in transition.

The section on institutional mechanisms sets out, among others, that: the Committee shall consist of a maximum of 14 members elected by the GB on the basis of two nominations from each of the seven FAO regions for a period of four years; members shall not serve more than two consecutive terms; the Committee shall hold meetings as necessary, subject to availability of financial resources; the presence of two-thirds of the members is necessary to constitute a quorum; and the Committee shall elect its Chair who will rotate among the FAO regions.

The section on Committee functions sets out the following functions: consideration of information submitted related to compliance and non-compliance; offering advice or assistance to any party on compliance-related issues; assisting the GB in monitoring Treaty implementation; addressing issues of non-compliance; addressing statements and questions concerning Treaty implementation; and submitting a report to each GB session. Consideration of any questions related to interpretation, implementation or compliance with the SMTA by parties or potential parties to it is excluded.

The section on monitoring and reporting sets out that each party is to submit a report to the Committee on its measures to implement the Treaty, with the first report to be submitted three years after approval of the standard reporting format by the GB; and thereafter every five years, or periodically in accordance with any further GB decisions.

The Committee shall further submit to the GB a synthesis on the basis of the reports it has received, along with an analysis; and may submit recommendations on the issues addressed in the analysis.

The section on procedures regarding submissions relating to issues of non-compliance sets out that: the Committee shall receive any submissions from the GB or any party with respect to itself or another party; the party concerned will be informed of the submission and has up to six months to respond and submit information and participate in any consideration of the submissions, but not in the elaboration of a recommendation by the Committee; the Committee may reject any submission that is *de minimis* or ill-founded; and confidentiality will be an essential element of consideration of the submission.

The section on measures to promote compliance and address issues of non-compliance sets out that the Committee may: provide advice or facilitate assistance to the party concerned; request it to develop an action plan addressing issues of non-compliance within a timeframe; and invite progress reports.

The section on information sets out that the Committee: shall consider relevant information from the party concerned, the party that has made a submission, or the GB; and may seek expert advice and/or receive freely available information as may be provided by the Secretary and other relevant sources.

The section on other procedures regarding the promotion of compliance sets out that the scope and nature of the Committee's authority in exercising its functions under this section shall be subject to further rules to be developed by the Committee and to be submitted to GB 5 for its approval. It further sets out that a party may address statements and questions concerning implementation of its own obligations under the Treaty to the Committee, which shall also consider any implementation-

related questions referred to it by the GB. The Secretary shall list any such questions he has received and present them to the GB for consideration of referral to the Committee. The Committee may reject consideration of any such statement or question, and reasons should be given for any such rejection. The Committee may only make recommendations to the GB concerning statements or questions regarding the implementation of Treaty obligations, unless the GB specifically provides otherwise.

The section on review of the procedures and mechanisms sets out that the GB shall review their effectiveness within six years of their approval and periodically thereafter, and take appropriate action.

### **IMPLEMENTATION OF THE FUNDING STRATEGY**

This issue was discussed in plenary on Monday and Friday, with further discussions occurring in informal consultations and in a contact group that met from Tuesday to the early hours of Friday morning. The GB adopted a resolution on Friday afternoon.

On Monday, Bert Visser (the Netherlands), Co-Chair of the *Ad Hoc* Advisory Committee on the Funding Strategy, presented the Committee's report (IT/GB-4/11/8), highlighting its recommendations on: resource mobilization; operation of the benefit-sharing fund; and implementation of the full Funding Strategy. Noting that further intersessional work is needed, he said that with a renewed mandate, the Committee could address: oversight of the project cycle, in particular project management, monitoring and evaluation; oversight of resource mobilization efforts; and advice on establishment and implementation of partnerships.

Chair Hufler noted the Bureau's recommendation to give the panel of experts more time to complete their appraisal of proposals, and for approval on this to be given by the GB 5 Bureau.

The ERG called for continued efforts to reach the Funding Strategy's target of US\$166 million. Among others, she recommended: intensifying cooperation between the benefit-sharing fund and the Global Crop Diversity Trust; and building new partnerships.

Australia praised the Secretariat for searching out non-traditional funding sources and opposed renewing the mandate of the advisory committee, with Canada suggesting that the Bureau could fill the committee's role. Angola stressed that funding must reach farmers, and opposed dismantling the advisory committee. Brazil suggested establishment of a permanent expert body to handle the calls for proposals. Switzerland said the benefit-sharing fund must continue to be a pillar of the Funding Strategy and called for predictable funding and regular voluntary contributions.

The International Fund for Agricultural Development illustrated the importance of biodiversity for rural poverty reduction and stressed the need for biodiversity conservation through sustainable utilization. Via Campesina stressed that *ex situ* conservation should not monopolize funding, noting that on-farm conservation is far more important and should benefit from contributions by parties and industry. The International Seed Federation highlighted the seed industry's support for genebanks, breeding programmes in developing countries and the



Global Crop Diversity Trust. ITPGR Secretary Bhatti expressed his appreciation to the parties that contributed to the benefit-sharing fund.

Co-chaired by Médi MOUNGUI (Cameroon) and Bert Visser (the Netherlands), the contact group discussed, among others, the role of the Secretariat in facilitating implementation of the first round of the project cycle under the benefit-sharing fund, and agreed that the Secretariat should develop guidelines for implementation. They also discussed at length two alternative proposals regarding synergies between the benefit-sharing fund and the Global Crop Diversity Trust, and eventually agreed to take note of the Trust's report and request the ITPGR Secretary and the Trust Executive Director to enhance synergies. Agreement could not be reached on: a proposal to acknowledge the importance of regional balance in the sharing of benefits through the Funding Strategy; and whether the Bureau or the *ad hoc* advisory committee on the Funding Strategy will engage in intersessional work.

In Friday's plenary, Co-Chair Visser reported on the work of the contact group. He said that compromise text was agreed regarding the fair distribution of benefits to all with regard to the selection criteria of project proposals, noting the need for plenary to reach agreement on the terms of reference (TORs) for the *Ad Hoc* Advisory Committee on the Funding Strategy. He suggested removing reference to a previously proposed establishment of a taskforce to appraise the pre-proposals on the third call for proposals, and reconvening the advisory committee. The South West Pacific and Canada agreed, provided that its cost is included in the biennium's budget, and the committee considers using electronic fora to fulfill its mandate.

**Final Outcome:** The adopted resolution contains four parts: resource mobilization for the benefit-sharing fund; operations of this fund, monitoring implementation of the Funding Strategy in relation to resources that are not under the direct control of the GB; and the intergovernmental work on the Strategy during the next intersessional period, including the draft TORs for the advisory committee. The annexes contain interim procedures for reporting, monitoring and evaluation; and draft interim disbursement procedures.

