

ITPGR GB-1 HIGHLIGHTS:

THURSDAY, 15 JUNE 2006

On Thursday, 15 June 2006, Working Group I addressed compliance, the relationship with the Commission on Genetic Resources for Food and Agriculture (CGRFA) and cooperation with international organizations. Working Group II: discussed implementation of Article 6 (Sustainable use of plant genetic resources), and assessment of progress in the inclusion of PGRFA held by natural and legal persons in the Multilateral System (MS); finalized an agreement between the Governing Body and International Agricultural Research Centers (IARCs) and other international institutions; and continued negotiations on the funding strategy. The budget committee met twice during the day, and the MTA contact group convened in the evening and late at night. Plenary reconvened at night to address the budget and the date and venue of the second session of the Governing Body.

WORKING GROUP I

COMPLIANCE: The UK for EUROPE proposed new language on procedures, including text on: the content of submissions to the compliance committee; a clear process for making submissions available to the party concerned and steps to be taken in response by the party, with timelines; and the right of the concerned party to participate in the committee's deliberations, but not in the elaboration and adoption of the committee's recommendation. Canada for NORTH AMERICA and Australia for the SOUTHWEST PACIFIC proposed that parties concerned may present responses or comments at every step of the proceedings.

NORTH AMERICA proposed additional text regarding parties submitting documentation on their own issues of non-compliance. The SOUTHWEST PACIFIC reiterated that party submissions should only be self-triggered. URUGUAY, opposed by YEMEN, the SOUTHWEST PACIFIC and INDONESIA, called for a section on committee decision making. Delegates discussed references regarding seeking information from NGOs and experts, without reaching agreement. EUROPE, opposed by the SOUTHWEST PACIFIC, proposed that confidentiality of information be addressed under the committee's rules of procedure.

EUROPE proposed that the committee and Governing Body should take action only on issues raised in accordance with the procedures. Opposed by many, EUROPE and the SOUTHWEST PACIFIC requested deletion of references regarding the consideration of a country's capacity to comply when addressing issues of non-compliance. EUROPE proposed to publish "closed

cases of non-compliance," whereas ASIA requested deletion of text on publishing cases of non-compliance. Opposed by the SOUTHWEST PACIFIC and ASIA, EUROPE proposed that the Governing Body may take any appropriate action in accordance with the Treaty and its objectives. EUROPE proposed that parties submit information to the committee on national implementation, and that the committee would submit a synthesis report to the Governing Body.

EUROPE, supported by AFRICA, but opposed by the SOUTHWEST PACIFIC and BRAZIL, called for establishing a compliance committee at this session, working in the interim with provisional procedures, and approving its procedures and mechanisms at the Governing Body's second session. The SOUTHWEST PACIFIC and the US suggested taking note of the draft procedures and mechanisms in future negotiations.

RELATIONSHIP WITH CGRFA: The Secretariat introduced a document on the Governing Body's relationship with the CGRFA (IT/GB-1/06/15). All regions thanked the CGRFA for its contribution to the Treaty's negotiation, emphasizing the importance of future cooperation and calling for holding back-to-back meetings of the Governing Body and the CGRFA. SWITZERLAND proposed creating an independent Treaty website to increase its visibility. Working Group I Chair Harvey said the proposals will be reflected in the session report.

COOPERATION WITH INTERNATIONAL

ORGANIZATIONS: The Secretariat introduced a report on cooperation with other international organizations (IT/GB-1/06/Inf.4). The Convention on Biological Diversity (CBD), the World Intellectual Property Organization, and the Consultative Group on International Agricultural Research reported on activities relevant for the ITPGR's implementation. EUROPE and NORTH AMERICA urged the Governing Body to accept a CBD invitation to participate in the Joint Liaison Group of Biodiversity-related Conventions. On a CBD recommendation to address the impact of genetic use restriction technologies on small-scale farmers, SWITZERLAND, opposed by many, suggested deferring consideration until the Governing Body addresses farmers' rights.

WORKING GROUP II

IMPLEMENTATION OF ARTICLE 6: On the implementation of Article 6 (IT/GB-1/06/10), Austria for the EU favored step-wise implementation, suggesting that the Secretariat assess the best way to progress and present its findings to the Governing Body to decide on next steps. INDIA inquired how the benefit-sharing mechanism will work and underscored the role for the technical committee in this regard.

ASSESSMENT OF PROGRESS OF PGRFA INCLUSION

IN THE MS: Delegates agreed to postpone to the third meeting of the Governing Body the first assessment of progress in the inclusion of PGRFA held by natural and legal persons in the MS, to allow for the MTA to become operational.

AGREEMENTS WITH IARCS: On the draft agreements between the Governing Body and IARCs and other relevant international institutions (IT/GB-1/06/9), the EU and CANADA supported, and BRAZIL opposed, a paragraph on encouraging ITPGR parties to give IARCs access, on mutually agreed terms, to plant genetic resources not listed in Annex I. Delegates eventually agreed to retain the text. On dispute settlement, GRULAC argued that in cases of failure to agree on arbitrators, the FAO Director-General should appoint arbitrators, while EUROPE and the CGIAR preferred the UN Secretary-General to do so. Delegates accepted GRULAC's position, and agreed on arbitration based on the ITPGR arbitration procedures. The draft agreement was approved with these amendments.

