



## ITPGR INTERIM COMMITTEE HIGHLIGHTS: TUESDAY, 16 NOVEMBER 2004

Delegates to 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) held regional consultations and met in a brief plenary session in the morning. In an afternoon and evening session, delegates addressed the draft rules of procedure for the Governing Body. A Chair's text on the terms of reference for a contact group on the standard MTA was also circulated in the evening.

### ORGANIZATION OF WORK

In the morning, following regional consultations, delegates met in a brief plenary session. Upon a request by Colombia, on behalf of G-77/CHINA, they decided to adjourn the meeting to allow for additional time for the group to meet. Delegates nominated Elizabeth Matos (Angola) as Vice-Chair, and approved the agenda, noting that work should continue in Plenary with a flexible time schedule.

### DRAFT RULES OF PROCEDURE FOR THE GOVERNING BODY

Chair Harvey introduced the draft rules of procedure for the ITPGR Governing Body (CGRFA/MIC-1/02/4 and Corrigendum). Delegates supported the draft rules as basis for discussion, requesting that they clearly reflect the ITPGR provisions. CANADA noted that the draft rules are based on the rules of procedure of the FAO Interim Commission on Phytosanitary Measures, and suggested their careful revision for application in an independent treaty such as the ITPGR. JAPAN said the rules of procedure should be consistent with Article XIV of the FAO Constitution (Conventions and Agreements). ARGENTINA and BRAZIL requested convening the inter-sessional working group established by the first session of the Interim Committee, in case discussions are not concluded successfully.

The Netherlands, on behalf of the European Community and its Member States (EU), suggested aligning the rules of procedure with those of recently adopted international agreements on agriculture, environment and development. Requesting clarification of the relationship between the ITPGR Secretariat and the FAO Director-General, he called for a greater role of the Secretariat.

**RULE I (MEMBERSHIP):** The EU and the US called for reference to ITPGR Article 19.1 on the Governing Body's establishment and composition. IRAN questioned the need for a rule on membership, as it is already defined in the Treaty text.

**RULE II (OFFICERS):** The EU suggested language stating that the Bureau comprises a Chair and seven Vice-Chairs, with due regard to equitable geographical representation and limiting re-election to three consecutive terms. Supported by INDIA, and noting the experience under the Convention on Biological Diversity (CBD), he also suggested that the term of office of the Chair commence immediately, while that of the Vice-Chairs commence upon the closure of the meeting at which they are elected. He added that Vice-Chairs will remain in office until the closure of the next session, to ensure continuity between meetings.

Delegates debated the terms of office for Vice-Chairs. The US proposed following the rules applied under the *Codex Alimentarius*, and ERITREA suggested that Vice-Chairs remain in office from the beginning of one session to the beginning of the following one. SUDAN cautioned against extending the terms of office beyond one year. Delegates also discussed a process for substitution of Vice-Chairs, with the EU noting that substitution belongs to the country, while ERITREA to the regional group.

**RULE III (SECRETARY):** The EU suggested deleting language on appointment of the Secretary by the FAO Director-General, noting that the issue is clarified in ITPGR Article 20.1 on the Secretary of the Governing Body. ERITREA, BRAZIL and the US proposed a verbatim inclusion of ITPGR Article 20.1.

**RULE IV (SESSIONS):** The EU requested references to the relevant Treaty provisions and stressed that sessions should be convened in consultation with the Secretariat, rather than with the FAO Director-General. The FAO legal counsel advised that the FAO Director-General needs to be consulted when bodies such as the ITPGR are established according to Article XIV of the FAO Constitution. AUSTRALIA noted the budgetary implications of deviating from FAO rules, and suggested consulting with the Bureau before convening a session of the Governing Body. Delegates discussed language on the representation of Contracting Parties in the Governing Body, and agreed that each Contracting Party shall have one vote and may be represented by a single delegate, as stated in ITPGR Article 19.4 (Governing Body). AUSTRALIA called for language clarifying inter-sessional representation of Contracting Parties.



**RULE V (AGENDA AND DOCUMENTS):** The EU suggested preparation of the agenda by the Secretary in agreement with the Chair, and AUSTRALIA proposed agreement with the Bureau. IRAN said it should be prepared on the request and under the guidance of the Bureau. COLOMBIA suggested that the Chair prepare the agenda in consultation with the Vice-Chairs and with the support of the Secretary. AUSTRALIA proposed deleting language stating that the adoption of the agenda should always be the first agenda item.

Delegates debated procedures for adding items to the provisional agenda. AUSTRALIA and JAPAN said Contracting Parties may suggest agenda items at all times. BRAZIL opposed adding unqualified items after the agenda's circulation. ERITREA suggested discussing additional items under other business. On amendments of the agenda after its adoption, the EU suggested deleting a reference to voting procedures, while BRAZIL, AUSTRALIA and SWITZERLAND requested decision making by consensus. ERITREA and BRAZIL, opposed by many, said the agenda cannot be changed after its adoption.