On resource mobilization for the benefit-sharing fund, the GB, *inter alia*:

- welcomes the progress in the implementation of the Strategic Plan for the implementation of the benefit-sharing fund, which has exceeded the task of mobilizing US\$10 million in the first 18 months, now available for the second round of the project cycle of the benefit-sharing round;
- calls on parties and invites other donor prospects to make multi-annual and direct investments to the fund to increase sustainability;
- emphasizes the importance of implementing the modalities for resource mobilization as set out in the Strategic Plan for reaching its funding target; and
- emphasizes the need to limit the overhead fees of the fund in order to remain attractive to potential donors, acknowledging that part of the capacity of the Secretariat will be used for general management of the fund, particularly the project cycle.

The section on the operations of the benefit-sharing fund contains sub-sections on implementation of the first round of the project cycle, implementation of the second round of the project cycle, implementation of future rounds of the project cycle, and further operationalization of the fund, including procedures and institutional arrangements. The GB, *inter alia*:

- welcomes the progress made by the panel of Experts on the appraisal of project proposals submitted under the second round of the project cycle of the benefit-sharing fund;
- requests the panel of experts to finalize the appraisal in a reasonable period of time on the basis of the recommendations provided by the GB 4 Bureau to ensure that quality and merit determine the appraisal and approval of project proposals; and to submit their recommendations on the appraisal to the GB 5 Bureau;
- emphasizes that quality, relevance according to the selection criteria and technical merit shall determine the appraisal and approval of project proposals in future rounds of the project cycle; and
- requests the Secretary to: use the interim procedures adopted for the second round of the project cycle as a basis for further work, and bring the work of the fund to the attention of other fora.

On monitoring the implementation of the Funding Strategy, regarding resources not under the direct control of the GB, the GB, *inter alia*, requests the Secretary to strengthen cooperation with other international organizations to support the Funding Strategy's implementation.

On the intergovernmental work on the funding strategy during the next intersessional period, the GB decides to reconvene the *Ad Hoc* Advisory Committee on the Funding Strategy, setting out the committee's TORs as:

- advising the GB on resource mobilization efforts and on the operation of the benefit-sharing fund, including the design and structure of the next call for proposals, appraisal of proposals, review of implementation of these proposals, and review of the fund's operational procedures;
- advising the GB on the monitoring of implementation of the overall Funding Strategy;
- searching for ways to make the operationalization of the committee as cost-effective as possible, including optimal use of electronic communications; and
- reporting on the progress of its work and the results to GB 5.

The annex on the interim procedures for reporting, monitoring and evaluation contains sections on: objectives; procedural steps for reporting, monitoring and evaluation projects; independent evaluation; and roles and responsibilities of intersessional bodies. The annex on the draft interim disbursement procedures contains sections on implementation of the interim disbursement procedures and procedural steps for the disbursement of funds.

#### **BUSINESS PLAN**

This agenda item was addressed in plenary on Friday on the basis of a background document prepared by the Secretariat (IT/GB-4/11/11). The Secretariat informed delegates that comments from parties and *ad hoc* subsidiary bodies had been used to update the business plan, and that the Bureau had requested broader discussion on whether a different document would be needed to inform delegates. Chair Hufler suggested, and

delegates agreed, that this information be noted in the meetings report and that discussion on the business plan be forwarded for consideration by GB 5.

### **IMPLEMENTATION OF THE MULTILATERAL SYSTEM**

Delegates considered implementation of the MLS in plenary on Tuesday and Thursday and in a contact group on Wednesday.

Plenary first considered issues relating to the review of implementation of the MLS and review of the material transfer agreement (MTA) used by International Agricultural Research Centers (IARCs) for non-Annex-I PGRFA. Lim Eng Siang (Malaysia), Co-Chair of the Technical Advisory Committee on the MLS and the SMTA, presented the Committee's report (IT/GB-4/11/Inf. 7 and Inf. 8) underscoring the Committee's mandate to advise on implementation questions raised by SMTA users, and the opinions they have provided on such questions. Committee Co-Chair Bryan Harvey (Canada) stressed that the committee's proposed amendments to the SMTA are technical and do not change the content. Highlighting the need for national implementation, the ERG urged identifying why very few parties have included material in the MLS. Canada and the South West Pacific welcomed the SMTA amendments recommended by the committee. The ERG proposed that the Secretariat prepare an options paper before the GB considers any amendments to the SMTA.

Brazil, the Asian Region, the Near East Region, the African Group and India supported reconvening the committee. The ERG suggested that the Compliance Committee provide advice on the Treaty and MLS interpretation. The South West Pacific called for continuing the work, either through reconvening the committee or through other committees under the Treaty.

The Philippines requested CGIAR to provide a mechanism to facilitate farmers' access to the MLS, including, among others: information dissemination; localized access to the MLS database; and capacity building. He further proposed exploring mechanisms to implement non-monetary benefit-sharing, and conducting a study on the extent to which IPRs apply to material from the MLS.

The African Group noted the lack of benefits accruing to the region, and called for capacity building regarding use of the SMTA and sharing of non-monetary benefits such as technology transfer and information sharing. Angola, supported by India, stressed the need for benefits to reach farmers and encouraged countries to use the SMTA's alternative payments scheme.

Biodiversity International, for the CGIAR, drew attention to their report (IT/GB-4/11/Inf. 5), noting an increase in the number of samples distributed, mostly consisting of center-improved material distributed as PGRFA under development, without any additional conditions.

Civil society recommended preparing a report on the potential of new storage technologies for long-term seed conservation; the implications of new genome-mapping technologies on the Treaty; and possible violations of the Treaty by patent claims that extend to end-users of food and feed products.

Delegates then discussed inclusion of PGRFA held by natural and legal persons within parties' jurisdiction, and review of implementation of the SMTA, particularly whether to commence or postpone the process for the reviews and assessments under Articles 11.4 (progress in inclusions by natural and legal

persons) and 13.2d(ii) (level of payments). The Asian Region, the Near East Region and Angola called for a review of the MLS, including the level, form and manner of payments, and a mechanism to facilitate the flow of benefits and information to developing country farmers. The ERG, Brazil and Canada supported postponing the reviews due to lack of information. The ERG stressed the need to address the lack of sufficient implementation by collections under the direct responsibility of parties. She urged all parties to include material in the MLS, and to encourage natural and legal persons to include material and report on inclusions through their national focal points. Canada said that the private sector and others can include material by donating it to a national or international institution.

Delegates agreed to merge the core elements of the background documents on MLS implementation into one resolution. On the composition of the committee, the ERG proposed, and delegates agreed, that the committee will comprise up to two members per region and up to five technical experts, including CGIAR representatives, serving as observers.

On the function and role of the committee, delegates agreed that it will advise the Secretary on implementation questions raised by users of the SMTA and MLS; and that it will hold up to two meetings, subject to availability of financial resources. Delegates discussed proposals regarding the committee's reports to the GB and other outputs, including whether it would issue "interim opinions," "opinions" or "recommendations." They eventually agreed that the committee would provide a report to the GB containing sections on its opinions and recommendations, to be considered by the GB, adopted if agreed upon, and passed on to SMTA users as agreed recommendations; and that it would also provide, through the Secretary, day-to-day opinions to SMTA users.

