

SUMMARY OF THE SECOND SESSION OF THE GOVERNING BODY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE:

29 OCTOBER - 2 NOVEMBER 2007

The second session of the Governing Body (GB-2) of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty or ITPGR) convened from 29 October - 2 November 2007, at the headquarters of the UN Food and Agriculture Organization (FAO), in Rome, Italy. The session gathered approximately 300 participants from parties and other governments, international, non-governmental and farmers' organizations, and industry.

During the course of the week, the Governing Body considered: financial rules; the funding strategy, including the recommendations of the *Ad Hoc* Advisory Committee regarding priorities, eligibility criteria and operational procedures for the allocation of funds under the direct control of the Governing Body, implementation of the funding strategy, and the relationship with the Global Crop Diversity Trust; implementation of the Multilateral System (MLS) for access and benefit-sharing, including procedures for the Third Party Beneficiary; the material transfer agreement (MTA) for non-Annex I crops acquired prior to the Treaty's entry into force; implementation of Article 6 (Sustainable use of plant genetic resources) and Article 9 (Farmers' rights); relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture (CGRFA); cooperation with other international organizations; the possible establishment of a permanent technical advisory committee; and the work programme and budget for 2008/09.

Following difficult budget negotiations, the Governing Body adopted its work programme and budget for the biennium 2008/09 which, while modest and dependent on voluntary contributions, allows for the necessary administrative operations and some capacity-building activities. The meeting also achieved progress with regard to the funding strategy by setting the groundwork for intersessional activities, and adopted a resolution

on farmers' rights, and a statement of intent to organize and strengthen collaboration with the CGRFA. However, the financial rules for the Governing Body remain pending, and discussions on compliance were also deferred, despite the GB-1 decision that the Governing Body was to consider and approve procedures for compliance at its second session.

A BRIEF HISTORY OF THE ITPGR

Concluded in the framework of FAO, the ITPGR is a legally binding instrument that targets the conservation and sustainable use of plant genetic resources for food and agriculture (PGRFA) and equitable benefit-sharing, in harmony with the Convention on Biological Diversity (CBD), for sustainable agriculture and food security. The Treaty establishes an MLS for facilitated access to a specified list of PGRFA, balanced by benefit-sharing in the areas of information exchange, technology

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transfer, capacity building and commercial development. The list of crops in Annex I defines the Treaty's scope and includes 35 crop genera and 29 forage species. The Treaty entered into force on 29 June 2004, and currently has 115 parties.

The Treaty's negotiations were based on the revision of the non-binding International Undertaking on PGRFA (IU). The IU was originally based on the principle that PGRFA should be "preserved ... and freely available for use" as part of the common heritage of mankind. This principle was subsequently subjected to "the sovereignty of States over their plant genetic resources," according to FAO Resolution 3/91. In April 1993, the CGRFA decided that the IU should be revised to be in harmony with the CBD.

Negotiations spanned seven years. From 1994 to 1998, the CGRFA met in five extraordinary and two regular sessions to develop the structure of, and refine, a draft negotiating text. From 1999-2001, a contact group chaired by Amb. Fernando Gerbasi (Venezuela) held six sessions to address contentious issues, including the list of crops to be included in the MLS, benefit-sharing, intellectual property rights (IPRs) to materials in the MLS, financial resources, genetic materials held by the International Agricultural Research Centers (IARCs) of the Consultative Group on International Agricultural Research (CGIAR), and definition of key terms. CGRFA's sixth extraordinary session (June-July 2001, Rome) attempted to conclude negotiations, but delegates did not reach agreement on the definitions of "PGRFA" and "genetic material," the application of IPRs to materials in the MLS, the IU's relationship with other international agreements, or the list of crops to be included in the MLS. The session adopted the text and transmitted outstanding issues to the FAO Council.

The 121st FAO Council and an Open-ended Working Group held under its auspices (October-November 2001, Rome) resolved outstanding issues and, on 3 November 2001, the 31st FAO Conference adopted the ITPGR by a vote of 116 in favor, zero against and two abstentions. As part of the interim arrangements, CGRFA, acting as the ITPGR Interim Committee, convened to: prepare draft rules of procedure and draft financial rules for the ITPGR Governing Body, and a budget proposal; propose procedures for compliance; prepare draft agreements to be signed by the IARCs and the Governing Body; draft a standard MTA for facilitated access to material in the MLS, including terms for commercial benefit-sharing; and initiate cooperative arrangements with the CBD Conference of the Parties.

FIRST MEETING OF THE ITPGR INTERIM

COMMITTEE: During its first meeting (October 2002, Rome), the ITPGR Interim Committee adopted its rules of procedure and established an Open-ended Working Group to propose draft rules of procedure and financial rules for the Governing Body, and draft procedures for compliance. The meeting also adopted the terms of reference for an expert group to address the terms of the standard MTA.

MTA EXPERT GROUP: The expert group on the terms of the standard MTA (October 2004, Brussels, Belgium) considered options for the terms of the standard MTA and its draft structure,

and recommended that the Interim Committee establish an intersessional contact group to draft the elements of the standard MTA.

SECOND MEETING OF THE ITPGR INTERIM COMMITTEE: At its second meeting (November 2004, Rome), the ITPGR Interim Committee agreed to establish an open-ended intersessional working group to address the rules of procedure and financial rules for the Governing Body, the funding strategy and procedures for compliance, since the working group established by its first session did not meet due to lack of funds. Delegates also agreed on the terms of reference for an intersessional Contact Group to draft the standard MTA for the Governing Body's consideration.

OPEN-ENDED WORKING GROUP ON RULES OF PROCEDURE, FINANCIAL RULES, COMPLIANCE AND FUNDING STRATEGY: In its meeting (December 2005, Rome), the Working Group revised the draft rules of procedure, financial rules, and resolution on the funding strategy with the strategy in an annex, and prepared a draft resolution on compliance, for consideration by the first meeting of the Governing Body.

MTA CONTACT GROUP: In its first meeting (July 2005, Hammamet, Tunisia), the Contact Group on the standard MTA set out the basic structure of the agreement. A number of controversial issues remained outstanding, such as: dispute settlement, including whether arbitration would be binding or not; the benefit-sharing mechanism and payment; and an African proposal to add a legal person representing the Governing Body, as a Third Party Beneficiary, as part of the MTA to monitor its execution. The second meeting (April 2006, Alnarp, Sweden) agreed on a draft standard MTA but left a number of issues unresolved, including: the third party beneficiary's rights; the definitions of "product" and "sales," and the formula for benefit-sharing; obligations of the recipient in the case of subsequent transfers of material; dispute settlement; and applicable law. Contact Group Chair Eng Siang Lim (Malaysia) established an intersessional Friends of the Chair group to resolve pending issues prior to the first meeting of the Governing Body.

FIRST SESSION OF THE ITPGR GOVERNING BODY: The first session of the Governing Body (June 2006, Madrid, Spain) adopted a standard MTA and the funding strategy. The standard MTA includes provisions on a fixed percentage of 1.1% that a recipient shall pay when a product is commercialized but not available without restriction to others for further research and breeding; and 0.5% for the alternative payments scheme. The Governing Body further adopted: the rules of procedure, including decision making by consensus; financial rules with bracketed options on an indicative scale of voluntary contributions or voluntary contributions in general; a resolution establishing a compliance committee; the relationship agreement with the Global Crop Diversity Trust; a model agreement with the IARCs and other international institutions; and the budget and work programme for 2006/07.

ITPGR GB-2 REPORT

On Monday, 29 October 2007, ITPGR GB-2 Chair Godfrey Mwila (Zambia) opened the session and invited stakeholders to share their perspectives on the Treaty's impact. Participants then watched a brief multimedia presentation on the key components of the Treaty.

