

ITPGR GB 4 HIGHLIGHTS: TUESDAY, 15 MARCH 2011

ITPGR GB 4 delegates met in plenary to address implementation of the Treaty's Multilateral System (MLS) and standard material transfer agreement (SMTA), operation of the Third Party Beneficiary, and implementation of Article 6 (Sustainable Use of Plant Genetic Resources). Contact groups on the Funding Strategy and compliance, as well as the budget committee met in the evening. Informal consultations on the financial rules of the Governing Body were held throughout the day.

PLENARY

PROCEDURAL MATTERS: Following Bureau and informal consultations, Chair Hufler proposed, and delegates agreed to: hold inter-regional and informal consultations on the financial rules; establish a contact group on compliance, co-chaired by René Lefeber (the Netherlands) and Javad Mozafari (Iran); and establish a contact group on the Funding Strategy, co-chaired by Médi MOUNGUI (Cameroon) and Bert Visser (the Netherlands).

IMPLEMENTATION OF THE MLS: Review of implementation of the MLS and review of the MTA used by IARCs for non-Annex-I PGRFA: The Secretariat introduced the relevant documents (IT/GB-4/11/12 and Inf.5), highlighting, among others: the need to prioritize harmonious implementation of the Treaty and the Nagoya Protocol on ABS; information gaps, as many parties still need to report on their PGRFA that are covered by the MLS; the extensive experience of the international agricultural research centers (IARCs) of the Consultative Group on International Agricultural Research (CGIAR); and the continuing need for capacity building in the use of the SMTA.

Lim Eng Siang (Malaysia), Co-Chair of the Technical Advisory Committee on the MLS and the SMTA, presented the Committee's report (IT/GB-4/11/Inf. 7 and Inf. 8). He underscored the Committee's mandate to advise on implementation questions raised by SMTA users, and the opinions they have provided on such questions. He suggested the Committee be reconvened in the upcoming biennium. Brian Harvey (Canada), Committee Co-Chair, stressed that the amendments to the SMTA that the Committee proposed are technical and do not change the content.

Highlighting the need for national implementation, the ERG urged identifying why very few parties have included their material in the MLS. She reported on European experience and capacity-building activities, and invited parties to similarly assess their level of implementation. Noting that the reporting

system is voluntary, CANADA said the cost of storing increasing information should not be covered by the core administrative budget.

CANADA and the SOUTH WEST PACIFIC welcomed the SMTA amendments recommended by the Committee. The ERG proposed that the Secretariat prepare an options paper before the GB considers any amendments to the SMTA.

BRAZIL, the ASIAN REGION, the NEAR EAST REGION, the AFRICAN GROUP and INDIA supported reconvening the Committee, with ECUADOR supporting its proposed terms of reference and requesting that members be legal experts from all regions. The ERG suggested that the compliance committee provide advice on the Treaty and MLS interpretation. The SOUTH WEST PACIFIC called for continuing the work, either through reconvening the Committee or through other committees under the Treaty.

Malaysia, for the ASIAN REGION, the NEAR EAST REGION and ANGOLA called for a review of the MLS, including the level, form and manner of payments, and a mechanism to facilitate the flow of benefits and information to developing country farmers.

The NEAR EAST REGION and the AFRICAN GROUP said there is no need to review the list of Annex I crops.

The PHILIPPINES requested CGIAR to provide a mechanism to facilitate farmers' access to the MLS, including, among others: information dissemination; localized access to the MLS database; and capacity building. He further proposed exploring mechanisms to implement non-monetary benefit-sharing, and conducting a study on the extent to which intellectual property rights apply to material from the MLS.

BRAZIL asked to delete the provisions foreseeing further work on innovative approaches and developing standards under Article 12.3h (access to PGRFA *in situ*). The AFRICAN GROUP noted the lack of benefits accruing to the region, and called for capacity-building regarding use of the SMTA and sharing of non-monetary benefits such as technology transfer and information sharing. ANGOLA, supported by INDIA, stressed the need for benefits to reach farmers and encouraged countries to use the SMTA's alternative payments scheme.

Biodiversity International, for the CGIAR, drew attention to their report (IT/GB-4/11/Inf. 5), noting an increase in the number of samples distributed and that most of them consisted of center-improved material distributed as PGRFA under development without any additional conditions.

PRACTICAL ACTION expressed concern that no benefits are flowing to the custodians of PGRFA and no mandatory payments have been introduced. CIVIL SOCIETY recommended preparing a report on the potential of new storage technologies for long-term seed conservation; the implications of new genome-

mapping technologies on the Treaty; and possible violations of the Treaty by patent claims that extend to end-users of food and feed products.

Chair Hufler noted differing views on revising the SMTA and reconvening the Committee. She pointed out suggestions to focus on the level and manner of payment and non-monetary benefit-sharing in the terms of reference for the Committee; and to a proposed mechanism to consider direct and indirect benefits to farmers. A revised draft resolution will be prepared by the Secretariat.

Inclusion of PGRFA held by natural and legal persons, and review of implementation of the SMTA: The Secretariat introduced the document (IT/GB-4/11/13), inviting delegates to consider whether to commence or postpone the process for the reviews and assessments under Articles 11.4 (progress in inclusions by natural and legal persons) and 13.2d(ii) (level of payments).