Delegates then discussed the issues the committee would consider. They agreed that it would address any outstanding issues from previous meetings and issues it had identified for further development. Delegates agreed to invite parties and the IARCs of the CGIAR to provide questions to the Secretary that will clarify such issues. Delegates further agreed not to include the issue of the application of the Third Party Beneficiary procedures to transactions related to non-Annex I material transferred by the IARCs of the CGIAR.

The African Group requested that the committee deal with: a review of the levels of payments to achieve fair and equitable sharing of benefits; suggestions on whether mandatory payment requirements in the SMTA will apply to cases where such commercialized products are available without restriction to others for further research and breeding; and a review of the alternative payments scheme. Canada pointed to the lack of sufficient information for initiating such reviews. The ERG said these issues are too political to be considered by the committee, and suggested addressing them elsewhere. Angola and Malaysia insisted that these reviews have to be initiated.

The ERG suggested that the Secretary compile a report based on information obtained from parties. Canada suggested that this include summary information about parties' contributions to the MLS, how many accessions are in the MLS, whether these accessions have been declared as part of the MLS, how many SMTA parties have entered into, and the benefits that have

accrued from these. Angola suggested also including information on the levels of payment. The ERG suggested including reference to Articles 11.4 and 13.2d(ii) on assessment of progress and review of the level of payments, in preparation for the reviews foreseen under those articles. Malaysia suggested, and delegates agreed, to request the Secretary to also identify any further information needed and provide recommendations to the GB on the organization of the assessment and reviews.

The ERG suggested the Compliance Committee develop a standard format for reporting on use of the SMTA. Ecuador opposed, saying that such a format should be developed by a technical *ad hoc* committee. Delegates agreed to just refer to a standard format to be adopted by the GB.

Regarding a request to parties to provide a mechanism to facilitate farmers' access to the MLS for purposes of research and breeding, the ERG said the issue should be further explored by the committee, but the Philippines suggested commissioning a study. Delegates agreed to add this to the issues to be considered by the MLS committee.

On Friday, plenary adopted the resolution with the addition of a six month deadline for submission of relevant information prior to GB 5.

**Final Outcome:** The adopted resolution contains sections on:

- PGRFA held by parties and forming part of the MLS;
- PGRFA included by natural and legal persons within the jurisdictions of parties;
- PGRFA held by international institutions under Article 15;
- documenting the PGRFA within the MLS;
- legal and other appropriate measures to provide access through the MLS;
- implementation of the MLS;
- the work of the *ad hoc* technical advisory committee on the MLS and the SMTA;
- support to parties and users of the MLS;
- reviews and assessments under the MLS and the implementation and operation of the SMTA;
- review of the SMTA used by the IARCs of the CGIAR for non-Annex I PGRFA; and
- follow-up by the Secretariat.

The TORs for the *Ad Hoc* Technical Advisory Committee on the MLS and the SMTA are contained in an appendix, along with an annex of the list of issues to be considered by the committee.

In the resolution, the GB requests all parties: to report on their PGRFA that are in the MLS; to provide more information to the Secretary on the inclusion of PGRFA in the MLS by natural and legal persons within their jurisdiction; and to take measures to encourage such inclusions. It further urges parties to take necessary legal and other appropriate measures to provide access to PGRFA through the MLS within a clear timeframe.

The GB also recognizes the importance of the IARCs of the CGIAR, and their valuable contributions to the development of the MLS; and invites other relevant international institutions to enter into agreements with the GB to include their PGRFA collections in the MLS. The GB also requests the Secretary to continue gathering information on PGRFA in the MLS to be used for plant breeding, research and training.

Regarding the implementation of the SMTA, the GB: stresses the need to document exchanges under the MLS through SMTA operations; urges parties and international institutions and natural and legal persons to provide such information; and invites parties and stakeholders to explore innovative benefit-sharing measures.

Regarding the committee's work, the GB took note of its advice as helpful guidance in implementation.

Regarding support to parties and users of the MLS, the GB requests the Secretary to facilitate assistance to those parties that may require support in identifying and reporting their PGRFA that are in the MLS.

Regarding reviews and assessments of the MLS and of the implementation and operation of the SMTA, the GB decides to again postpone the reviews and assessments foreseen under Articles 11.4 and 13.2 d(ii) of the Treaty to GB 5; and in preparation for the reviews, requests the Secretary to compile a report based on a request for information from parties, international institutions, and other natural and legal persons; and to identify additional information necessary and make recommendations to the GB on organization of reviews at GB 5.

Regarding review of the SMTA used by the IARCs of the CGIAR for non-Annex I PGRFA, the GB notes the continued successful use of the SMTA by the IARCs and decides to further review such use of the SMTA at GB 5. Finally the GB stresses the importance of providing adequate information on all relevant issues six months prior to GB 5.

The GB decides to reconvene the *Ad Hoc* Technical Advisory Committee on the MLS and the SMTA in accordance with the appended TORs and to review MLS implementation at GB 5. The TORs set out that the committee shall advise the Secretary on implementation questions raised by users of the SMTA and MLS. The committee is to be comprised of two members designated by each region and five technical experts representing CGIAR, serving as observers; and will hold up to two meetings. The opinions and recommendations provided by the committee are not authoritative. For technical matters relating solely to SMTA implementation, the committee may provide interim opinions to users, which shall be provided in its report to the GB for consideration and approval; and if not approved, the Secretary and SMTA users should not further rely on the opinions. For matters relating to possible changes to the SMTA or on the implementation of the MLS, the committee may provide recommendations to the GB for its consideration and approval. An indicative list of issues that the committee will consider is included in an annex and will be reviewed by the GB from time to time. The list includes any issue outstanding from the previous meetings, as well as any issues the committee had identified for further development, including non-food/feed uses, and transfers to farmers for direct use and for the purpose of research, breeding and training. Parties, IARCs of the CGIAR and other relevant international institutions that have signed agreements with the GB under Article 15 of the Treaty are invited to provide, well in advance of the meeting, questions to the Secretary that will clarify such issues. The list of issues further includes updates to Annex I of the SMTA relating to PGRFA under development, taking into consideration the

situation of providers of PGRFA under development who have accessed MLS materials from a collection hosted by the same legal entity.

### **OPERATION OF THE THIRD PARTY BENEFICIARY**

This issue was discussed in plenary on Tuesday and Wednesday. On Tuesday, *Ad Hoc* Third Party Beneficiary Committee Chair Javad Mozafari (Iran) reported on the committee's deliberations (IT/GB-4/11/14), including development of draft rules of mediation and lack of conclusion on applying the Third Party Beneficiary procedures to transactions related to non-Annex I material. The Secretariat introduced relevant documentation (IT/GB-4/11/15).