Amb. José Antônio Marcondes de Carvalho, on behalf of Brazil's Vice Minister for Agriculture and Animal Husbandry, highlighted the Treaty's role in overcoming limitations to agricultural production, particularly by supporting the development of locally adapted plant varieties, and stressed the need to agree on the funding strategy and international minimum standards for farmers' rights.

Dean Oestreich, Pioneer President and DuPont Vice-President and General Manager, called for the private and public sectors to collaborate to meet the needs of farmers, and for an increase in the number of crops listed in Annex I of the Treaty.

Sunda Ram Verma, an Indian farmer, and Professor Anil K. Gupta spoke for SRISTI, an Indian NGO that promotes grassroots-level conservation and sustainable farming. Verma described his lifetime of developing and sharing improved crop varieties, and noted that he has received no benefits from commercialization of his own improved varieties. Gupta called for: a farmer-oriented crop tracking system; an international fund to finance data generation and facilitate negotiations for benefit-sharing; a system of global recognition for breeders and innovators among farmers that empowers communities; and genebank descriptors that take into account farmers' knowledge.

Margaret Catley-Carlson, Chair of the Global Crop Diversity Trust, provided an overview of the Trust's programmes to support conservation of *ex situ* collections, including progress in the construction of the Svalbard Global Seed Vault, and a grants scheme to support the evaluation of collections for important characteristics, which gives priority to screening for traits of importance to the poor and in the context of climate change.

Guy Kastler, Via Campesina, distinguished between small- and large-scale plant breeders, and called for a "dynamic" Treaty that supports farmers' rights, such as the right to sell their seeds, an inventory system to support their breeding approaches and plant descriptions, and a fund to support farmers' consultations worldwide.

Monkombu Sambasivan Swaminathan, M.S. Swaminathan Research Foundation, described the historic roles of FAO, the CGIAR and the Treaty in conserving PGRFA, and outlined remaining challenges in achieving global food security.

Manfred Bötsch, State Secretary and Director-General, Swiss Federal Office for Agriculture, reported on the first International Technical Conference on Animal Genetic Resources for Food and Agriculture. He highlighted the adoption of the Global Plan of Action for Animal Genetic Resources, and emphasized the need for an ecosystem approach to agricultural and livestock production.

José María Sumpsi Viñas, Assistant Director-General, FAO Department of Agriculture and Consumer Protection, said parties should fund and adopt policies towards Treaty implementation, and called for increased focus on benefit-sharing to ensure a

future source of funding. He expressed his hope that the Treaty would be a top priority for FAO over the next few years and that future regular budget allocations would reflect this.

Noting the Treaty's potential to address the current global challenges of climate change, food security and poverty reduction, and highlighting the Treaty's precarious financial situation, ITPGR Secretary Shakeel Bhatti stressed the need to prioritize and conclude the outstanding issues relating to the MLS and the funding strategy.

Iran, for the Near East Region, said while progress on access was evident, steps towards benefit-sharing were less developed. Canada, for the North American Group, commended the cooperation between the CGIAR, Global Crop Diversity Trust and FAO, and urged the Secretariat to explore the possibility of making the Svalbard Global Seed Vault a World Heritage Site. Indonesia, for the Asian Region, called for enhanced cooperation among all regions. Australia, for the Southwest Pacific, stressed their interest in developing the work programme and the funding strategy. Angola, for Africa, called for implementing the Treaty's articles on farmers' rights and supporting those who conserve and maintain PGRFA. Noting the success in implementing the MLS and the standard MTA, Bioversity International, for the CGIAR, called for a focus on the sustainable use of PGRFA. Ecuador, for the Latin American and Caribbean Group (GRULAC), prioritized developing an effective funding strategy and a trust fund for the MLS to realize benefit-sharing.

ORGANIZATIONAL MATTERS: On Monday, delegates approved the list of observers (IT/GB-2/07/Inf.12) and the annotated agenda and organization of work (IT/GB-2/07/2 Prov.), and agreed that an open-ended budget committee would convene after initial consideration of the budget and work programme in plenary. The Governing Body re-elected the current Bureau, including Chair Mwila and Vice-Chairs Sugiono Moeljopawiro (Indonesia), Anna Somerville (Australia), Campbell Davidson (Canada), Modesto Fernandez (Cuba), Hanaiya El-Itriby (Egypt) and François Pythoud (Switzerland), to serve as GB-3 Bureau. Campbell Davidson (Canada) was elected Rapporteur. Following regional nominations, Armenia, Australia, Canada, Côte d'Ivoire, Iran, Pakistan and Uruguay were appointed to the Credentials Committee.

The Governing Body convened in plenary throughout the week. On Wednesday, delegates debated whether to prioritize discussion on compliance or the funding strategy, and whether to establish a contact group on compliance. Portugal, for the European Union (EU), and the North American Group stressed the importance of adopting an effective compliance mechanism at this session. GRULAC, Africa, Iran and Yemen advocated dealing with the funding strategy first, with GRULAC noting that developing country compliance depends on capacity building and the provision of financial resources by developed countries. As a result, a group was not established to address compliance. The budget committee met from Tuesday to Thursday, and a contact group on the funding strategy met on Thursday. On Friday afternoon, the closing plenary adopted the report of the meeting, containing the meeting's decisions and resolutions, and the work programme and budget for the 2008/09 biennium.

This report summarizes the meeting's discussions and decisions on each agenda item.

CONSIDERATION OF REPORTS

REPORT OF THE CHAIR: On Monday, Chair Mwila presented his report (IT/GB-2/07/4), highlighting intersessional developments and challenges to Treaty implementation, including: implementing the MLS and the funding strategy in an effective and balanced manner; and ensuring the necessary financial contributions to the core administrative budget and the trust funds.

REPORT OF THE SECRETARY: Secretary Bhatti presented his report (IT/GB-2/07/5), highlighting the functioning and operational needs of the MLS and the funding strategy. He stressed that the MLS is now a global regulatory system involving thousands of transfers of genetic material per day, and that increased human and financial resources are required to cope with the current workload and the next biennial work programme. Bhatti also called for policy guidance to allow the Secretariat to maintain policy coherence within the MLS, and sought endorsement of the work programme and budget for the 2008/09 biennium.

FINANCIAL RULES OF THE GOVERNING BODY

The financial rules of the Governing Body (IT/GB-2/07/6) were discussed in plenary on Monday. Discussion centered on the unresolved issue of provision of funds for the Treaty (Rule V), with delegates debating the use of indicative scales for voluntary contributions or the voluntary contribution of funds without a scale.

Armenia, for the European Regional Group (ERG), suggested that substantial funds should come from FAO, and special funds should be established with regard to activities under the mandate of the Treaty or Governing Body decisions, or come from bilateral project donors. The North American Group said indicative assessments neither increase nor enhance resource receipts, and called for voluntary contributions without a scale. Norway supported voluntary contributions based on an indicative scale of assessments in addition to the FAO contributions. GRULAC and Switzerland supported an indicative scale, and Brazil suggested that FAO provide a larger part of the core administrative budget over the next biennium given the likely shortfall in voluntary contributions. Africa suggested using the UN scale of assessments.

When the issue was revisited on Thursday, delegates agreed that there was no consensus on the need to finalize the financial rules at the current session. On Friday, delegates agreed to address the issue at GB-3.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body states it did not reach consensus on the need to amend its financial rules at the current session, and decides to revisit the issue at GB-3.

FUNDING STRATEGY

Items relating to the funding strategy, including the report of the *Ad Hoc* Advisory Committee on the funding strategy, implementation of the funding strategy, and the relationship between the Governing Body and the Global Crop Diversity Trust, were discussed throughout the week in plenary. A contact group, co-chaired by Cosima Hufner (Austria) and Evans Sikinyi (Kenya), met on Thursday, to develop the terms of reference (TOR) of an intersessional *Ad Hoc* Advisory Committee on the funding strategy.