The ERG, BRAZIL and CANADA supported postponing the reviews due to lack of information. The ERG drew attention to material included in the MLS by European genebanks outside government control. She stressed the need to address primarily the lack of sufficient implementation by collections under the direct responsibility of parties. She urged all parties to include material in the MLS, and to encourage natural and legal persons to include material and report on inclusions through their national focal points. CANADA said that the private sector and others can include material by donating it to a national or international institution. YEMEN expressed concern regarding lack of benefits to the region arising from the MLS, including technology transfer. He proposed adding elements on the source of the genetic resources and their most important assets to the SMTA.

OPERATION OF THE THIRD PARTY BENEFICIARY: *Ad Hoc* Third Party Beneficiary Committee Chair Mozafari reported on the Committee's deliberations (IT/GB-4/11/14), including development of draft rules of mediation and lack of conclusion on applying the Third Party Beneficiary procedures to transactions related to non-Annex I material. The Secretariat introduced relevant documentation (IT/GB-4/11/15).

The ERG expressed disappointment that the committee had not come to any conclusions on applying the procedures to non-Annex I material transferred with the SMTA. The ASIAN REGION noted that use of the procedures is at the discretion of IARCs and should not involve the GB. BRAZIL requested clarification about the role of the administrator under the mediation rules, before considering adoption of the rules. The AFRICAN GROUP suggested that any future questions on the Third Party Beneficiary be considered by the Committee on the MLS. The SOUTH WEST PACIFIC suggested parties may want to liaise with the Bureau before commencing any mediation procedures. Regarding identification of violations, the ETC GROUP requested wider participation in identification of violations, observing that biopiracy cases have been brought forward by farmers and civil society organizations.

Regarding the Third Party Beneficiary Operational Reserve, the ERG agreed that it should remain at the same level for the next biennium and called for setting priorities for the use of limited resources. ECUADOR noted that only parties should be called upon to contribute to the operational reserve. BRAZIL queried the level of contributions to date and how funds are being raised.

Chair Hufler noted parties' support for the draft mediation rules; and that the Committee on the MLS would deliberate on the issue of applying the Third Party Beneficiary procedures to transactions related to non-Annex I material.

SUSTAINABLE USE: The Secretariat introduced the relevant documents (IT/GB-4/11/17 and Inf. 3 and 4). Many delegates welcomed development of a toolbox to assist countries in designing measures to promote the sustainable

use of PGRFA. The ERG questioned whether a toolbox alone can achieve the objective and whether it can reach farmers, and requested information on the content and financial implications of the toolbox. The AFRICAN GROUP called for the toolbox to be all-inclusive and as interactive as possible. The PHILIPPINES suggested that it be participatory and inclusive, especially with regard to the views of farmers and indigenous peoples. ECUADOR, BRAZIL and CUBA proposed including farmers' rights within the toolbox's constituent elements, and BURKINA FASO stressed that the toolbox should include the practices of rural communities. CANADA suggested that the proposed stakeholder consultation on a work programme on sustainable use be an online forum. The NEAR EAST REGION called for promotion of regionally important crops and market opportunities for underutilized species, and innovative approaches to promote sustainable use through partnerships. NAMIBIA and YEMEN stressed that *in situ* conservation is an essential component of sustainability. VENEZUELA noted that Article 6 implementation will strengthen food security. The CGIAR drew attention to their wide range of activities related to sustainable use, involving countries, organizations and farmer communities.

ECUADOR welcomed establishment of an *ad hoc* technical committee. The SOUTH WEST PACIFIC suggested considering its budgetary and logistical implications. The ERG called for establishing the committee, subject to availability of funds, with broad participation, to address challenges in adaptation of global agricultural systems to climate change. CAMEROON suggested the committee could meet virtually. PERU announced the establishment of their Agriculture Ministry's new centre of plant genetic resources for the Andean region, and stressed the importance of working on orphan and underutilized crops.

SEARICE stressed that the proposed toolbox undermines the legally binding dimension of Article 6 implementation, namely national legislation, and called for a redirection from centralized *ex situ* conservation to decentralized seed systems. VIA CAMPESINA stressed the importance of local reproduction of seeds for adaptation to climate change, and called for a standing working group on sustainable use and farmers' rights, with full participation of farmers and indigenous peoples.

Chair Hufler noted general agreement to highlight the sustainable use aspect of Treaty implementation, and to develop a toolbox, further clarifying and simplifying its contents, with the involvement of all stakeholders, to ensure it benefits farmers.

IN THE CORRIDORS

Throughout the day, delegates delved into complex, technical issues at the heart of the operation of the Treaty: implementation of its Multilateral System. Still, positions were divided along political lines: developed countries wondered how inclusions to the MLS could be accelerated, noting that facilitated access and data-sharing have major benefits of their own. Developing countries disagreed. "Facilitated access is a benefit as long as one has the capacity to use the system," one seasoned delegate declared, noting the lack of tangible benefits reaching farmers and communities. No doubt, implementation of the Treaty centers around the interplay of access and benefit-sharing, however, "prioritization is a matter of choice," one observer noted. He added that, according to the text of the Treaty, farmers are supposed to be its primary beneficiaries, but this objective has somehow been lost in translation from words to action. "Are we still on track?" wondered another.