



ITPGR INTERIM COMMITTEE HIGHLIGHTS: MONDAY, 15 NOVEMBER 2004

The second session of the Commission on Genetic Resources for Food and Agriculture (CGRFA) acting as Interim Committee for the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR) opened on Monday, 15 November 2004, immediately following CGRFA-10. Delegates heard opening statements and a report on progress and activities since the first session of the Interim Committee, elected the Bureau of the meeting, and adopted the agenda and timetable. They also addressed the report of the Expert Group on the terms of the standard Material Transfer Agreement (MTA), and initiated discussion on the draft rules of procedure for the ITPGR Governing Body.

OPENING SESSION

Fernando Gerbasi (Venezuela), Chair of the first session of the ITPGR Interim Committee, opened the meeting highlighting ITPGR's entry into force on 29 June 2004 and Spain's offer to host the first meeting of the Governing Body. Noting the rapid ratification of the Treaty, Louise Fresco, FAO Assistant Director-General for Agriculture, said the Treaty currently has 61 Contracting Parties. She recalled that the first meeting of the Governing Body should convene no later than two years from the Treaty's entry into force, and called for building on the momentum to operationalize it fully. Stressing the fact that the Working Group on the rules of procedure and the financial rules for the Governing Body, and on compliance did not convene due to lack of funds, she highlighted: progress made by the Expert Group on the standard MTA; establishment of the Global Crop Diversity Trust, as an essential element of the Treaty's funding strategy; and the need for an inter-sessional work programme to prepare for the first meeting of the Governing Body, taking into account financial considerations.

Delegates then elected the meeting's Bureau. Upon a proposal by Portugal, on behalf of Europe, North America and Southwest Pacific, delegates elected Bryan Harvey (Canada) as Chair of the meeting, and Anders Christiansen (Denmark) and Kristiane Herrmann (Australia) as Vice-Chairs. Panama, on behalf of the G-77, nominated Carlos Pozzo Bracho (Venezuela), Champak Chatterji (India) and Javad Mozafari (Iran) as Vice-Chairs, and Modesto Fernández (Cuba) as the meeting rapporteur, while nomination of one Vice-Chair is pending.

Bryan Harvey, Chair of the second session of the ITPGR

Interim Committee, expressed appreciation to Gerbasi for his contribution, and invited a report on progress and activities since the first meeting of the Interim Committee. José Esquinas-Alcázar, CGRFA Secretary, presented the report (CGRFA/MIC-2/04/Inf.2), outlining the meeting agenda, and stressing that a successful first session of the Governing Body would pave the way for fast implementation of the Treaty. He noted that, due to early entry into force of the ITPGR, the FAO budget and work programme do not provide for funds, and called for extra-budgetary resources. He further stressed that only the countries ratifying 90 days before the first session of the Governing Body will be able to attend that meeting as Parties.

On the adoption of the agenda and timetable (CGRFA/MIC-2/04/2), delegates debated convening two parallel sessions to address the agenda more effectively. The Netherlands, on behalf of the European Community and its Member States (EU), the US, JAPAN and AUSTRALIA supported meeting in two parallel sessions, noting the importance of finalizing issues on the agenda for the first session of the Governing Body. Colombia, on behalf of Latin America and the Caribbean (GRULAC), Zambia, on behalf of the AFRICAN GROUP, and many other developing countries opposed, noting that many delegations are not able to attend two parallel sessions. Panama on behalf of the G-77, suggested holding regional consultations to assess the best way to proceed. GRULAC requested that FAO provide funding to convene a meeting of the Working Group on the rules of procedure and the financial rules of the Governing Body, and on compliance, before the first session of the Governing Body. Following regional consultations, delegates decided to proceed in a plenary session.

Noting that CGRFA-10 succeeded in strengthening the collaboration between the FAO and the Convention on Biological Diversity (CBD), the CBD emphasized the key role that FAO and the CGRFA can play in integrating biodiversity considerations within the food and agricultural sector for poverty alleviation. He noted that a memorandum of understanding will be signed in the near future between the CBD and the CGRFA, and highlighted the work of the CBD Working Group on access and benefit-sharing.

REPORT OF THE EXPERT GROUP ON THE TERMS OF THE STANDARD MTA

Eng-Siang Lim (Malaysia), Chair of the Expert Group on the terms of the standard MTA, presented the group's report



(CGRFA/IC/MTA-1/04/Rep). He highlighted that the group's task was to examine and report on all options identified for the terms of the MTA, with the associated implications, reflecting all views. He then outlined the questions the group considered, and options and views it identified, including on: the terms of "commercialization," "product," and "incorporation of material"; when a product would be considered to be available without restriction; level, form and manner of payments; potential different levels of payment for various categories of recipients; a potential small farmers' exemption; and definition of monetary and other benefits. He highlighted the Expert Group's views on the structure of the standard MTA, including on: parties to the MTA; definitions; subject matter; general provisions; rights and obligations of the provider and the recipient; applicable law; and dispute resolution. Regarding future work, he said the Expert Group recommended that the Interim Committee: prepare the first draft of elements of the standard MTA reflecting all options and views; or establish an inter-sessional contact group to draft the elements of the standard MTA for consideration by the Governing Body.