The ERG expressed disappointment that the committee had not come to any conclusions on applying the procedures to non-Annex I material transferred with the SMTA. The Asian Region noted that use of the procedures is at the discretion of IARCs and should not involve the GB. The African Group suggested that any future questions on the Third Party Beneficiary be considered by the MLS committee. The South West Pacific suggested that parties may want to liaise with the Bureau before commencing any mediation procedures. Regarding identification of violations, the ETC Group requested wider participation in identification of violations, observing that biopiracy cases have been brought forward by farmers and civil society organizations. Delegates agreed to a proposal by Brazil clarifying that the candidates for the mediator position in each case will be selected from the list of experts established by GB, in accordance with the rules of the SMTA.

Regarding the Third Party Beneficiary Operational Reserve, the ERG agreed that it should remain at its current level for the next biennium and called for setting of priorities for the use of limited resources. Ecuador noted that only parties should be called upon to contribute to the operational reserve.

On Friday, plenary adopted the resolution without amendments.

**Final Outcome:** The resolution consists of two parts and an appendix containing the rules for mediation of a dispute in relation to an SMTA.

In the first part, the GB adopts the Mediation Rules and recognizes that they will promote the effective functioning of the Third Party Beneficiary. It requests: the Third Party Beneficiary to propose the Mediation Rules to parties to the SMTA for the settlement of a dispute; the Arbitration and Mediation Center of the World Intellectual Property Organization (WIPO) to act as Administrator of the Mediation Rules; and the Secretary to give priority to completing effective information technology tools.

In the second part, the GB notes the Secretary's invitation to parties to nominate experts and the establishment of a mechanism for the nomination of experts to the list from which the SMTA parties may appoint mediators and arbitrators. It decides to maintain the Third Party Beneficiary Reserve for the 2012-2013 biennium at the current level of US\$283,280 and calls on parties and others to contribute periodically to the Third Party Beneficiary Operational Reserve.

The mediation rules include articles on:

- scope of the mediation rules;
- request for mediation;
- acceptance of these mediation rules;

- commencement of mediation;
- notices and periods of time;
- appointment of the mediator;
- nationality of the mediator;
- impartiality and independence;
- availability, acceptance and notification;
- representation of parties and participation in meetings;
- conduct of the mediation;
- role of the mediator;
- termination of the mediation;
- mediation termination notices;
- dispute resolution termination notice;
- confidentiality;
- role of the mediator in pending or future proceedings;
- administration fee;
- fees of the mediator;
- deposits;
- costs;
- exclusion of liability; and
- waiver of defamation.

### **SUSTAINABLE USE**

This issue was discussed in plenary on Tuesday and Friday. On Tuesday, the Secretariat introduced the relevant documents (IT/GB-4/11/17 and Inf. 3 and 4). Many delegates welcomed development of a toolbox to assist countries in designing appropriate measures, and suggested that it be participatory and inclusive, especially with regard to the views of farmers and indigenous peoples. The ERG questioned whether a toolbox alone can achieve the objective and whether it can reach farmers. Ecuador, Brazil and Cuba proposed including farmers' rights within the toolbox's constituent elements. Civil society stressed that the proposed toolbox undermines the legally binding dimension of Article 6 implementation, namely national legislation. The Near East called for promotion of regionally important crops and market opportunities for underutilized species, and innovative approaches to promoting sustainable use through partnerships. Namibia and Yemen stressed that *in situ* conservation is an essential component of sustainability. The CGIAR drew attention to their wide range of activities related to sustainable use, involving countries, organizations and farmer communities.

Ecuador welcomed the proposal to establish an *ad hoc* technical committee on sustainable use. The South West Pacific suggested considering its budgetary and logistical implications. The ERG called for establishing the committee, subject to availability of funds, with broad participation, to address challenges in adaptation of global agricultural systems to climate change. Via Campesina stressed the importance of local reproduction of seeds for adaptation to climate change, and called for a standing working group on sustainable use and farmers' rights, with full participation of farmers and indigenous peoples.

On Friday, delegates continued discussions in plenary. Delegates agreed to: a proposal by Canada to insert new preambular text recalling that the CGRFA also addresses sustainable use of PGRFA; a proposal by the Philippines to insert a preambular paragraph emphasizing the link between Article 9 (Farmers' Rights) and the provisions on conservation

and sustainable use; and a proposal by Switzerland to request the Secretary to develop, based on the rolling GPA, steps on how to implement those elements of the GPA to support further actions at national, regional and international levels, for consideration by GB 5.

Discussion centered on the establishment of the proposed *ad hoc* technical committee on sustainable use of PGRFA and the potential expansion of its mandate to include farmers' rights. Many developing countries welcomed its proposed establishment and TORs. The South West Pacific noted difficulties for the region to attend, and requested that representatives be limited to one per region. Delegates agreed to a proposal by Switzerland to note in the TORs that the committee would represent "all stakeholder groups." The South West Pacific requested, and delegates agreed, to delete text on the committee's role in developing recommendations and preparing meeting reports. The issue of including farmers' rights in the mandate of the committee was deferred to discussion under that agenda item.

During discussions on farmers' rights, delegates agreed not to expand the committee's mandate but to encourage parties to submit views, experiences and best practices on the implementation of farmers' rights, and request the Secretariat to collect these views, experiences and best practices and submit them to the committee.

**Final Outcome:** In the resolution, the GB establishes an *Ad Hoc* Technical Committee on Sustainable Use of PGRFA, subject to availability of financial resources, and requests the Secretary to: further explore development of a toolbox in view of existing initiatives; develop steps for implementation of the GPA; organize stakeholders' consultations and invite submissions from parties and others on sustainable use; and work with regional networks and partners to promote locally adapted and under-utilized crops. TORs for the committee are included as an annex, stating that the committee will advise the Secretary and the Bureau on, among others: needs and opportunities to facilitate the sustainable use of PGRFA, and development of a tool box on sustainable use, and cooperation with the CBD, CGRFA and Global Crop Diversity Trust. The committee will hold up to two meetings, subject to the availability of financial resources.

### **FARMERS' RIGHTS**

Discussions on farmers' rights occurred in plenary on Wednesday, and were taken up in informal discussions, headed by Malaysia.

On Wednesday, plenary considered the Secretariat's written briefing on farmers' rights (IT/GB-4/11/16) and a report of the November 2010 Global Consultation on Farmers' Rights in Addis Ababa (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.

Spain and Brazil called for regional workshops on farmers' rights, mandated by GB 3, which have not yet occurred due to lack of funding. Many developing countries called on developed countries to meet their obligations on funding, technology transfer and capacity building, while civil society stressed that *ex situ* conservation should not monopolize funding, given the

greater importance of on-farm conservation. 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, the ERG and Canada stressed that the responsibility of realizing farmers' rights rests with national governments. 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, preferring that the Secretariat invite information and prepare a model format for information sharing. The ERG requested the FAO to assist in the provision of technical assistance, and Cuba and Madagascar requested capacity building for implementation.