REPORT OF THE ADVISORY COMMITTEE: On Monday, Bert Visser (the Netherlands), Chair of the *Ad Hoc* Advisory Committee on the funding strategy, presented the Committee's report and its annexes on priorities, eligibility criteria and operational procedures for the use of resources under the direct control of the Governing Body (IT/GB-2/07/07). On Tuesday, plenary adopted the report's annexes.

The ERG, GRULAC and Africa supported the proposed set of priorities. The ERG, the North American Group and the Southwest Pacific called for close collaboration with the Global Crop Diversity Trust. Africa stressed that resources must also come from parties. The North American Group said that delegation of project approval during the intersessional period should be provided only under exceptional conditions.

On funding for non-Annex I crops, GRULAC and Pakistan said funding should be made available for activities regarding all crops, not only those within the MLS. The North American Group stated that flexibility may be required when applying funds under the direct control of the Governing Body to non-Annex I crops. The Southwest Pacific supported using funds for non-Annex I crops. The ERG suggested using funds arising from benefit-sharing for Annex I crops only, while making funds from other sources available for all crops, and proposed making all products from funded projects available under the conditions of the standard MTA. Brazil said the MLS conditions should not apply to products from non-Annex I crops.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body decides to delegate responsibility for project approval between sessions to the Bureau, under exceptional circumstances for smaller scale projects.

The Governing Body adopts priorities, eligibility criteria and operational procedures for the use of resources under its direct control as annexes to the funding strategy.

The priorities suggest that the Governing Body shall take the Global Plan of Action as a framework. The initial priorities include: information exchange, technology transfer and capacity building; managing and conserving PGRFA on-farm; and sustainable use of PGRFA.

According to the adopted eligibility criteria, projects must: meet the objectives of the Treaty; fall within the funding priorities; benefit developing country parties; and be presented through the party concerned. The operational procedures contain principles, rules on the project cycle and a list of selection criteria.

FUNDING STRATEGY IMPLEMENTATION: On Tuesday, Secretary Bhatti introduced the document on implementation of the funding strategy, including a list of possible activities and measures for the implementation of the funding strategy (IT/GB-2/07/08), which received general support from many delegations.

Africa and Brazil underscored the obligation of developed countries to support Treaty implementation in developing countries, and Africa called for clear signals that parties are willing to fulfill their obligations. The EU said their willingness to develop a funding strategy signals a commitment to mobilize resources.

Discussion focused on the proposal to engage a professional fundraiser. Canada supported the proposal and Uruguay suggested that developed country parties raise funds in their

own countries before a professional fundraiser is hired. Ecuador queried the benefits of using a professional fundraiser, and Brazil and Kenya proposed analyzing the costs and the benefits. The EU drew attention to both the possibility of using a *pro bono* fundraiser and to the various resources already available for PGRFA conservation, albeit outside the control of the Governing Body.

Practical Action proposed compiling and publishing information on parties' financial contributions. CENESTA raised concerns about a systematic underfunding of international conventions and treaties seeking to support farmers' rights.

Many countries supported using a strategic plan for the funding strategy, and establishing an *ad hoc* committee to this end. Debate on the TOR for an intersessional *ad hoc* committee was based on the draft TOR proposed by the EU, and centered on the composition of the committee, and whether the committee should develop a "plan" or "mechanisms" for funding strategy implementation. Plenary agreed to the TOR on Thursday.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body:

- stresses that successful mobilization of adequate financial resources is essential to Treaty implementation, and emphasizes the need for parties to provide financial resources for national activities for the conservation and sustainable use of PGRFA;
- agrees with the list of possible actions provided in the Secretary's document, in particular supporting parties in taking measures to ensure effective allocation of resources for the funding strategy (Activity 1);
- decides to reconvene the *Ad Hoc* Advisory Committee on the funding strategy, with TOR that include developing a strategic plan for funding strategy implementation; and
- decides that support for developing country participants in the Committee meetings shall be provided by the Trust Fund to Support the Participation of Developing Countries, and urges parties to consider the provision of additional financial resources for this purpose.

RELATIONSHIP BETWEEN THE GOVERNING BODY

AND THE GLOBAL CROP DIVERSITY TRUST: The Trust's Executive Director Cary Fowler tabled the Trust's report (IT/GB-2/07/10), highlighting that it has raised approximately 40% of the total funds required to accomplish its mandated goal.

Norway reported that the Svalbard Global Seed Vault will open and receive its first seeds in February 2008. The ERG supported the Trust's initial regeneration plans concerning 22 Annex I crops, and the establishment of global crop strategies.

GRULAC called for stronger policy guidance from the Governing Body to the Trust. Australia observed that the Trust is still young and the policy guidance from the Global Plan of Action is sufficient for the moment. Switzerland cautioned against making decisions about the allocation of the Trust's funds. Fowler said the Trust's constitution contains procedures regarding policy guidance received from the Governing Body.

Brazil, supported by Africa, asserted that the Trust should complement, not replace, the funding strategy. Canada said that by sharing experiences, the Trust can help the Treaty's fundraising efforts. The Near East Region and GRULAC called for technical capacity building to support developing country

genebanks. Via Campesina and the ETC Group requested that agreements with the Trust or genebanks guarantee free access to *ex situ* collections by small farmers and indigenous communities.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body agrees that the Secretary should closely collaborate with the Executive Director of Global Crop Diversity Trust to further develop the operational procedures for the funding strategy.

IMPLEMENTATION OF THE MULTILATERAL SYSTEM

On Tuesday, plenary considered the implementation of the standard MTA and the possible future needs for the effective implementation of the MLS. The Secretariat introduced four documents on: progress in the inclusion of PGRFA in the MLS (IT/GB-2/07/11); draft procedures for the Third Party Beneficiary (IT/GB-2/07/12); experience of the CGIAR centers with the implementation of the agreements with the Governing Body (IT/GB-2/07/Inf.11); and technology support for the implementation of the MLS (IT/GB-2/07/Inf.4).

Secretary Bhatti reported rapid growth in the inclusion of material from *ex situ* collections in the CGIAR centers. Brazil, Canada, Kenya and Norway highlighted national efforts to implement the MLS. Brazil added that implementation of the MLS by developing countries will depend on the availability of resources for identifying and managing genetic materials.

Kenya called for support in managing information related to the implementation of the standard MTA. Malaysia called for guidelines on the specific steps a party must take to include material in the MLS. The CGIAR called for guidance on the form and periodicity of reports to be made to the Governing Body.

In the closing plenary, Norway suggested adding a reference in the report to the 100,000 transfers of samples of genetic material under the standard MTA within the first nine months of the operation of the MLS. Switzerland agreed, adding a further amendment to reflect that the transfers were mostly by CGIAR centers. Plenary adopted the text as amended.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body notes with appreciation the 100,000 samples of transfers of genetic material under the standard MTA by the CGIAR centers within the first nine months of the operation of the MLS, and requests the Secretariat to continue gathering information on progress in the inclusion of PGRFA in the MLS.

THIRD PARTY BENEFICIARY: On Tuesday, Secretary Bhatti explained that the FAO Director-General has agreed to act as Third Party Beneficiary, and noted the need to elaborate the procedures to be followed by the Third Party Beneficiary (paragraph 22 of document IT/GB-02/07/12). The North American Group said the Third Party Beneficiary's role should not imply unlimited power to investigate violations. The EU requested further consultations on the feasibility of establishing an *ad hoc* committee to consider the draft procedures.

On Thursday, the EU proposed that the Secretariat: prepare a draft text on procedures to be followed by the Third Party Beneficiary; circulate it among parties and relevant organizations; and submit feedback for GB-3 consideration. GRULAC agreed, and stressed the need for a sufficiently financed *ad hoc* committee to consider the compilation during

the intersessional period. He also emphasized the need to rapidly operationalize information sharing and monitor germplasm flows in order to ensure benefit-sharing under the MLS.