INDIA said the agreement should not automatically apply to other future relevant international institutions. EGYPT drew attention to resources available in IARCs and called for increased cooperation between countries and IARCs.

FUNDING STRATEGY: GRULAC reiterated its call for adoption of the resolution and Annex I on the funding strategy by the Governing Body at its first session, as well as for establishing an intersessional process coupled with budgetary provisions to address the other annexes. Because of continued disagreement on text relating to an advisory committee, priorities and disbursement of funds, informal consultations were held over the lunch break.

In the afternoon, the Secretariat summarized progress reached in informal consultations, including compromise on country reporting "as appropriate" on the "results of" actions in support of the funding strategy, and establishing an advisory committee whose meetings are subject to available funds. BRAZIL requested bracketing a paragraph on using financial resources arising from benefit-sharing to improve the conservation and sustainable use of Annex I genetic resources.

TECHNICAL ADVISORY COMMITTEE: INDIA, supported by GRULAC, proposed text on the establishment of a permanent advisory committee to review issues referred by the Governing Body and act as a think-tank on scientific and technical issues. The UK opposed the establishment of a committee, whether permanent or not, citing insurmountable budgetary constraints in the short- to medium-term.

PLENARY

BUDGET: Chair Mombiela introduced a draft resolution with appendices containing the ITPGR core administrative budget and a programme of work for the biennium 2006-2007. Budget Committee Chair Christer Wretborn (Sweden) reported that the committee had agreed on a core administrative budget of US\$ 2,800,610, of which the UN Food and Agriculture Organization would contribute 40%. He noted that the budget is presently under-funded, expressed hope for country voluntary contributions, and urged the Plenary to adopt the resolution.

SWITZERLAND, supported by NORWAY, noted that the resolution cannot be adopted because the list of meetings contained in the programme of work is contingent upon working groups' decisions that are still pending. AUSTRIA, FINLAND, IRELAND, SPAIN and CANADA each pledged US\$ 5,000 for the first meeting of an *ad hoc* advisory committee on the funding strategy.

DATE AND VENUE OF THE SECOND SESSION:

Delegates agreed that the second session of the Governing Body will be held back-to-back with the next session of the CGRFA, in the first half of 2007 in Rome, Italy.

MTA CONTACT GROUP

The MTA contact group convened in the evening, following informal consultations throughout the day. Delegates agreed to, *inter alia*, text on: making information on MTAs that have been entered into available "by the Governing Body to the third party beneficiary;" and taking into account the Governing Body's decisions when necessary for interpretation of the applicable law.

On the acceptance signature, delegates discussed click-wrap and signature forms of acceptance, with most agreeing that both options should be made available. GRULAC argued, and delegates eventually agreed, that both provider and recipient should choose the method of acceptance. On the rate and modalities of payment, delegates agreed that only one payment was required when a product contains a PGRFA accessed from the MS under two or more MTAs.

The contact group did not reach agreement on preambular language on recognizing the diversity of parties' legal systems, and on a related operative paragraph on MTA parties recognizing and accepting legal measures adopted by ITPGR parties. On arbitration, GRULAC objected to text referring to the Rules of Arbitration of the International Chamber of Commerce.

Delegates discussed, without reaching agreement, the different regional groups' proposals for payment rates linked to broad and narrow definitions of "product." AFRICA stated that a higher rate was appropriate considering the increased value of genetic resources, while the SOUTHWEST PACIFIC advocated a lower rate with a broad definition, noting the need to balance the flow of funds with the use of the MS.

In a late night session, the contact group resumed discussions on the relationship between MTA parties and ITPGR parties. GRULAC, opposed by NORTH AMERICA and the SOUTHWEST PACIFIC, insisted that MTA parties "accept" legal measures and procedures adopted by ITPGR parties. NORTH AMERICA and the SOUTHWEST PACIFIC preferred using "acknowledge," with NORTH AMERICA requesting to move the text to the preamble. Deliberations continued into the early morning.

IN THE CORRIDORS

On Thursday, the corridors were crowded with sleep-deprived and weary delegates commenting on the late-night budget committee's decision to drastically shrink the budget to less than US\$ 3 million. Some said this was due to faltering commitments of voluntary contributions, while others pointed to limited funds coming from the FAO core budget. Either way, participants noted that the smaller budget remains severely under-funded. Many anticipate that the victims will be the substantive activities necessary for the Treaty's implementation. A few, however, defend the smaller budget as being "realistic," pragmatically commenting that the adoption of a budget is worth the sacrifice of a reduction in its size.

Meanwhile, pressure was mounting because members of the standard MTA contact group were eager to reconvene after plenary, as they felt that a final breakthrough was hopefully just another late-night session away.

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of the First Meeting of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture will be available on Monday, 19 June 2006 online at: <http://www.iisd.ca/biodiv/itpgrgb1/>.