In plenary on Friday, delegates discussed the draft resolution prepared by the informal group, which contained bracketed preambular references to recognizing the role of farmers and breeders in their efforts in adaptation of agriculture to climate change, and recognizing that plant breeders also contribute to farmers' rights through crop improvement. The ERG, Canada and the Philippines proposed deleting both references, while Kenya proposed retaining the first one. Following lengthy consultations, delegates agreed to deletion. Delegates also agreed to a proposal by Ethiopia to add text referencing the 2010 global consultation on farmers' rights.

On the operational text, Australia and Brazil proposed, and delegates agreed, to delete text inviting parties to consider developing national documentation on the state of implementation of Article 9. Delegates discussed a proposal by Ethiopia to request the Secretariat to seek assistance from FAO and others to provide financial and technical support to national governments in the realization of farmers' rights, but decided not to include it in the text. Delegates agreed to delete a request to parties and/or the Secretariat for financial and technical support to explore possible options for the involvement of farmers' organizations and relevant stakeholders in an *ad hoc* committee. The proposed establishment of an *ad hoc* committee remained bracketed, with options on establishing a committee on farmers' rights or expanding the mandate of the Committee on Sustainable Use to include farmers' rights. Delegates eventually agreed to delete reference to the expansion of the mandate of the *Ad Hoc* Committee on Sustainable Use, and instead encourage parties to submit views, experiences and best practices on the implementation of farmers' rights, and request the Secretariat to collect these views, experiences and best practices and submit them to the *Ad Hoc* Committee on Sustainable Use.

**Final Outcome:** In the final resolution, the GB recalls that farmers' rights is one of the key components of the ITPGR and, *inter alia*:

- requests the Secretariat to convene regional workshops on farmers' rights, subject to availability of funding;
- encourages parties to submit views, experiences and best practices on the implementation of farmers' rights;
- invites parties to consider convening national and local consultations on farmers' rights with the participation of farmers and other stakeholders;
- requests the Secretariat to collect and submit these views, as well as reports from regional workshops to GB 5; and

- encourages parties to engage farmers' organizations and relevant stakeholders in matters related to the conservation and sustainable use of PGRFA, through awareness raising and capacity building.

### **COOPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS**

**COOPERATION WITH THE CGRFA:** On Wednesday, ITPGR Secretary Bhatti presented the vision paper on policy coherence and complementarity (IT/GB-4/11/18). CGRFA Secretary Linda Collette advised that the draft updated GPA for the Conservation and Sustainable Use of PGRFA (IT/GB-4/11/Inf.14), would be presented at CGRFA 13 in July 2011 for possible endorsement. Chair Hufler reported on joint meetings of the ITPGR and CGRFA Bureaus.

Delegates discussed three options for achieving policy coherence between the ITPGR GB and the CGRFA: transfer of all PGRFA activities to the GB; a case-by-case gradual transfer of specific tasks; or enhancing the ongoing cooperation framework. The Asian, African, Near East, South West Pacific and European regional groups preferred a case-by-case transfer. 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. Ecuador and Brazil supported the option on enhancing the ongoing cooperation framework. Chair Hufler noted that more information is needed on the administrative, legal and financial implications of the three options.

In plenary on Friday, delegates agreed to delete duplicated text in the resolution, as requested by Brazil, on preparation of a paper by the Secretary on the administrative, legal and financial implications on each of the three options to facilitate policy coherence and complementarity. The text remains in a later paragraph requesting the Bureau to cooperate with the Bureau of the CGRFA on the basis of "exploring" options, rather than "clarification of" options, as was requested by Brazil.

**COOPERATION WITH OTHER ORGANIZATIONS:** On Wednesday, 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. The Global Forum on Agricultural Research and WIPO reported on their relevant activities.

On Friday, the ERG and Brazil informally discussed, and later proposed, insertion of text requesting the Secretary to strengthen collaboration with the CBD Secretariat to facilitate the recognition that the SMTA is in harmony with the CBD and with the work of the Treaty. Canada objected, saying that the SMTA is not in harmony with the Treaty but rather is its cornerstone, and requesting further explanation of the intent. The ERG clarified that the text refers to collaboration between the organizations as being in harmony with the objectives of both the CBD and the Treaty. The parties finally agreed to delete the proposed text.

**Final Outcome:** The adopted resolution contains sections on the relationship with the CBD; cooperation with other organizations and cooperation with the CGRFA.

Regarding the relationship with the CBD, the GB: appeals to parties and other countries to give priority consideration to signature and ratification of the Nagoya Protocol; calls on parties to ensure that any legislative, administrative or policy measures taken for the implementation of both the Treaty and the CBD (or its Nagoya Protocol) are consistent and mutually supportive; and decides to establish cooperation with the Intergovernmental Committee for the Nagoya Protocol and upon entry into force with the COP/MOP of the Protocol.

Taking note of the Memorandum of Cooperation between the CBD and ITPGR Secretariats, the GB requests the Secretary to: explore practical means and activities to give effect to this cooperation; strengthen collaboration on relevant CBD work programmes; and attend relevant CBD meetings.

Regarding cooperation with other organizations, the GB requests the Secretary to: foster cooperation with other international organizations, including to further develop and implement the Funding Strategy and its benefit-sharing fund, and to strengthen existing cooperative agreements with a view to developing synergies and reducing inefficiencies; explore possible areas of cooperation with the UN Framework Convention on Climate Change, given the connection between climate change and adaptation in agriculture and genetic resources, such as the participation of the Treaty as a partner in the initiative on reducing emissions from deforestation and forest degradation in developing countries (REDD); and further elaborate a vision paper on the development of the Global Information System in the context of Article 17 of the Treaty, in collaboration with relevant stakeholders.

Emphasizing the importance of cooperation between the CGRFA and the GB, in particular with regard to the supporting components of the Treaty, the GB requests the Secretary to continue pursuing initiatives of coordination and cooperation with the CGRFA; and, in cooperation with the CGRFA Secretary, to prepare a paper on the administrative, legal and financial implications of transferring activities or tasks related to PGRFA from the CGRFA to the GB. The GB also requests its Bureau, in consultation with the CGRFA Bureau, to continue consideration of options for close cooperation between the CGRFA and the GB that may lead to an agreed functional division of tasks and activities between the CGRFA and the GB, taking into account the administrative, legal and financial implications.

### **RELATIONSHIP WITH THE GLOBAL CROP DIVERSITY TRUST**

Plenary discussed the relationship with the Trust on Wednesday and Thursday. 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 Director Cary Fowler reported on the work of the Trust, underscoring that the Trust is far from achieving its fundraising 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.

Developing countries called on the Trust to increase efforts on *in situ* conservation and to support genebanks in national institutions. Angola requested that part of donations to the Trust should go into the benefit-sharing fund to implement

participatory breeding and sustainable use projects. The Near East and Malaysia proposed that the GB Chair and one Vice-Chair be permanent members of the Trust Board. Australia and 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.

**Final Outcome:** In the resolution on implementation of the Funding Strategy, the Governing Body takes note of the report of the Trust for the implementation of the Funding Strategy and calls for enhanced cooperation between the Trust and the Treaty.