After lengthy debate on the modalities of an *ad hoc* committee, the EU proposed that the *ad hoc* committee should: work on the basis of a compilation of parties' views; meet only once, subject to the availability of funds; and be comprised of one delegate per region. Canada suggested that the committee use the information on possible procedures contained in document IT/GB-2/07/12 as a framework for elaborating the draft procedures. Draft text was prepared following informal consultations.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body:

- thanks the FAO Director-General for accepting in principle the invitation to act as Third Party Beneficiary, requests the Secretariat to prepare draft text setting out the FAO's roles and responsibilities, and invites contracting parties, other governments and international organizations to comment on the draft text; and
- decides to establish an *Ad Hoc* Third Party Beneficiary Committee composed of seven contracting party representatives, one from each FAO region, to consider the draft text prepared by the Secretariat and comments from contracting parties, other governments and international organizations, and prepare draft Third Party Beneficiary procedures to be submitted to GB-3.

MTA FOR NON-ANNEX I CROPS

On Tuesday, plenary addressed the MTA to be used by the IARCs of the CGIAR on materials not included in Annex I of the Treaty and collected before the Treaty's entry into force (IT/GB-2/07/13). In introducing the document, Secretary Bhatti drew attention to the CGIAR's recommendation to use the standard MTA for non-Annex I crops, with explanatory footnotes where needed. Many regions supported the recommendation. Brazil proposed an amendment for the use of the standard MTA to be reviewed at GB-3. The recommendation was adopted as amended.

During the closing plenary, GRULAC proposed text emphasizing that the MTA under consideration refers to non-Annex I material collected before the Treaty's entry into force. The text was adopted as amended.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body endorses the option that an interpretative footnote or series of footnotes would be included in relevant provisions of the standard MTA indicating that these provisions should not be interpreted as precluding the use of the standard MTA for transfers of non-Annex I material collected before the entry into force of the Treaty.

The Governing Body also decides that it will review these measures during its consideration of the standard MTA at GB-3.

COMPLIANCE

On Wednesday and Thursday, plenary considered the agenda item on procedures and operational mechanisms to promote compliance and to address issues of non-compliance (IT/GB-2/07/14). Most of the debate centered on whether to form a contact group, and whether compliance or the funding strategy should be considered first.

Chair Mwila initially proposed establishing a compliance contact group. The EU and the North American Group supported the Chair's proposal, noting that detailed text would need consideration, while GRULAC preferred discussing the item in plenary. GRULAC later suggested convening a contact group to discuss the TOR of an intersessional group on compliance, but opposed substantive discussions on compliance at this meeting.

On Thursday, the EU suggested focusing on intersessional work, including inviting further submissions from parties and stakeholders for consideration at GB-3, and requested that the issue be placed high on the GB-3 agenda, to allow for a substantive discussion. A draft resolution was prepared following informal consultations.

During the closing plenary, Switzerland asked for clarification on the use and status of a Governing Body "resolution," as compared to a "decision." The Secretariat and FAO Legal Counsel stated that the practice is not codified, but that adopting a resolution rather than a decision would add weight to the issue. Chair Mwila agreed to Switzerland's suggestion that the Bureau should take up the issue, with a view to clarifying the matter at GB-3.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body adopts a resolution on compliance, in which the Governing Body, *inter alia*:

- decides to consider and approve procedures and operational mechanisms to promote compliance and to address issues of non-compliance at GB-3, on the basis of the draft procedures and operational mechanisms contained in Annex 1 of the GB-1 report, and submissions made by parties and observers;
- decides to put the issue of compliance high on the agenda of GB-3; and
- decides to establish, as appropriate, a contact group at GB-3 to commence consideration of the issue.

SUSTAINABLE USE OF PLANT GENETIC RESOURCES

This item was considered in plenary on Wednesday. Secretary Bhatti presented the report on compilation and analysis of submissions concerning implementation of Article 6 (Sustainable use of plant genetic resources) (IT/GB-02/07/15), and invited guidance on the report's proposal for a staged implementation approach. Many delegations lamented the small number of submissions by parties. GRULAC stressed the importance of the funding strategy in the expansion of research and development for the achievement of sustainable use of PGRFA. The EU emphasized the primary role of parties in implementing Article 6, and urged for more submissions to facilitate the preparation of the next assessment of the State of the World report on PGRFA. Africa said capacity building requires national and Treaty resources. Brazil, Malaysia and Switzerland called for guidelines on the policy and legal measures needed to achieve the objectives of Article 6. Syria emphasized the need for technology transfer. Malaysia and Africa called for a more comprehensive report on Article 6 implementation for consideration at GB-3.

The discussion also focused on the contribution of the System-wide Genetic Resources Programme of the CGIAR to the implementation of Article 6 (IT/GB-2/07/Inf.8). Bioversity International highlighted the need to develop an interpretative framework to identify the main elements of sustainable use.

Switzerland proposed the use of the annexed matrix elaborated by the CGIAR centers to prepare future reports. The Community Biodiversity Development and Conservation Network described farmers' experiences in plant breeding and called for guaranteeing farmers' rights over their seeds. The International Federation of Organic Agriculture Movements focused on the legal constraints organic farmers face when cultivating locally adapted seeds and crops, and called for a paradigm shift towards participatory plant breeding.

During the adoption of the report, Switzerland proposed amending the provision on the submissions for GB-3, in order to include the CGIAR's conceptual framework and broaden the scope of contributors beyond parties.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body:

- requests the Secretary to prepare a comprehensive document for GB-3 covering the status of the implementation of Article 6;
- requests the Secretary to invite submissions from parties, other governments, and relevant international institutions and organizations, and to improve the process of information gathering, including through surveys, conceptual frameworks, intersessional meetings and workshops;
- stresses the need for parties to cooperate with the CGRFA for the periodic assessment of the State of the World's PGRFA; and
- emphasizes the importance of country-driven initiatives and programmes, as well as international cooperation and partnerships for the effective implementation of Article 6.

FARMERS' RIGHTS

Delegates discussed implementation of Article 9 (Farmers' rights) in plenary on Wednesday and Thursday on the basis of an information document (IP/GB-2/07/Inf.6) and Norway's input paper on the realization of farmers' rights (IP/GB-2/07/Circ.1). Discussions focused on a draft resolution presented by Angola, for the Group of 77 and China (G-77/China). Following informal negotiations, a resolution was then approved by the plenary on Thursday evening.

Norway explained that its input paper contained proposals made during informal international consultations held in Zambia in September 2007, including on: sharing experiences in national implementation; developing international guidelines for implementing farmers' rights; and establishing an *ad hoc* working group to develop these guidelines. The North American Group, the EU and the Southwest Pacific supported sharing of experiences but opposed developing international guidelines, noting that implementing farmers' rights is a national responsibility. GRULAC said international cooperation is a basic requirement for implementing farmers' rights in accordance with national legislation.

Many NGOs advocated strongly for recognition and protection of farmers' rights. Practical Action welcomed the proposal by the G-77/China for the Secretary to compile views and experiences on implementing farmers' rights. The Community Biodiversity Conservation and Development Network expressed concern that the Treaty facilitates access for users, but fails to provide policy and legal support for farmers to continue traditional practices that are essential for the conservation and sustainable use of PGRFA.

A representative of farmers' organizations said that farmers contribute to conservation and sustainable use, but receive no financial support through the Treaty, and added that a Treaty that facilitates access without protecting farmers' rights to reproduce and exchange seeds, only promotes biopiracy. The Asia Pacific Indigenous Youth Network drew attention to the UN Declaration on the Rights of Indigenous Peoples, and urged for the Treaty not to become a tool for further exploitation of indigenous peoples. The Centre for Sustainable Development called on governments to continue supporting the full implementation of farmers' rights.