Chair Harvey invited views on the Expert Group's report. Most delegations welcomed the report as a starting point for further work, and supported the establishment of a contact group to continue developing the MTA. Noting with concern the limited participation of developing countries in the Expert Group meeting, BRAZIL proposed a more participatory and multi-disciplinary approach for the contact group. BRAZIL, BANGLADESH and ECUADOR suggested that each region nominate negotiators, and each country nominate experts and observers, at the country's expenses and in consistency with the suggestions of the Expert Group. BRAZIL, VENEZUELA and ECUADOR requested that observers and experts be allowed to substitute negotiators if need be, and noted that these provisions should be negotiated under the terms of reference (TORs) for the contact group. Colombia, on behalf of GRULAC, suggested nominating the same experts for participation in the contact group as in the Expert Group, and recommended rotation in the exercise of the right to speak, to ensure input of all countries. JAPAN requested that the contact group be open-ended, to ensure representation of national considerations. CHINA noted that expert and non-expert participants should not be distinguished.

In the interest of an early agreement on the MTA, the EU, supported by VENEZUELA, IRAN, BRAZIL and AUSTRALIA, proposed that Chair Harvey, the Expert Group's Chair Lim and the Secretariat prepare an initial draft MTA for submission to the contact group. BRAZIL noted that the draft should be considered by regional groups first. AUSTRALIA stressed that the Interim Committee should develop the contact group's TORs so that it can convene as soon as possible.

SWITZERLAND, supported by NORWAY, proposed that the contact group meet before the end of February 2005, for adoption of the MTA at the first meeting of the Governing Body. He also suggested that the chair of the contact group be elected during this session of the Interim Committee, and with support from ECUADOR, proposed that the chair of the contact group, with the Secretariat, prepare a draft MTA for early submission to regions. The US proposed that the decision on the chair, composition and TORs of the contact group be made at this meeting. CANADA cautioned that the cost of convening the contact group should be included in the Interim Committee's

budget considerations.

Chair Harvey noted support for the establishment of an inter-sessional contact group, but diverging views on its composition. He said he will prepare a Chair's text for consideration in Plenary and allow adequate time for regional consultations.

DRAFT RULES OF PROCEDURE FOR THE GOVERNING BODY

Chair Harvey introduced the draft rules of procedure for the Governing Body (CGRFA/MIC-1/02/4 and Corrigendum), noting that they are based on the rules in force for the FAO Interim Commission on Phytosanitary Measures. Stressing that most outstanding issues are of a technical rather than substantive nature, he suggested establishing a small group to work on the item.

The EU suggested convening the small group as soon as possible. COLOMBIA and IRAN opposed establishing a small group, and with UGANDA, reiterated holding all discussions in Plenary. CUBA and IRAN stressed the need to convene an open-ended inter-sessional working group, as agreed at the first session of the Interim Committee, and called upon FAO to continue exploring funding possibilities. CUBA, IRAN and ANGOLA suggested holding regional consultations to achieve some progress during this session of the Interim Committee. Chair Harvey closed the meeting to allow for regional consultations.

IN THE CORRIDORS

The arrival of several seasoned ITPGR negotiators marked the opening of the second session of the ITPGR Interim Committee. One delegate noted that this change of setting reflects the importance, and will impact the pace, of this week's negotiations. The sharp contrast with the easy-going discussions of CGRFA-10 was noticeable straight from the beginning, considering the heated debate on the establishment of parallel negotiating sessions, which made it apparent that many delegations will not easily compromise their interests and priorities.

A failure to convene an inter-sessional working group on rules of procedure and financial rules for the Governing Body, and on compliance, due to a lack of extra-budgetary resources, has resulted in an overloaded agenda for this session of the Interim Committee. However, with the number of ratifications rapidly increasing since the Treaty's entry into force, several emphasized the importance of finalizing work on all issues to pave the way for the first meeting of the Governing Body.

One delegate pointed towards the finalization of the standard MTA as an issue on which negotiations could hit rough waters. Drafting the MTA is considered to be the most complex item of the meeting, notwithstanding a significant amount of work achieved in an inter-sessional Expert Group. Being the cornerstone of the Multilateral System, the MTA will be the first contractual agreement between the provider and the recipient of genetic resources with global application. With that in mind, some noted that accommodating all country priorities as well as the necessary legal clauses, is of paramount importance to ensure successful implementation. Establishing an inter-sessional contact group seemed to be a necessary step and was accepted by all. However, participation issues were a great concern, as countries tried to ensure that their interests be taken into account.