#### **FAO EXTERNAL EVALUATION**

This item (IT/GB-4/11/24) was addressed in plenary on Friday. The Secretariat said it regularly updated the Bureau on the process, especially regarding implications for the financial and administrative aspects of the Treaty. The ERG requested that the Secretariat invite the FAO Council to: use the GB 4 report for priority setting; note international standard-setting and policy areas in common with the Treaty; and consider the Treaty's funding strategy and relationship with the IARCs of the CGIAR in relation to FAO reform. Ecuador noted that the reorganization of FAO offices in Rome could have financial repercussions, and requested the Secretariat to prepare a report on issues affecting its functioning for discussion at GB 5.

Canada stressed that the FAO's review of its statutory bodies, including the Treaty, has significant implications for the benefit-sharing fund, among others. He requested the Secretariat to review the potential to define new performance indicators for the Treaty, in view of FAO's new "strategic lens" where all programmes and bodies require appropriate targets, baselines and performance indicators. Civil society expressed satisfaction with the new procedures for civil society participation in the Committee of World Food Security, and requested that a study regarding adoption of a similar approach for small-scale farmers be prepared for consideration by GB 5.

Chair Hufler said the meeting report will include a request to the Secretariat to continue engaging in processes for FAO reform, inviting FAO to take into account the work programme and budget of the Treaty. Delegates forwarded the item for consideration at GB 5.

#### **WORK PROGRAMME AND BUDGET FOR 2012-2013**

The budget was introduced in plenary on Monday, and was thereafter dealt with by the budget committee, which met from Monday evening to Friday afternoon, co-chaired by Lim Eng Siang (Malaysia) and Søren Skafte (Denmark), and with participation restricted to parties.

In Monday's plenary, Spain expressed concern at the deficit in the core administrative budget, as contributions have not been received and therefore core activities are currently funded on the basis of loans from the special funds. He noted that the proposal for the next budget, at almost zero nominal growth, is in the same predicament due to the many mandated activities under the Treaty. He stressed that a core administrative budget for the Treaty has to be set aside and commitments have to be made to finance it. Iran agreed, stressing that the activities under the Treaty should not all be donor-driven, but based on decisions taken and funding agreed on by the GB.

The budget committee met and considered the financial report on the work programme and budget 2010-2011 (IT/GB-4/11/26), the draft work programme and budget for the 2012-2013 biennium (IT/GB-4/11/27. rev.1) and the donor-sponsored activities under the Special Fund for Agreed Purposes, containing a report on activities in 2010-2011, and projects proposed for further donor support (IT/GB-4/11/27 Add.1). The committee noted that the increase in the draft budget was due to the very substantial increase in activities of the Treaty as well as the cost-increase factor used by the FAO in the preparation of the Director-General's draft programme of work and budget for the next biennium.

In Friday's plenary, budget committee Co-Chair Skafte presented the work programme and budget 2012-2013 and the accompanying draft resolution. He said the committee tried their best to cover all priorities while limiting increases to the budget. Stressing that the proposals constitute a delicate compromise, he encouraged delegates not to reopen them and adopt them as a package.

ITPGR Secretary Bhatti stressed that the budget initially presented by the Secretariat "had no fat on it" and through the budget negotiations they have seen "further cuts to the flesh," underlining that the Secretariat's ability to deliver will depend on full and timely contributions. When presenting the draft resolution, the Secretariat said that the provision urging parties to make voluntary contributions to the core administrative budget was amended to note that such contributions will be earmarked to cover the outstanding contributions to the Special Fund for Agreed Purposes. The work programme and budget were adopted as amended.

Italy pointed out that one additional staff position is only funded for 12 months under the core budget and requires donor support for the second year. The UK put on record that his country cannot support any increase to the core administrative budget and requested that future budget proposals include a zero growth option. Switzerland asked that the meeting report reflect concern over the increase in the core operating budget, and requested that future budget proposals be circulated at least six weeks before the GB session to enable consultations at the national level. He pledged that Switzerland will continue to pay its voluntary contribution to the core budget based on the UN scale of assessments.

Germany noted that the initial budget proposal calling for a 20% increase was surprising, in light of the difficult financial times and the call for a reduction in the overall UN budget. He stressed that sound financial management and presentation of reliable numbers is the basis for trust and securing support for the Treaty. Chair Hufler said that these concerns would be noted in the report of the meeting and a zero growth option would be included in future budgets.

**Final Outcome:** The adopted work programme and budget contains annexes detailing: the total core administrative budget for the 2012-2013 biennium amounting to US\$6,467,913, which includes the FAO contribution, and US\$4,480,713 to be funded by parties; an addendum that contains possible supporting activities to be proposed to donors for funding under the Special Funds for Agreed Purposes, totaling US\$632,350; and another annex on the Secretariat staffing structure.

In the resolution, the GB, *inter alia*:

- recognizes the Treaty has a current outstanding obligation of US\$716,026 representing the outstanding balance of contributions to the Special Funds for Agreed Purposes, which donors allowed to be used on a temporary basis in the 2008-2009 biennium to cover the shortfall in voluntary contributions to the core administrative budget;
- adopts the Work Programme and the Treaty's core administrative budget for the biennium 2012-2013, and, among others: urges parties to provide the resources required in the core administrative budget and invites non-parties to contribute to the core administrative budget and the Special Funds;
- takes note of the provisional, proposed contribution from FAO of US\$1,987,200;
- notes further that parties will be requested to contribute the balance to bring the Working Capital Reserve, which stands at US\$143,500, up to its established level of US\$400,000 in the 2012-2013 biennium;
- approves the Secretariat's staffing structure; and
- confirms that developing country parties and countries with economies in transition should be informed by the Secretary, in a timely manner before the meeting, of the availability of resources to support their participation at meetings.

#### CLOSING PLENARY

On Friday, following adoption of the resolutions under the respective agenda items, Rapporteur Kassahun Embaye (Ethiopia) presented the report of the meeting (IT/GB-4/11/ Report), which was adopted without amendments.

Chair Hufler noted that GB 5 will be held in 2013, with the exact date and location to be communicated by the Secretariat.

Qatar urged greater consideration for Arabic in the translation of documents to encourage more effective participation for Arab-speaking delegations. Indonesia praised the Secretariat, and expressed hope that the resolutions adopted will be implemented to ensure food security in a climate changing world. Italy called on delegates not to lose sight of the overall goal of trying to ensure global food security. The US thanked delegates for welcoming their contributions, and said they hope to participate at future meetings as a party. The African Group noted that there is still a long way to ensure Treaty implementation, and called for funding to host two regional coordination meetings during the intersessional period. Canada called on delegates to remain focused on enhancing food security and contributing to sustainability in agriculture. Iran thanked delegates for the confidence placed in him to chair GB 5. Japan thanked delegates for their kind consideration following the tsunami in his country, and informed delegates that Japan is considering acceding to the Treaty, and contributing funds on a voluntary basis. Civil society welcomed the progress made on farmers' rights, and called for compensation to farmers by the seed industry. ITPGR Secretary Bhatti expressed his appreciation to all involved, particularly the Secretariat staff for their excellent work. During the customary exchange of courtesies, Chair Hufler expressed her appreciation to the *Earth Negotiations Bulletin* for coverage of the session and to Switzerland for making daily issues possible by providing additional financial support, and gavelled the meeting to a close at 11:16 pm.

