

## ITPGR GB-1 HIGHLIGHTS:

### MONDAY, 12 JUNE 2006

The first session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) opened on Monday, 12 June 2006 in Madrid, Spain. Delegates attended an opening ceremony, and then addressed organizational matters in plenary. In the afternoon, delegates broke into two working groups to discuss the standard Material Transfer Agreement (MTA) in Working Group I (WG-I) and the financial rules in Working Group II (WG-II). A contact group on financial rules met in the evening.

#### OPENING CEREMONY

After delegates heard a performance of classical Spanish guitar, the Secretariat screened a video on the origins of the Treaty and the importance of plant genetic resources for global food security. Elena Espinosa, Spanish Minister of Agriculture, Fisheries and Food, outlined recent national efforts to legislate the conservation and management of plant genetic resources, and encouraged delegates to achieve consensus on outstanding matters, such as the standard MTA and funding strategy, to operationalize the Treaty. Delegates then watched a video on Spain's efforts for the long-term conservation of germplasm.

Jacques Diouf, the Director-General of the UN Food and Agriculture Organization (FAO), reflected on the recent successful history of the Treaty, called upon delegations to work together to build policy synergies, and emphasized that the Treaty represents a framework to discuss all aspects of plant genetic resource issues. He emphasized that poverty eradication is the overriding aim of plant genetic resource policy, and that access to a secure food source is a basic human right.

Teresa Fernández de la Vega, Spain's Deputy Prime Minister, noted Spain's bridging function in the global plant genetic resources for food and agriculture (PGRFA) exchange and emphasized her government's commitment to the Treaty's implementation. She stressed that cooperation is an ethical obligation of the international community, noting that the Treaty is a tool to guarantee food security and quality, and to combat hunger and poverty by providing benefit-sharing and development opportunities to the underprivileged.

#### PLENARY

Recounting the long history of deliberations behind the ITPGR, José Esquinas Alcázar, Secretary of the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA), underscored the meeting's important task of making the Treaty operational and called for flexibility during the negotiations. The plenary agreed to use the rules of procedure of the Interim Committee and, if necessary, the general rules of procedure of the FAO. Delegates elected Francisco Mombiela Muruzábal (Spain) as Chair of the meeting, and Sugiono Moeljopawiro (Indonesia), Godfrey Mwila (Zambia), Ali A. Alshurai (Yemen), Modesto Fernández Díaz-Silveira (Cuba), Bryan Harvey (Canada), and John Madden (Australia) as Vice-Chairs. They also appointed Yohannes Tensure (Eritrea) as Rapporteur.

When considering the agenda and timetable of the meeting (IT/BG-1/06/2), the UK proposed to establish a contact group on the budget and work programme, while CUBA noted that the establishment of a budget contact group should not precede the adoption of the financial rules by the Governing Body. Delegates therefore adopted the agenda, with the understanding that the Bureau will be mandated to establish a budget committee, if necessary, only after consideration of the financial rules by Working Group II.

Delegates nominated Bryan Harvey (Canada) and Ahmad Dimiyati (Indonesia) to chair Working Groups I and II, respectively. Nominations to the Credentials Committee remained pending.

**STATUS OF RATIFICATION:** CGRFA Secretary Esquinas reported on the status of the Treaty's ratification (IT/GB-1/INF.2/Rev.1). Madagascar, on behalf of the AFRICA GROUP, supported by Cuba, on behalf of the LATIN AMERICA AND CARIBBEAN GROUP (GRULAC), INDIA, YEMEN, MALAYSIA, KUWAIT, INDONESIA and PAKISTAN requested that countries that have ratified the Treaty, but are not yet parties at the present session of the Governing Body because they did not deposit their instrument of ratification or accession 90 days before the opening of the meeting, should still be able to participate fully as parties in the meeting. The UK, on behalf of the EUROPEAN REGION, cautioned against exceeding the legal parameters set by the Treaty in this regard. CANADA,

supported by AUSTRALIA and the EUROPEAN REGION, proposed allowing countries that have ratified the Treaty but are not yet parties, as contracting States, to participate in discussions as parties, but not allowing them to vote, block consensus or hold office. Following lengthy discussions, Chair Mombiola assured participants that efforts will be made to reach consensus and limit voting, and delegates eventually agreed to Canada's proposal.

