

ITPGR GB-1 HIGHLIGHTS:

TUESDAY, 13 JUNE 2006

On Tuesday, 13 June 2006, a Ministerial Segment, held in parallel with the first session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR), met throughout the day and adopted a Ministerial Declaration. Working Group II (WG-II) continued consideration of the financial rules and commenced discussions on the funding strategy. Working Group I was suspended, so that a contact group on the standard Material Transfer Agreement (MTA) could meet throughout the day. The financial rules contact group reconvened at lunchtime and a budget committee convened in the evening.

MINISTERIAL SEGMENT

Elena Espinosa, Spanish Minister of Agriculture, Fisheries and Food, opened the Ministerial Segment, and emphasized the Treaty's importance for the conservation of plant genetic resources for food and agriculture (PGRFA), food security, and achieving the Millennium Development Goals (MDGs). Jacques Diouf, FAO Director-General, called upon participants to adopt a draft ministerial declaration and reflect the Treaty's objectives in national programmes and legislation, and development strategies. Upon a motion by Minister Espinosa, participants adopted the declaration by acclamation.

Several participants acknowledged the interconnectedness of global food security, farmers' rights, poverty alleviation, the MDGs and benefit-sharing. Developing country representatives called for international support for traditional farming methods, including the development of regional networks to facilitate transfer of knowledge and skills, and emphasized the need for financial and technical transfers to build the capacity of their PGRFA-related national institutions. One speaker called attention to the special contribution of women farmers. Developed country representatives underscored the importance of financial support for the Treaty's implementation, with Bernd Hermelingmeier, Germany's Federal Ministry of Food, Agriculture and Consumer Protection, pledging 1.5 million euros to the Global Crop Diversity Trust over five years. Other speakers also highlighted the role of the private sector in the funding strategy. Ministers and other participants were united in calling for the immediate operationalization of the Treaty.

WORKING GROUP II

FINANCIAL RULES: The Secretariat reported on progress achieved on Monday evening by the financial rules contact group, highlighting disagreement as to whether voluntary contributions from parties should be based on an indicative scale. Angola for AFRICA, Venezuela for GRULAC, SWITZERLAND, NORWAY, INDIA, CHAD

and COTE D'IVOIRE supported the indicative scale of voluntary contributions, with ARGENTINA expressing concern about setting a precedent of strictly voluntary contributions. CANADA, JAPAN and Australia, on behalf of the SOUTHWEST PACIFIC, preferred strictly voluntary contributions, with JAPAN cautioning that a scale of voluntary contributions may deter future ratifications of the Treaty. The US noted that the suggested cap of the proposed scale of contributions did not conform to the cap adopted by the UN System. Austria, on behalf of the EU, proposed deferring the issue to informal consultations.

Delegates then decided to defer discussion on controversial political issues, reconvene the contact group to finalize technical issues, and create an open-ended budget committee to meet on Tuesday evening.

FUNDING STRATEGY: The Secretariat introduced the draft funding strategy (IT/GB-1/06/5, IT/GB-1/06/INF.8 and Add.1, INF.9 and 11). The EU proposed restructuring the draft resolution to highlight action-oriented text, and proposed establishing an *ad hoc* advisory committee to consider its annexes. ARGENTINA urged the Governing Body to adopt the funding strategy resolution and BRAZIL also called for adoption of annex I, with the possibility of intersessional technical work on some of the other proposed annexes.

On the preamble of the draft resolution, delegates discussed whether the Global Crop Diversity Trust is an "essential element" or an "important supporting component" of the funding strategy, agreeing on the former. Several developing country delegates supported language on prioritizing implementation in developing countries and taking into account the Global Plan of Action when establishing further priorities for the funding strategy. The EU and Australia reserved their right to propose amendments to this text.

On the operative text, AUSTRALIA, the EU and CANADA, opposed by many developing countries, proposed deleting references to the Secretariat "ensuring" developed country parties' provision of adequate resources. Following JAPAN's suggestion, delegates agreed that that the Secretariat should "facilitate" such provision of resources. The EU stressed that taking steps within the governing bodies of relevant international mechanisms, funds and bodies, to ensure due attention to allocation of resources for Treaty implementation, is the task of parties and not the Secretariat. GRULAC proposed deleting a reference to the Convention on Biological Diversity (CBD), noting the CBD's own funding problems. AUSTRALIA supported language on "other relevant mechanisms, funds and bodies."

On providing information to the Secretariat regarding the provision of bilateral funding from sources within their country, GRULAC, supported by SUDAN, argued that only

developed countries should provide information. AUSTRALIA and CANADA objected, preferring a uniform requirement for all countries. Opposed by AUSTRALIA and CANADA, GRULAC called for eliminating the entire paragraph, which remained bracketed. Delegates then discussed, without reaching agreement, language on promoting voluntary contributions from sources within countries to promote ITPGR operations and objectives, with GRULAC requesting an explicit reference to supporting the implementation of the funding strategy.

On inviting the governing bodies of relevant international bodies to support the Treaty's implementation, AUSTRALIA, supported by the EU and opposed by BRAZIL and EGYPT, proposed removing a reference to "predictable and agreed resources." AUSTRALIA, supported by ANGOLA, CHAD and INDIA, said all countries, rather than only developing countries, should report on capacity-building programmes. Opposed by CANADA, EGYPT and CHAD, GRULAC proposed deleting the entire paragraph, which was eventually retained. On the establishment of a trust account, the EU, opposed by CANADA and AUSTRALIA, proposed the establishment of an *ad hoc* permanent technical committee to formulate its terms of reference.