The G-77/China's draft resolution, *inter alia*, requested the Secretary to compile parties' views and experiences on implementation of farmers' rights for GB-3 consideration, and encouraged parties to involve farmers' organizations in the preparation of their reports. The Southwest Pacific raised concerns about using the Secretariat's limited resources on activities to implement farmers' rights, which she said is not a core function of the Treaty. Brazil said all countries must ensure the balanced co-existence of formal and informal seed systems and that the Governing Body may consider ways to support national implementation.

Delegates debated text stating that farmers' rights are about recognizing and rewarding farmers' contributions to the global PGRFA pool. Asserting inconsistency with Article 9, Canada suggested stating that farmers' rights are about "encouraging parties to enable farmers to equitably participate in sharing the benefits from their contribution." Upon a suggestion by Brazil, delegates agreed to merely recall the importance to fully implement Article 9. The EU said that according to Article 9, the responsibility for realizing farmers' rights rests with national governments.

At the request of Canada and the EU, delegates deleted a reference to acknowledging "constraints" to implementing farmers' rights in many countries. A reference to "uncertainty" as to how farmers' rights can be implemented was retained. Canada, opposed by Cuba, also called for deleting text "recognizing that guidance and assistance from the Governing Body" is required to make progress in implementing farmers' rights. Canada, supported by Brazil and Angola, proposed an amendment encouraging parties and other relevant organizations to prepare reports on their experiences in implementing farmers' rights, to be compiled by the Secretariat and presented at GB-3 to promote realization of farmers' rights at the national level. The EU suggested that the Treaty website be used for collecting and publicly disseminating the information, rather than a paper-based reporting system. Brazil, supported by Cuba, said that dissemination should occur after the Governing Body has reviewed the product.

Following informal consultations, the G-77/China presented a revised draft resolution, which was adopted without further amendment.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body adopts a resolution on farmers' rights. In the preambular text of the resolution, the Governing Body, *inter alia*:

- recalls the contribution made by farmers and local and indigenous communities for the conservation and development of PGRFA;
- recalls that responsibility for realizing farmers' rights related to PGRFA rests with national governments;

- acknowledges “uncertainty” in many countries as to how farmers’ rights can be implemented; and
- recognizes that exchange of experiences and mutual assistance between parties can contribute to progress in implementing farmers’ rights.

In the operative text of the resolution, the Governing Body:

- encourages parties and other relevant organizations to submit views and experiences on the implementation of farmers’ rights as set out in Article 9 of the Treaty, involving, as appropriate, farmers’ organizations and other stakeholders;
- requests the Secretariat to collect these views and experiences for consideration at GB-3, to promote the realization of farmers’ rights at the national level, and to disseminate relevant information through the Treaty website, where appropriate; and
- commits to continue involving farmers’ organizations in its work.

RELATIONSHIP BETWEEN THE GOVERNING BODY AND THE CGRFA

Plenary considered this item on Thursday morning. Secretary Bhatti introduced the joint report by the Secretaries of the Governing Body and the CGRFA (IT/GB-2/07/16), which contains a summary of the areas of cooperation between the ITPGR and CGRFA Secretariats, and an update on developments in areas of common interest. He also presented activities relating to the supporting components of the Treaty (IT/GB-2/07/Inf.7). CGRFA Acting Secretary Clive Stannard said the Treaty foresees direct cooperation between ITPGR parties and the CGRFA, and drew attention to the report’s draft recommendations for the Governing Body, including a draft joint statement of intent to establish an interface between the work of the two bodies.

The ERG proposed consultations between the two bodies and the Global Crop Diversity Trust on the appropriate partition of fields, activities and tasks, to be reported to GB-3. Canada stated that the CGRFA’s Treaty-related work on PGRFA should be carried out under the Treaty and the Governing Body and, with Kenya, called for eliminating the duplication between the two bodies. Brazil proposed an amendment asking the bodies to “coordinate their participation” in international meetings, rather than “endeavor to harmonize their positions.” Canada suggested text requesting the two Secretariats to submit ideas to GB-3 on how to enhance synergies and address duplication.

During the adoption of the report, Brazil suggested adding a reference to recognizing the contribution of retiring CGRFA Acting Secretary Clive Stannard to the development of the ITPGR and the work of the Governing Body. Plenary accepted this, as well as other minor amendments, and adopted the appended draft joint statement of intent for cooperation between the ITPGR Governing Body and the CGRFA.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body recognizes the consistent and effective role that the CGRFA has played during and following the Treaty negotiations and expresses its appreciation to retiring Secretary Clive Stannard. It requests all parties to cooperate in updating *The State of the World’s PGRFA*; stresses the need for close and effective cooperation with the CGRFA; and requests the two Secretariats to prepare a report identifying the repartition of their fields of intergovernmental work. The Governing Body

further requests the Secretary to work closely with the CGRFA Secretary, and adopts the joint statement of intent appended to the report.

The joint statement of intent, also to be adopted by CGRFA at its next session, outlines areas of cooperation between the ITPGR Governing Body and the CGRFA, including:

- participation of the Chairs of each body in the other body’s sessions;
- maintaining contact among the Chairs and, as necessary, the Bureau;
- regular reports by the CGRFA Secretary to the Governing Body sessions; and
- consideration by the CGRFA of requests by the Governing Body on updating and implementing the Global Plan of Action.

The areas of cooperation between the Secretariats include:

- regular meetings to seek synergy and efficiency and promote coherence;
- cooperation in the preparation and management of meetings;
- mutual consultation in the development of documents;
- coordination of fundraising activities; and
- coordination of their participation in relevant international meetings.

COOPERATION WITH OTHER ORGANIZATIONS

On Thursday, delegates considered and completed consideration of the report on the cooperation between the Governing Body and other international organizations (IT/GB-2/07/17), including the agreements between the Governing Body and the IARCs of the CGIAR and other relevant international institutions.

Several delegates welcomed the joint programme of FAO and Bioversity International to build legal and technical capacity in developing countries. The ERG called for deepening cooperation with the Common Fund for Commodities and the Global Environment Facility in the context of the funding strategy. Angola called for assistance in compiling information for the Global Plan of Action. Bangladesh urged intensified cooperation between the Governing Body and regional networks. Syria proposed that future meetings of the Governing Body be provided with a report on the outcomes of the interaction between the Treaty and the private sector.

The CGIAR said several developing countries had sought technical assistance to implement the MLS, and that the International Cocoa Genebank had expressed interest in signing an agreement with the Governing Body to include its germplasm in the MLS. The Secretariat of the Pacific Community said it had submitted a similar request, for the collection of genetic material within the Center for Pacific Crops and Trees relating to Annex I crops to be included in the MLS. In response, Secretary Bhatti said an agreement could be established under Article 15 (*Ex situ* collections of PGRFA held by the IARCs of the CGIAR and other international institutions).

Delegates agreed to record in the report the offers made by the International Cocoa Genebank and the Secretariat of the Pacific Community to enter into agreement with the Governing Body in accordance with Article 15, and the Governing Body’s approval of the development of such agreements. Cameroon, emphasizing the need to reserve the decision-making role of the

Governing Body, suggested that the Secretariat “consult,” not “engage,” with the private sector to identify potential areas for collaboration with the Treaty.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body: recognizes the importance of collaboration with the IARCs of the CGIAR; calls for continued collaboration with the CBD; acknowledges the important role of the Global Crop Diversity Trust; requests that the Secretary participate in relevant meetings of the World Intellectual Property Organization, the International Union for the Protection of New Varieties of Plants (UPOV) and the World Trade Organization, and report on relevant activities; and approves the development of agreements with the International Cocoa Genebank and the Secretariat of the Pacific Community to include their collections in the MLS.