### **WORKING GROUP I**

**MATERIAL TRANSFER AGREEMENT:** Eng Siang Lim (Malaysia), Chair of the Contact Group for the Drafting of the Standard MTA, presented a Chair's report on the work of the Contact Group and subsequent developments (IT/GB-1/06/INF.15). He said that the Contact Group adopted a draft standard MTA at its second meeting (IT/GB-1/06/6), which was reviewed by a Legal Working Group and a Friends of the Chair Group to develop suggestions to resolve legal inconsistencies and outstanding controversies. Referring to his report, Lim highlighted suggestions regarding substantive revisions to the text of the draft standard MTA on: access to PGRFA under development at the discretion of the developer; definition of "products" and manner and form of payment; obligations of the recipient to provide information and product samples; and arbitration.

On access to PGRFA under development, Lim noted the suggestion that: benefit-sharing should apply only to final products sold, given that the sales price will reflect the value added during the development process; monetary transfers associated with such access should not trigger benefit-sharing obligations; and access should be subject to a new MTA that ensures compliance with the original MTA. On the definition of "products" and manner and form of payment, Lim outlined a two-tier option: products that merely incorporate material from the MS should be subject to a lower level of payment, while products that incorporate materials with identifiable traits of value should be subject to a higher level of payment.

Regarding obligations of the recipient to provide information and samples of products, Lim underscored the need to recognize that such obligations may place onerous burdens on recipients, the third party beneficiary of the Multilateral System or the Treaty Secretariat. On the subject of arbitration, Lim reported broad consensus on the use of binding arbitration in the standard MTA, noting a recommendation to include a list of experts from which parties to the standard MTA may wish to choose their arbitrators.

Several regional representatives underlined the need to finalize and adopt the MTA at the first session of the Governing Body. GRULAC said the MTA should include text establishing the relationship between parties to the MTA and parties to the Treaty. Iran, on behalf of the NEAR EAST REGION, called for using the draft MTA as the basis for negotiation and cautioned against changing its structure or adding new text to it. The EUROPEAN REGION stressed that the MTA should be a transparent, free-standing document consistent with the Treaty and that it should promote the use of plant genetic resources and generate benefits. Australia, on behalf of the SOUTHWEST PACIFIC

REGION, called for a commercially relevant and operational MTA. Canada, on behalf of the NORTH AMERICAN REGION, cautioned against an overly onerous MTA that could limit the use of the Multilateral System's plant genetic resources and stressed that the proposed third party beneficiary's mandate should focus on dispute settlement rather than monitoring and reporting.

WG-I Chair Harvey established a contact group on the MTA, chaired by Godfrey Mwila (Zambia), which will meet on Tuesday.

### **WORKING GROUP II**

**FINANCIAL RULES:** Delegates decided to base their discussions on the annotated draft financial rules (IT/GB-1/06/4Add.1) rather than the draft financial rules (IT/G B-1/06/4), despite BRAZIL's concern that the Secretariat had exceeded its mandate in the preparation of the annotated version. Prompted by ANGOLA, the Secretariat explained that the rules pertain not only to the Governing Body, but also concern the financial administration of the Treaty in general. The Secretariat then clarified the general structure of the budget, drawing a distinction between the core administrative budget, special funds for agreed purposes, and a proposed trust fund comprising income from benefit-sharing.

On financial contributions, Austria, on behalf of the EUROPEAN UNION (EU), opposed by AUSTRALIA, BRAZIL, JAPAN and NORWAY, suggested wording to allow contributions from States that are not parties, non-governmental organizations, and international organizations, among other entities. Opposed by BRAZIL, the EU also proposed to delete language on interest derived from investments of funds held in trust.

The CENTRAL AFRICAN REPUBLIC expressed doubts as to the budget structure, asking for clarification on how researchers will be able to use any ITPGR funds. In light of delegates' divergent opinions, WG-II Chair Dimiyati established a contact group to further discuss financial rules to meet in the evening and report back to WG-II on Tuesday.

### **IN THE CORRIDORS**

At the end of an enjoyable, albeit slow, first day featuring a guitar concert and wine tasting in the morning, and an evening cocktail, several delegates were heard commenting on the heavy agenda for the Governing Body's first meeting and questioning the chances that substantive agreements will make the Treaty fully operational by the end of the week. While some remain optimistic that most of the work necessary to operationalize the ITPGR can be completed in Madrid, others already anticipate that some issues on the table, such as compliance, will be postponed to a second meeting.

Despite Working Group I's wholesale endorsement of finalizing the standard MTA by Friday, a few participants are betting that agreement will not be within reach, and instead are content to resolve outstanding issues within a future, small intersessional group. Others kept their heads up asserting that agreement on the MTA is the most prominent task for the week. Skeptics and idealists alike are eager for the contact group negotiations on the standard MTA to start on Tuesday.