WG-II agreed on text on: providing information to the Secretariat on bilateral assistance provided; requesting the Global Crop Diversity Trust to cooperate with the Governing Body on the basis of a relationship agreement, including on the Governing Body's authority to provide overall policy guidance to the Trust; requesting the Consultative Group for International Agricultural Research to report to the Governing Body on activities in support of implementing the funding strategy; requesting the Global Environment Facility, the World Bank and regional banks to support the sustainable use of agricultural biodiversity; and inviting both value-added and food processing industries to make voluntary contributions.

In the evening, WG-II addressed an annex containing a draft funding strategy. Delegates agreed that the strategy aims to "develop ways and means by which adequate resources are available." Discussions continued into the night.

MTA CONTACT GROUP

Delegates debated, and eventually agreed, to base negotiations on the draft standard MTA forwarded by the second meeting of the intersessional MTA Contact Group (IT/GB-1/06/6), using when necessary elements of the report of the MTA Contact Group Chair (IT/GB-1/06/INF.15).

Preamble: The SOUTHWEST PACIFIC and NORTH AMERICA opposed text stating that nothing in the MTA shall be interpreted as implying a change in ITPGR parties' rights and obligations, to avoid confusion as to whether the MTA is a contract between ITPGR parties or individual private parties. EUROPE proposed that the MTA recognize national rules on arbitration, noting the need to recognize rules beyond the control of the Governing Body. AFRICA and the NEAR EAST cautioned against contradicting the principle of binding arbitration.

Parties to the MTA: GRULAC suggested, and delegates agreed to, the deletion of text stating that ITPGR parties shall take measures to ensure that MTA parties meet the MTA's obligations, and instead proposed drafting a Governing Body resolution on the relationship between ITPGR parties and MTA parties.

Definitions: On defining "product," AFRICA and ASIA supported the Drafting Group Chair's recommendation to use "a PGRFA that incorporates the Material or any part thereof, excluding commodities, that is ready for commercialization," with EUROPE specifying "the Material or any of its genetic material or components." NORTH AMERICA added reference to incorporating "commercial value" from the Material. Delegates debated whether the definition of a product should be linked to

the level of payment for benefit-sharing; wider and narrower definitions corresponding to lower and higher levels of payment, respectively. Delegates eventually agreed to develop an inclusive definition based on physical incorporation of materials from the Multilateral System (MS). Following consultations, EUROPE proposed both narrow and wide definitions of "product," both of which refer to products as a PGRFA that incorporates the Material, "excluding commodities, that is ready for commercialization as propagation material." The NEAR EAST and ASIA requested deletion of "propagation material," while EUROPE and GRULAC opposed, emphasizing the need to clarify which materials are subject to payments.

All regions supported the Drafting Group Chair's recommendation to define "sales" in terms of gross income, noting that additional text on subtracting 30% from the sales to accommodate for costs would be addressed in a different section of the MTA.

General provisions: GRULAC proposed text recognizing and accepting the applicable legal measures adopted by ITPGR parties, whereas the SOUTHWEST PACIFIC preferred the Drafting Group Chair's recommended text stating that the MTA is entered into within the framework of the applicable legal measures adopted by ITPGR parties.

GRULAC and AFRICA, opposed by NORTH AMERICA, EUROPE and the SOUTHWEST PACIFIC, supported text stating that the third party beneficiary has the right to monitor MTA execution. AFRICA and the NEAR EAST then proposed that the third party beneficiary's monitoring role should at least be defined with regard to dispute settlement.

Rights and obligations of the provider: Delegates agreed to retain text stating that access to PGRFA under development is at the discretion of its developer, and that access to PGRFA protected by property rights should be consistent with relevant national laws.

Rights and obligations of the recipient: AFRICA, GRULAC and the NEAR EAST, opposed by the SOUTHWEST PACIFIC and NORTH AMERICA, requested retaining text on reporting intellectual property rights obtained by the recipient to the third party beneficiary. On PGRFA under development, most regions supported, but the NEAR EAST opposed, text from the Drafting Group Chair's report on the recipient's obligations when transferring PGRFA under development to another person or entity.

On payments applying to products not available without restriction, delegates agreed to delete a reference stating that, in the case of licensing or leasing, benefit-sharing obligations shall also apply to licensees or lessees of the recipient. On information and non-monetary benefit-sharing, delegates agreed that recipients "shall" make information available and are "encouraged to" share non-monetary benefits through the MS.

The contact group met in the evening to continue discussion on, *inter alia*, third party beneficiary rights, applicable law and dispute settlement procedures. Deliberations continued into the night.

IN THE CORRIDORS

Following Monday's relaxed start, delegates were in high gear on Tuesday maneuvering through complicated negotiations. Some grumbled about the exclusive membership of the MTA contact group, but those inside were mostly happy with the steady progress being made. Even though negotiations kept tripping over issues relating to "big" Parties (to the Treaty) and "small" parties (to the MTA), most showed determination to resolve outstanding issues in a late-night session. The same sentiment of slow but steady progress dominated WG-II, where delegates addressed the stumbling blocks of the funding strategy in an inexorable spirit of cooperation.