ESTABLISHMENT OF A PERMANENT TECHNICAL ADVISORY COMMITTEE

On Thursday, Secretary Bhatti introduced the document (IT/GB-2/07/18) outlining three options for the Treaty to receive technical and scientific advice: a joint permanent technical advisory committee with CGRFA; a permanent technical advisory committee as a specific subsidiary body of the Governing Body; or *ad hoc* bodies for the provision of specialized technical advice on a needs basis.

GRULAC called for a consultation process to bolster contact with focal points prior to making a decision, highlighted the Secretariat’s financial constraints and, with Canada, suggested deferring consideration of the item. The EU suggested that *ad hoc* bodies would be most appropriate in the short term, with possible establishment of a joint permanent technical advisory committee in the future. Africa agreed that setting up a permanent body would be premature given the financial constraints, but that an *ad hoc* body might be appropriate.

Final Outcome: In the report (IT/GB-2/07/Draft Report), the Governing Body agrees that the establishment of a permanent subsidiary body is premature, and decides that *ad hoc* technical bodies with focused, specialized and outcome-oriented TOR offer the best approach for the time being.

WORK PROGRAMME AND BUDGET FOR 2008/09

Secretary Bhatti presented the work programme and budget for 2008/09 (IT/GB-02/07/20) in plenary on Tuesday for preliminary comments. The item was then deferred to an open-ended budget committee, co-chaired by Amir Khawaja (Pakistan) and François Pythoud (Switzerland). The budget committee met every evening from Tuesday to Thursday night. Plenary adopted the work programme and budget on Friday morning.

In introducing the work programme, Secretary Bhatti explained in detail the activities to be undertaken in the coming biennium at an estimated cost of US\$6.5 million, of which US\$1.6 million would be contributed by the FAO, to meet the Secretariat’s substantive and maintenance budget. The activities include modules on: the MLS; implementing the Treaty’s funding strategy; national and regional level implementation activities; and secretariat services and regular meetings of the Governing Body and its subsidiary bodies.

During the general discussion in plenary, the North American Group said the work programme was “ambitious” and stated that the future work programme should be capable of being sustained

by a “practical” core administrative budget. The EU said regular substantial funds should come from the FAO core budget, while Norway suggested voluntary contributions by all parties in addition to the FAO’s contribution. GRULAC supported the programme, requested FAO’s support to be used for capacity building, and urged that the Governing Body’s operational and functional capacity be strengthened, and priority given to the meetings on the funding strategy and MLS.

During discussions in the budget committee, the Secretariat explained why the failure to adopt the budget could render the Treaty dysfunctional, emphasizing that the Treaty is not a self-executing system. Delegations sought clarification on: the process followed in the elaboration of the budget; the rationale used to reach the proposed budgetary allocations; potential country contributions based on an indicative scale of assessments; the specific items that would be funded under the core administrative budget; and the use of modules in preparing the work programme.

Some delegates presented their priority areas while others objected to this approach. A few suggested that activities related to the management of the standard MTA are not essential. Some developed countries noted that key project activities, such as capacity building, may be eligible for funding through official development assistance or the Trust Fund, and that placing such activities within the core administrative budget instead could make them less likely to receive funding. However, developing country delegations stated that the proposed budget of US\$4.9 million constitutes the “bare minimum” required to operationalize the Treaty, thus nothing less should be requested.

The standard MTA management system was the most contentious issue, particularly with regard to proposals to develop tools to support the activities of the Third Party Beneficiary and information management toolkits. Delegations were also divided on what to include in the core administrative budget, a request for a breakdown of contributions, and a separate breakdown based on an indicative scale of assessments. In response to delegates’ inquiries, the Secretariat elaborated on the consultative process that would involve parties and other stakeholders, including the private sector, to determine the priority activities, and explained that the programme’s structure was the Secretariat’s best effort to design a business plan, taking into account resource constraints, and with the *pro bono* services contributed for this purpose by the CGRFA.

Without reaching agreement on the work programme and budget, delegates began to consider a draft resolution on the adoption of the core administrative budget of the Treaty, which was prepared on Tuesday night by the Secretariat at the request of the committee. Delegates agreed on most of the draft resolution, except on references expressing concern about the “limited” level of contributions to the core administrative budget by the parties and the FAO, and on the meetings to be financed from this core budget. After agreeing on the content of the resolution, they considered the budget and activities to be funded as part of the core administrative budget, the allocation to the working capital reserve, and the activities to be funded through voluntary contributions. Delegates reached agreement on these issues late night Thursday.

On Friday morning, Co-Chair François Pythoud presented the report of the budget committee comprising a resolution with an appended work programme and budget. He highlighted the differences from the 2006/07 work programme and budget: an additional two staff members financed from the core administrative budget; the use of Special Funds to finance the participation of developing country delegates in the *ad hoc* advisory committee on the funding strategy and the creation of a coordinating mechanism for capacity building for national implementation; and a request to the Secretary to submit a business plan for the Treaty implementation for consideration by GB-3 and GB-4. He explained that the plan is a management instrument that will resemble similar tools developed for multilateral agreements such as the FAO's International Plant Protection Convention, and added that Spain had committed to contribute a substantial part of its pledge towards the Trust Fund to cover the capacity-building activities.

Pythoud explained that the Secretariat's budget contains the activities presented in the four modules, with no core funding allocated to implementation activities at the national and regional levels, as Spain had committed to fund those activities. He also said the Working Capital Reserve was raised from 6.5 to 10% of the core administrative budget. Thus, the core administrative budget for 2008/09 totals US\$5,415,940, and the balance of US\$3,808,940 would be financed through voluntary contributions.

Delegates adopted the resolution and annexed budget and work programme without amendment.

Final Outcome: The resolution on the adoption of the programme of work and budget for 2008/09 contained in the report (IT/GB-2/07/Draft Report):

- adopts the core administrative budget for the biennium 2008/09;
 - approves the working capital reserve for the biennium at the level of 10% of the administrative budget;
 - expresses concern at the limited level of contributions to date by the contracting parties to the 2006/07 biennium budget;
 - takes notes of the FAO's contribution of US\$1,607,000;
 - invites FAO's governing bodies to fund a significantly higher proportion;
 - urges all contracting parties and non-contracting states, and other international organizations, non-governmental organizations and entities to contribute to the core administrative budget and Special Funds of the Treaty;
 - notes the Secretariat's staffing table for the biennium 2008/09, as set out in the Report's annexes;
 - decides that the contribution of the FAO shall be used to fund the core administrative budget before any other source of income;
 - invites parties and other entities to provide in-kind support to the Secretariat;
 - authorizes the Secretary to transfer resources between the main appropriation lines of the core budget up to an aggregate of 15% of the operating budget, provided that no more than 25% of any main appropriation line is transferred to another;
 - decides that the meetings identified in the core budget and other meetings agreed upon by the Governing Body shall constitute the work programme for the Governing Body for the biennium;
- requests the Secretariat to convene meetings of the *Ad Hoc* Advisory Committee for the funding strategy, under the Special Funds referred to in the Treaty's Financial Rule VI.2c;
 - decides to create a Coordinating Mechanism for Capacity Building for the national implementation of the Treaty, subject to the availability of funds from voluntary contributions;
 - requests the Secretary to provide to the parties, within three months of the closure of the session, an estimate of the cost for the implementation of each of the activities to be funded under the Special Funds and for the provision of support to parties from developing countries and from countries with economies in transition to be funded in accordance with Financial Rule VI.2c;
 - requests the Secretary to prepare and submit to GB-3 a draft programme of work, including a Secretariat staffing table, a draft resolution on the programme of work and budget for the 2010/11 biennium, and to report on the progress on income and expenditures, as well as adjustments made to the biennium 2008/09; and
 - requests the Secretary, working with the Bureau, to prepare and submit a business plan for the implementation of the Treaty, for consideration by GB-3.

The appended budget reflects a total of US\$5,415,940 for the 2008/09 biennium with an FAO contribution of US\$1,607,000, and a balance of US\$3,808,940 to be funded by voluntary contributions.