COLOMBIA and the EU suggested that participation by non-members to the Governing Body follow UN standards and include other UN members, UN specialized agencies and the International Atomic Energy Agency. BRAZIL proposed distribution of documents at least six weeks prior to any session, and AUSTRALIA asked for a flexible deadline for agenda items added late.

**RULE VI (VOTING PROCEDURES):** SWITZERLAND requested deleting language stating that each Contracting Party shall have one vote. CUBA and the EU stressed reference to ITPGR Articles 19.4 and 19.6 on voting rights. The FAO legal counsel asserted the importance of retaining references to the FAO Constitution. Delegates discussed the title, with the US and IRAN suggesting that the rule be called "decision making," and BANGLADESH favoring "decision making and voting procedure." AUSTRALIA added reference to ITPGR Article 19.2 on decision making. The EU, supported by CANADA, proposed that decisions by the Governing Body on procedural matters be taken by the majority of Contracting Parties present and voting.

BRAZIL, COLOMBIA, CUBA, IRAN and AUSTRALIA supported that all decisions be taken by consensus, and the Governing Body can decide otherwise on a case-by-case basis, according to ITPGR Article 19.2 on decision-making procedures. The EU clarified that ITPGR Article 19.2 allows for decision making by a method other than consensus, and supported by JAPAN, ARGENTINA and ERITREA, reiterated the need to keep the majority-voting option open in the text. CUBA requested bracketing language on the application *mutatis mutandis* of the Rule XII of the FAO General Rules (voting methods), until the decision-making process is agreed upon.

**RULE VII (OBSERVERS):** The EU presented language reflecting ITPGR Article 19.5 on observer participation. The US also suggested using Treaty language.

**RULE VIII (RECORDS AND REPORTS):** The EU suggested a reference to decisions taken by the Governing Body, rather than its recommendations only. Delegates discussed language on including a statement of minority views in the report, with BRAZIL requesting bracketing the reference, and CANADA and AUSTRALIA suggesting a reference to the possibility of recording individual country statements. The EU proposed that the Secretary, rather than the FAO Director-General, should

bring the Governing Body's decisions to the attention of the FAO Conference or Council. Delegates debated the proposal, with AUSTRALIA, ERITREA and CUBA suggesting retaining reference to the Director-General for legal, institutional and financial reasons.

**RULE IX (SUBSIDIARY BODIES):** The EU suggested that members of subsidiary bodies acting in their personal capacity be appointed by the Governing Body. BRAZIL requested that all representatives be appointed by the Contracting Parties. The US, opposed by BRAZIL, CUBA and IRAN, proposed including observers as members of subsidiary bodies. AUSTRALIA cautioned that formal subsidiary bodies should not replace inter-sessional informal working groups.

**RULE X (EXPENSES):** ARGENTINA, supported by CUBA and BRAZIL, proposed that participation by developing country representatives, observers, advisors and alternates should be supported by the ITPGR core budget. The EU requested bracketing the reference.

**RULE XII (AMENDMENT AND SUSPENSION OF THE RULES):** AUSTRALIA, BRAZIL, the EU and the US expressed concern about the possibility of suspending the rules of procedure and proposed deleting the reference.

**ADDITIONAL RULES:** CANADA asserted the overriding authority of the Treaty in the event of a conflict with the rules of procedure. The EU suggested application of FAO General Rules to all matters not covered by the rules of procedure.

Chair Harvey said that a compilation of views will be circulated for regional consultations.

### IN THE CORRIDORS

Many participants were puzzled by the early closure of the morning plenary session, in view of G-77's repeated requests for consultations. While all delegates acknowledged that regional coordination is indispensable in order to achieve progress, several expressed serious concerns about time management, considering the heavy agenda and the lack of financial resources to allow for inter-sessional work. Some noticed that progress may be much faster during the first session of the Governing Body, where Parties only will have full capacity to negotiate, and moving ahead will be in their best interest.

Noting the slow plenary negotiations on the rules of procedure in the afternoon, some felt that the decision not to establish parallel sessions of any kind actually led to stalling the whole process. One delegate talked about the "hidden agenda" of certain countries to delay work on the standard Material Transfer Agreement (MTA). Preventing the MTA from becoming a model under the CBD negotiations on access and benefit-sharing, taking advantage of bilateral agreements outside the Multilateral System, or providing time for some countries to become Parties before the first session of the Governing Body, were indicated as possible reasons for the attempt to stall negotiations. Nonetheless, many expressed their willingness to continue work on the MTA at this session and were hopeful that progress would definitely be achieved at the first meeting of the Governing Body. A Chair's text on the terms of reference for the contact group on the standard MTA, circulated in the evening, and an announcement relating to a draft prepared by the G-77 on the same issue, may provide an opportunity for constructive discussion in this regard.