#### A BRIEF ANALYSIS OF THE MEETING

The fourth session of the Governing Body to the International Treaty on Plant Genetic Resources for Food and Agriculture took place in Bali against the backdrop of a number of globally important events and developments. Just months earlier, the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity had adopted, against all odds, the Nagoya Protocol on access and benefit-sharing (ABS), which recognized that the Treaty forms part of the international regime on ABS. At the same time, the earthquake and tsunami in Japan underlined the unpredictability of nature and the need for humanity to adapt, while guaranteeing the resilience of agricultural systems. The Treaty is well-positioned to assist in meeting this challenge by ensuring the continuous flow of genetic resources, which is essential to agriculture and food security, and by providing the necessary support to farmers.

As a result of committed work, including through lengthy night sessions, the Governing Body was able to adopt a number of important outcomes, including on the long-outstanding issues of compliance procedures and financial rules. Furthermore there was a general realization among delegates that unfolding the full potential of the Treaty depends on provision of sufficient funds and on ensuring implementation from the international level right down to the community level. This brief analysis will assess the important steps taken at this session to consolidate the position of the Treaty and ensure its implementation at the international, national and local levels.

#### REACHING THE AGE OF REASON

The adoption of the ABS Protocol brought to the forefront the issue of collaboration with relevant international bodies, particularly the CBD. Concluding a long-standing debate, the ABS Protocol stated that specialized ABS instruments, in this case the Treaty, supersede its provisions as long as they are consistent with the CBD and Protocol's objectives. In addition, and although the Treaty's Multilateral System (MLS) is built to respond to the specificities of agricultural biodiversity, it is fair to expect that the experience gained under the Treaty will be looked at in the framework of the newly adopted Protocol, particularly regarding the envisaged multilateral benefit-sharing mechanism for genetic resources and traditional knowledge in transboundary situations or for which it is not possible to grant or obtain prior informed consent. The strengthened relationship between the two instruments was marked by the signature of a memorandum of cooperation between the two secretariats and the presence of the CBD Executive Secretary at the session. It was further reflected in a decision calling for strengthened collaboration between the secretariats and calling on parties to ensure that measures taken for the implementation of the Treaty and the Protocol are mutually supportive.

The Treaty has the potential to build on those synergies, as long as it also streamlines its own procedures. As several delegates noted, the Governing Body process has matured. Avoiding the drawn-out procedural debates that held up previous sessions of the Governing Body, this meeting devoted its time and efforts to substantive discussions. It finally addressed outstanding issues that had haunted the Treaty, namely finalization of the financial rules and adoption of procedures



and operational mechanisms on compliance. The latter were hailed by several delegates as “second generation compliance procedures,” due to the range of the Compliance Committee’s functions. In comparison with compliance procedures under other processes, the Treaty’s Compliance Committee will not only consider information submitted to it on issues of compliance and non-compliance, but will have additional duties on monitoring implementation, considering parties’ reports, and presenting a synthesis and analysis of such reports, as well as recommendations, to the Governing Body. The functions of the Committee also include the ability to answer questions and statements addressed to it: the only exceptions seem to be questions related to the standard material transfer agreement (SMTA) raised by parties to a specific SMTA, although arguably, the Committee could address general questions by the Governing Body regarding the SMTA.

One of the main issues hampering negotiations on compliance was related to recognition of the special needs of developing countries and countries with economies in transition. This is a standard provision in existing compliance-related instruments. Participants from North America took a principled stance that compliance obligations apply equally to all parties, whereas a distinction could be drawn when it comes to remedies. On the other hand, developing countries insisted that the principle of common but differentiated responsibilities applies to compliance. Consensus was only made possible on the last day after an all-night session, using compromise text based on the Basel Convention Compliance Mechanism.

### **MOVING TOWARDS IMPLEMENTATION**

Persistent contention on key issues, such as compliance and implementation of the MLS, exemplifies a certain level of mistrust between developed and developing countries, which risks impeding implementation and unlocking the Treaty’s full potential. One major ongoing concern is the slow rate at which parties place their national collections in the MLS and the lack of progress in voluntary notifications by private entities. Developed countries emphasized the benefits of facilitated access and data-sharing. At the same time, developing countries underlined that knowledge, capacity and technology is required in order to reap the benefits of facilitated access. Declaring that focus on benefit-sharing is lacking and that developed countries do not honor their financial obligations, many developing countries seem hesitant to place their collections in the MLS. This creates a vicious circle that needs to be addressed if the system is to function properly. The benefit-sharing fund could be part of the solution, as its panel of experts is currently finalizing the appraisal of projects for the second round of the project cycle.

This fund has received a significant amount of voluntary contributions, and will be disbursing US\$10 million to help ensure sustainable food security by assisting farmers to adapt to climate change, in accordance with the thematic focus of the call for proposals. It remains to be seen whether most of the funds will end up in genebanks and research institutions or whether they will also reach smallholder farmers at the community level. While it is undeniable that many developing countries’ genebanks are in dire financial straits and require funding to carry on the necessary research, many voices were heard calling for more on-farm conservation and sustainable use.

After all, farmers are the primary beneficiaries of the Treaty and their contribution to food security needs to be acknowledged in practical ways.

Implementation of farmers’ rights is acknowledged to be an important tool in that regard. While many countries called for enabling measures at the international level, some developed countries insisted that this was an issue strictly within the national purview. The tussle over international versus national obligations to implement farmers’ rights is yet to be resolved. According to the text of the Treaty, implementation of farmers’ rights is the responsibility of national governments, but the claim from developing countries that many of them require financial assistance and technical advice for the implementation of these rights draws the international community back into the fray. In addition, the Treaty includes requirements for international action to ensure that the benefits shared under the MLS flow primarily to farmers, and that farmers benefit from the Funding Strategy’s plans and programmes. Achieving a balance between international and national action in that regard will be a challenge, but progress was made as the meeting adopted a resolution on farmers’ rights calling for information-sharing at the regional and international levels.