CLOSING PLENARY

On Friday morning, Tunisia offered to host GB-3, to be held in the first quarter of 2009. Norway highlighted the outcomes of the Interlaken Conference on Animal Genetic Resources and underscored the importance of the Treaty for forest and grassland genetic resources and the links to the successful implementation of the Global Plan of Action for Animal Genetic Resources.

José María Sumpsi Viñas, Assistant Director-General, FAO Department of Agriculture and Consumer Protection, said he would support an increase in the FAO contribution towards the Treaty at the upcoming FAO Conference. He stressed the need for efficient use of financial resources and for improved cooperation with the Global Crop Diversity Trust. The meeting was then suspended to allow for preparation of the draft meeting report.

In the afternoon, Chair Mwila lauded the commitment of the FAO to the Treaty process and its implementation, and highlighted the benefits of strong links and cooperation with the CBD.

Secretary Bhatti described GB-2 as having achieved a major step towards implementing the Treaty, and pledged to continue working in collaboration with parties to "make this vision a reality."

Ahmed Djoghlaif, CBD Executive Secretary, praised the achievements of GB-2, noting that work under the Treaty also supports the CBD's work, including the work programme on agricultural biodiversity and the cross-cutting initiative on biodiversity for food and nutrition. He also emphasized the Global Crop Diversity Trust as a key element for funding *ex situ* biodiversity conservation.

Jacques Diouf, FAO Director-General, called on parties to provide the necessary financial resources and political support to implement the Treaty and effectively regulate thousands of daily germplasm transactions. He underscored the importance of ensuring coherence in the Treaty's implementation at the global and national levels, and commented that the Treaty is an innovative tool that responds to many objectives that are crucial to the planet, including food security in the face of climate change.

Rapporteur Davidson then presented the draft meeting report (IT/GB-2/07/Draft Report, and Draft Report Rev.1). Delegates heard the report of the Credentials Committee and noted that Togo had submitted its instrument of ratification of the Treaty. They approved the meeting report section by section, in accordance with the meeting agenda.

The Netherlands announced its financial contribution to the Treaty, which is based on the FAO scale of assessments. The ETC Group presented Clive Stannard with the Herman Warsh Memorial Award, in recognition of his outstanding service to the genetic resources community. Stannard received a standing ovation. The North American Group said parties' commitment to the Treaty would be best demonstrated through voluntary contributions. The ERG expressed hope that the items on which GB-2 did not make progress will be on high on the agenda of GB-3. Australia said they fulfilled a commitment to assist developing countries in their region. Africa expressed satisfaction that progress had been made towards establishing a mechanism to set up a funding strategy. The Near East Region called for equal consideration of all components of the Treaty. The US noted active work towards ratifying the Treaty. The International Seed Federation encouraged parties to include more species in Annex I. The CGIAR expressed their commitment to further implementation of the Treaty.

Following the customary exchange of courtesies, Chair Mwila gavelled the meeting to a close at 7:30 pm.

A BRIEF ANALYSIS OF ITPGR GB-2

A MATURING TREATY

"The Treaty is like a child learning to walk – sometimes it takes a few steps forward, then it stumbles and it might even fall but with the right support it will always stand up and learn to walk independently." These words, spoken by an ITPGR Governing Body delegate, provide a good sense of the mood at the closing of the ITPGR Governing Body's second session in Rome. After the first meeting of the Governing Body successfully adopted the standard Material Transfer Agreement (MTA) and effectively established the Multilateral System of access and benefit sharing (MLS), GB-2 stumbled several times while addressing the issues left pending after the general euphoria of the first meeting – primarily the Treaty's budget, funding strategy and compliance mechanism.

Negotiations also stumbled as parties expressed their concern about the imbalanced implementation of the Treaty's components: access to genetic resources under the MTA is proceeding at an ever-increasing pace, but developing countries feel that benefit-sharing and capacity building are being left behind. And while the establishment of the MLS and the adoption of the MTA are generally perceived as a success story,

many lamented the absence of activities and political will to implement the Treaty's components on sustainable use of plant genetic resources for food and agriculture, including measures to support on-farm conservation, participatory breeding and the implementation of farmers' rights.

Following the week's negotiations, delegates agreed that the Governing Body had successfully shifted attention towards the Treaty's neglected components, even though some key agenda items had to be deferred to intersessional meetings or the Governing Body's next session. This brief analysis will revisit the budget negotiations, and discuss how difficulties in adopting the budget and concerns about implementing the funding strategy have influenced efforts to achieve a more balanced implementation of the Treaty.

CRAFTING A BUDGET

GB-1 not only left the Secretariat with a funding shortage but also did not adopt a decision on how the Treaty's operation should be funded in the future. Delegates thus faced the task of establishing a feasible budget for the coming biennium, despite outstanding bracketed text on party contributions in the Treaty's financial rules. The two options in brackets reflect the different visions among donor countries about how the Treaty's operation should be funded. One alternative outlines an indicative scale for countries' voluntary contributions, and the other allows that voluntary contributions by donors be applied to specific purposes. At GB-2, supporters of the first option emphasized the benefits of maximizing the Secretariat's managerial autonomy, while proponents of the second, including many donor countries, said their approach would safeguard efficiency. It would also arguably allow donors to earmark a larger share of their contributions and thus exercise a higher degree of control over the use of their funds, an approach that is more palatable to donor countries. Uncertainties over the level of core funding support that can be expected from the FAO further complicated the debate.

There were many different opinions regarding the activities that should be funded through the core budget. The work programme suggested by the Secretariat included a number of implementing activities, such as a coordinating mechanism for capacity building, legal assistance in implementation and a toolkit for standard MTA management. Some donor countries preferred removing these activities and keeping the Treaty budget small, manageable and strictly limited to core administrative purposes. They argued that the other activities can instead be funded through official development assistance or contributions to the Treaty's Trust Fund, or are already being funded through the work of the Consultative Group on International Agricultural Research (CGIAR). Developing countries for their part insisted that these activities are key to initiating implementation and should remain part of the core budget to ensure their execution. This disagreement led to difficult late-night discussions in the budget committee, with concerns spilling over to discussions on several other agenda items, particularly the funding strategy and compliance.

The solution emerged in the form of a slim budget totaling approximately US\$5.4 million, with a little under a third to be provided by FAO, and the remainder – it is hoped – by countries' voluntary contributions. The budget could be supported by all,

mainly because a few donor countries also pledged substantial contributions to specifically fund implementing activities, including a coordinating mechanism for capacity building, which would have otherwise been left unfunded under the core budget. Delegates also agreed to raise the budget's working capital reserve, allowing the Secretariat some additional flexibility and autonomy in expenditure.

However, no agreement on the bracketed financial rule was achieved at this meeting, and so the Governing Body will likely undergo a similar exercise at future sessions. The adoption of future budgets and work programmes may also largely depend on pledges made during Governing Body meetings. Some donor countries suggested that this arrangement would facilitate fundraising and ensure efficiency, because donors will be able to choose from a list of activities identified by the Governing Body when pledging their voluntary contributions. Other donors, however, expressed sympathy with recipients' concerns that this would lead to "cherry picking" and run the risk that some activities without donor appeal would remain unfunded or underfunded.

MAINTAINING THE BALANCE

The meeting was also characterized by concerns over the imbalance in the implementation of the Treaty's elements on *ex situ* conservation and facilitated access on the one hand, and sustainable use, *in situ* conservation and farmers' rights on the other. The reports on the establishment of the MLS, the high number of transfers under the standard MTA, and the success of the Global Crop Diversity Trust led to a general impression of excellent progress. The swift adoption of a decision to expand the use of the standard MTA to non-Annex I crops collected prior to the Treaty's entry into force and held by the CGIAR centers, and the announcements that two additional genebank collections will be placed under the MLS, added to the feeling that the Treaty's system for *ex situ* conservation and access is up and running smoothly.

Some more technically savvy delegates commented, however, that this success should not be overstated. The high number of transfers under the standard MTA may be misleading since it refers mainly to transfers occurring within the CGIAR system. Most national or public genebanks outside of the system, including in many developed countries, still struggle with determining when and how to use the standard MTA. One delegate went so far as to credit the success of the MLS to the performance of the existing structures for *ex situ* conservation rather than the achievements of the Treaty. Nevertheless, the Global Crop Diversity Trust is undeniably proving to be a successful strategy to generate and disburse funding for *ex situ* conservation.

By contrast, the Treaty's funding strategy to generate support for on-farm conservation and other *in situ* conservation activities has yet to be put into action. This imbalance, and the endeavor of donor countries to remove implementation activities from the Treaty's core budget, led a number of G-77/China members to argue that developed countries are not living up to their commitment to support the Treaty's implementation in developing countries. They took the stance that the implementation of the funding strategy should take priority over other agenda items, particularly the finalization of the

compliance mechanism. Some were concerned that a compliance mechanism would make them accountable for measures that they have no adequate means to implement.

The strategy of taking compliance "hostage" to the funding strategy eventually led to both items' deferral – compliance will be placed "high on the agenda" of GB-3, while the *ad hoc* advisory committee on the funding strategy will reconvene intersessionally to finalize its work, despite GB-1 having called for the adoption of both of these items at GB-2. The adoption of a list of priorities and procedures under the funding strategy and a mandate for further intersessional work was interpreted by many from the G-77/China as the signal of commitment that they had been waiting for, and those delegates expressed their confidence that this decision would mark the beginning of a shift in attention towards implementing the so far neglected elements on sustainable use and *in situ* conservation. Interestingly, a number of developed countries also expressed their satisfaction with this arrangement, noting that intersessional work on the funding strategy would allow them to explore options for raising funds from the private sector, philanthropic organizations and other sources that are new to many of those involved in the process.

Together these decisions may be the beginning of a process leading towards more balanced implementation. Most importantly this shift has been achieved without hampering further progress in the implementation of the Treaty's other elements.

GROWING PAINS

The difficulties experienced by the Governing Body can to some extent be explained as the growing pains of a new international instrument learning to stand on its own two feet: redefining its relationship with FAO and other international bodies while struggling to find its own sources of financial and political support. Delegates from developed and developing countries agreed that raising the Treaty's political profile at the national level is a key challenge. In many countries, public awareness of the Treaty and its importance for food security remains low, making it difficult to raise contributions to the Treaty from governments and private funds.

Because of this need to raise confidence in the Treaty, many delegates were thankful that the meeting avoided slipping into an impasse that would have left either donors or developing countries disillusioned. Instead, GB-2 found a path that will let both funding strategy implementation and the issue of compliance progress, without either group feeling that their needs have been sidelined. Delegates managed to preserve the collaborative spirit of "mutual understanding" that characterized GB-1, leaving the door open for more measurable progress in the future that will make it easier to demonstrate to national governments that this new Treaty can achieve everything it was designed to do.

UPCOMING MEETINGS

HIGH-LEVEL CONFERENCE ON BUSINESS AND BIODIVERSITY: Organized by the Portuguese Presidency of the EU, the Council and the European Commission, this conference will be held from 12-13 November 2007, in Lisbon, Portugal. It aims to contribute to an improved understanding of

the competitive advantages gained from conserving biodiversity and using biological resources sustainably. For more information, contact: Sebastian Winkler, Head of Countdown 2010 Secretariat, tel: +32-2-739-0322; fax: +32-2-732-9499; e-mail: smw@iucn.org; internet: <http://www.countdown2010.net/business/european-business-and-biodiversity-initiative>

133RD FAO COUNCIL: The 133rd session of the FAO Council will convene from 14-16 November 2007, in Rome, Italy. For more information, contact: Rafael Rodriguez, Conference, Council and Liaison Office; tel: +39-06-570-55872; fax: +39-06-570-56099; e-mail: Rafael.Rodriguez@fao.org; internet: http://www.fao.org/unfao/bodies/council/cl133/index_en.htm

34TH FAO CONFERENCE: The 34th FAO Conference will be held from 17-24 November 2007, in Rome, Italy. For more information, contact: Rafael Rodriguez, Conference, Council and Liaison Office; tel: +39-06-570-55872; fax: +39-06-570-56099; e-mail: FAO-Conference@fao.org; internet: http://www.fao.org/unfao/bodies/conf/c2007/index_en.htm

SIXTH MEETING OF THE CBD AD HOC OPEN-ENDED WORKING GROUP ON ABS: The sixth meeting of the CBD *Ad Hoc* Open-ended Working Group on Access and Benefit-Sharing (ABS) will meet from 21-25 January 2008, in Geneva, Switzerland. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=ABSWG-06>

SECOND MEETING OF THE CBD AD HOC OPEN-ENDED WORKING GROUP ON PROTECTED AREAS: The second meeting of the CBD *Ad Hoc* Open-ended Working Group on Protected Areas will take place from 11-15 February 2008, in Rome, Italy. This meeting will consider future action on the Programme of Work on Protected Areas, including country reports on implementation and recommendations from a series of workshops. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=WGPA-02>

THIRTEENTH MEETING OF THE CBD SBSTTA: The 13th meeting of the CBD's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) will take place from 18-22 February 2008, in Rome, Italy. This meeting will review progress in the CBD's implementation and address scientific and technical issues in relation to the Convention. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=SBSTTA-13>

CARTAGENA PROTOCOL COP/MOP 4: The fourth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 4) will take place from 12-16 May 2008, in Bonn, Germany. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/meetings/default.shtml>

NINTH CONFERENCE OF PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY: CBD COP-9 will take place from 19-30 May 2008, in Bonn, Germany, including a high-level segment from 28-30 May. The COP will consider, *inter alia*, progress in the implementation of the

Programme of Work on Protected Areas and recommendations arising from the second *Ad Hoc* Open-ended Working Group on Protected Areas. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=COP-09>

INTERNATIONAL DAY FOR BIOLOGICAL DIVERSITY: International Biodiversity Day will be celebrated on 22 May 2008, with the theme "Biodiversity and Agriculture." For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/>

IUCN 4TH WORLD CONSERVATION CONGRESS: The IUCN fourth World Conservation Congress will take place from 5-14 October 2008, in Barcelona, Spain. The World Conservation Forum will be held from 6-9 October. For more information, contact: Congress secretariat; tel: +41-22-999-0000; fax: +41-22-999-0002; e-mail: congress@iucn.org; internet: <http://www.iucn.org/congress/2008/>

ITPGR GB-3: The third session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture will be held in the first quarter of 2009, in Tunisia. For more information, contact: the ITPGR Secretariat; tel: +39-06-570-53057; fax: +39-06-570-56347; e-mail: pgrfa-treaty@fao.org; internet: <http://www.planttreaty.org>

CGRFA-12: The twelfth regular session of the Commission on Genetic Resources for Food and Agriculture will convene in the second half of 2009, in Rome, Italy. For more information, contact: the CGRFA Secretariat; tel +39-06-570-55480; fax: +39-06-570-53057; e-mail: cgrfa@fao.org; internet: <http://www.fao.org/ag/cgrfa/>

GLOSSARY

CBD	Convention on Biological Diversity
CGIAR	Consultative Group on International Agricultural Research
CGRFA	Commission on Genetic Resources for Food and Agriculture
ERG	European Regional Group
GRULAC	Latin American and the Caribbean Group
IARCs	International Agricultural Research Centers
ITPGR	International Treaty on Plant Genetic Resources for Food and Agriculture
MLS	Multilateral System
MTA	Material Transfer Agreement
PGRFA	Plant genetic resources for food and agriculture
TOR	Terms of reference