### **MOVING AHEAD**

As a general assessment, the fourth session of the Governing Body was considered to be highly successful and an important step in the Treaty’s coming of age. Strong and innovative compliance procedures were adopted that have the potential to assist in the implementation of the Treaty. A moderately increased budget, remarkable in times of budget reductions for governments and of financial insecurity for all, serves as further evidence that parties see the growth potential of the Treaty and are hopefully ready to invest in it. Resolving the long-standing issue of the financial rules through a carefully crafted mention of the UN indicative scale of contributions, was another major breakthrough. This compromise can also be expected to promote predictability of the Treaty’s core budget. As these outstanding requirements for the Treaty’s effective operation have been met, the Treaty can now focus on implementation in order to realize its full potential. In addition, with the Intergovernmental Committee of the Nagoya Protocol on ABS holding its first meeting in June and the Commission on Genetic Resources for Food and Agriculture meeting in July, the Treaty will need to take the immediate steps required to consolidate its position with regard to these two fora. Ten years after its adoption, as the only fully functional global system for ABS, the time is ripe for the Treaty to be recognized as the key connecting instrument between the environment and agriculture sectors.

### **UPCOMING MEETINGS**

**CGRFA Intergovernmental Technical Working Group on Forest Genetic Resources:** The first meeting of the group will review preparation of The State of the World’s Forest Genetic Resources, status and trends in biotechnologies for the conservation and utilization of genetic resources for food and agriculture, and the work programme. **dates:** 4-6 April 2011

**location:** Rome, Italy **contact:** CGRFA Secretariat **phone:** +39-06-5705-4981 **fax:** +39-06-5705-5246 **email:** cgrfa@fao.org **www:** <http://www.fao.org/nr/cgrfa/cgrfa-home/en/>

**FAO Council:** The 141st session of the Council is organized by FAO. **dates:** 11-15 April 2011 **location:** Rome, Italy **contact:** FAO Secretariat **phone:** +39-06-570 53625 **fax:** +39-06-570-53152 **email:** FAO-HQ@fao.org **www:** <http://www.fao.org/bodies/council/cl141/en/>

**5th Session of the CGRFA Intergovernmental Working Group on PGRFA:** The meeting will review the draft Global Plan of Action, draft genebank standards, and policy coherence and coordination, among other matters. **dates:** 27-29 April 2011 **location:** Rome, Italy **contact:** CGRFA Secretariat **phone:** +39-06-5705-4981 **fax:** +39-06-5705-5246 **email:** cgrfa@fao.org **www:** <http://www.fao.org/nr/cgrfa/cgrfa-home/en/>

**Nagoya Protocol IC 1:** The first meeting of the Intergovernmental Committee of the Nagoya Protocol on ABS is organized by the CBD Secretariat. **dates:** 6-10 June 2011 **location:** Montreal, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=ICNP-01>

**37th FAO Conference:** The 37th Conference of the FAO will include a focus on the role of women in agriculture and rural development. **dates:** 25 June - 2 July 2011 **location:** Rome, Italy **contact:** FAO Secretariat **phone:** +39-06-570 53625 **fax:** +39-06-570 53152 **email:** FAO-HQ@fao.org **www:** <http://www.fao.org/bodies/conf/c2011/en/>

**FAO Council:** The 142nd session of the Council is organized by FAO. **dates:** 4-5 July 2011 **location:** Rome, Italy **contact:** FAO Secretariat **phone:** +39-06-570 53625 **fax:** +39-06-570 53152 **email:** FAO-HQ@fao.org **www:** <http://www.fao.org/bodies/en/>

**CGRFA 13:** The 13th session of the Commission on Genetic Resources for Food and Agriculture will be preceded by a special event on climate change. **dates:** 18-22 July 2011 **location:** Rome, Italy **contact:** CGRFA Secretariat **phone:** +39-06-5705-4981 **fax:** +39-06-5705-5246 **email:** cgrfa@fao.org **www:** <http://www.fao.org/nr/cgrfa/cgrfa-home/en/>

**UNCCD COP 10:** The tenth session of the Conference of the Parties (COP 10) to the UN Convention to Combat Desertification (UNCCD) will take place in October 2011. **dates:** 10-21 October 2011 **location:** Changwon City, Republic of Korea **contact:** UNCCD Secretariat **phone:** +49-228-815-2800 **fax:** +49-228-815-2898 **email:** secretariat@unccd.int **www:** <http://www.unccd.int/>

**37th Session of the Committee on World Food Security:** The Committee on World Food Security is an intergovernmental platform dealing with food security and nutrition, supports national anti-hunger initiatives and is a central component in the Global Partnership for Agriculture, Food Security and Nutrition. **dates:** 18-22 October 2011 **location:** Rome, Italy **contact:** FAO Secretariat **phone:** +39-06-570 53625 **fax:** +39-06-570 53152 **email:** cfs@fao.org **www:** <http://www.fao.org/cfs/en/>

**FAO Council:** The 143rd session of the Council is organized by FAO. **dates:** 21-25 November 2011 **location:** Rome, Italy **contact:** FAO Secretariat **phone:** +39-06-570 53625 **fax:** +39-06-570 53152 **email:** FAO-HQ@fao.org **www:** <http://www.fao.org/bodies/en/>

**Nagoya Protocol IC 2:** The second meeting of the Intergovernmental Committee of the Nagoya Protocol on ABS is organized by the CBD Secretariat. **dates:** 23-27 April 2012 **location:** Delhi, India (tentative) **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**UNCSD:** The United Nations Conference on Sustainable Development (UNCSD) will focus on a green economy in the context of sustainable development and poverty eradication, and on the institutional framework for sustainable development. **dates:** 4-6 June 2012 **location:** Rio de Janeiro, Brazil **contact:** UNCSD Secretariat **phone:** +1-212-963-1267 **fax:** +1-212-963-4260 **email:** uncsd2012@un.org **www:** <http://www.uncsd2012.org>

**Biosafety Protocol COP/MOP 6:** The sixth meeting of the Conference of the Parties to the CBD serving as Meeting of the Parties to the Cartagena Protocol on Biosafety is tentatively scheduled for October 2012. **dates:** 1-5 October 2012 **location:** India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**CBD COP 11:** The eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity is tentatively scheduled for October 2012. **dates:** 8-19 October 2012 **location:** India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**ITPGR GB 5:** The fifth session of the Governing Body of the ITPGR is expected to be held in 2013. **dates:** to be determined **location:** to be determined **contact:** ITPGR Secretariat **phone:** +39-06-570-53441 **fax:** +39-06-570-56347 **email:** pgrfa-treaty@fao.org **www:** <http://www.itpgrfa.net/>

## GLOSSARY

ABS	Access and benefit-sharing
CBD	Convention on Biological Diversity
CGIAR	Consultative Group on International Agricultural Research
CGRFA	Commission on Genetic Resources for Food and Agriculture
ERG	European Regional Group
FAO	UN Food and Agriculture Organization
GB	Governing Body
GPA	Global Plan of Action on the Conservation and Sustainable Use of Plant Genetic Resources for Food and Agriculture
GRULAC	Latin America and the Caribbean Group
IARCs	International agricultural research centers
IPRs	Intellectual property rights
ITPGR	International Treaty on Plant Genetic Resources for Food and Agriculture
MLS	Multilateral System
PGRFA	Plant genetic resources for food and agriculture
SMTA	Standard material transfer agreement
TORs	Terms of reference
WIPO	World Intellectual Property Organization