



ITPGRFA GB 6 INFORMATION EVENTS: OUTCOMES OF THE INTERSESSIONAL WORKING GROUP ON THE MLS, AND FARMERS' RIGHTS: 3 OCTOBER 2015

On the occasion of the sixth session of the Governing Body (GB 6) of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA or Treaty), to be held from 5-9 October 2015, two events were held on Saturday, 3 October: an information event on the outcomes of the *Ad Hoc* Open-ended Working Group to Enhance the Functioning of the Multilateral System (MLS) of Access and Benefit-sharing (ABS) during the biennium; and a special event on farmers' rights under the ITPGRFA, to share experiences and discuss future actions to strengthen implementation.

OUTCOMES OF THE WORKING GROUP TO ENHANCE THE FUNCTIONING OF THE MLS

Matthew Worrell, GB 6 Chair (Australia), opened the event, stressing that it aims at informing all parties and stakeholders of the progress made intersessionally, including at the fourth meeting of the Working Group, held on 2 October. He stressed that the Working Group had a difficult task, which is critical for the success of the Treaty.

Shakeel Bhatti, ITPGRFA Secretary, provided an overview of the Working Group, including its terms of reference, workflow, structure and results. He focused on the tasks proposed for further work, agreed at the Working Group's third meeting, held from 2-5 June 2015, in Brasilia, Brazil.

Working Group Co-Chair Modesto Fernández (Cuba) outlined progress toward developing a subscription system under the Standard Material Transfer Agreement (SMTA) of the Treaty, in order to increase user-based payments to the Benefit-sharing Fund (BSF) in a long-term, predictable manner.

Working Group Co-Chair Bert Visser (the Netherlands) reported on the Working Group's fourth meeting, which he characterized as a stocktaking meeting. He pointed to agreed elements, including that the subscription system needs to be attractive to users, provide certainty and possibly include a termination clause, in order to increase user-based contributions. He highlighted pending items, including on:

whether or not to retain alternative mechanisms for access in addition to the subscription system; voluntary and mandatory payments; a termination clause under the subscription system and possible alternative mechanisms; whether a subscription system should provide access to all MLS material at once or only to a specific crop; and whether to differentiate among user categories with regard to payments. Co-Chairs Fernández and Visser pointed to possibilities of revising the SMTA, amending the Treaty, or developing a protocol to the Treaty, to accommodate the changes required.

DISCUSSION: A participant from Brazil requested an assessment of major challenges and of the feasibility to complete the work by GB 7. Co-Chair Fernández noted that the Working Group deals with technical issues that are however based on political considerations, and pointed to the need for GB guidance. Co-Chair Visser underscored that delivering a full proposal to GB 7 requires willingness from all regions to proceed and seek compromise, and a plan to address the series of complex issues involved.

A participant from Ethiopia asked whether other options had been explored, in addition to a subscription system, and whether renegotiating the Treaty would speed implementation. Fernández and Visser outlined elements that helped identify the subscription model as the best way forward, including the need to make the MLS simpler and attractive to users, also noting ongoing discussions on two parallel access mechanisms to serve different categories of users. On reopening Treaty negotiations, they pointed to discussions on alternatives, including revising the SMTA.

A participant from Namibia inquired about the scope of future work, highlighting that technological developments make physical access to a genetic resource increasingly redundant, as utilization can proceed on the basis of the information encoded in the genetic resource, and questioning how the MLS could address access to that information. Visser agreed that the issue of dematerialization of genetic resources should be taken into account, and pointed to the need for collaboration with the Convention on Biological Diversity (CBD) and its Nagoya Protocol on ABS in that regard. GB 6 Chair Worrell drew attention to Monday's event on the Global Information System.



A participant from Ecuador requested information on financial contributions, expressing hope that they reach farmers on the ground. Fernández said that while some countries have paid their contributions, funds are still limited. Visser drew attention to financial flows and non-monetary contributions that take place outside the BSF but within the framework of the Funding Strategy. ITPGRFA Secretary Bhatti provided information on the contributions to the BSF and highlighted the activities of the High-Level Task Force on Resource Mobilization.

Other questions addressed: the subscription system in relation to the need to promote utilization of plant genetic resources for food and agriculture (PGRFA) and to broaden the genetic base to meet challenges arising from climate change and malnutrition; and the scope for a feasibility study on the subscription system.

Regarding a question on legal implications, Secretary Bhatti clarified that the Treaty and the SMTA could be amended through GB decisions or that a supplementary agreement could be negotiated. Responding to questions regarding the feasibility of proposed measures, Visser suggested surveying stakeholders on whether the proposals would make the MLS more attractive.

On assessing parties' capacity to implement proposed measures, Secretary Bhatti suggested using the first national reports, which will be available before GB 7. Responding to requests for practical examples of benefit-sharing, he drew attention to BSF projects and clarified that neglected and underutilized crop species are addressed under the work programme on sustainable use. Visser mentioned activities under the Funding Strategy, including the first repatriation of seed materials from the Global Seed Vault to the International Center for Agricultural Research in the Dry Areas (ICARDA) to replace accessions lost during the Syrian civil war.

FARMERS' RIGHTS UNDER THE ITPGRFA

Secretary Bhatti stressed that agricultural biodiversity conservation and its sustainable use are not possible without respecting farmers' rights, and recalled the provisions of ITPGRFA Article 9 (Farmers' Rights).

Moderator Guy Kastler, La Via Campesina, presented shortfalls in Treaty implementation in terms of farmers' rights, highlighting that in spite of producing most of the food globally available, farmers still struggle to have their rights protected. He stressed the importance of the Treaty for farmers, and underscored the need for farmers to be able to reuse, save and exchange seeds, particularly in the face of climate change and food security challenges. He concluded that only few countries have developed national laws to protect farmers' rights, noting the need for further national consultations, technical guidelines, and laws defending farmers' rights.

Mario Marino, ITPGRFA Secretariat, provided an overview of the Secretariat activities during the intersessional period. Noting that Article 9 is linked to Articles 5 (Conservation, Exploration, Collection, Characterization, Evaluation and Documentation of PGRFA) and 6 (Sustainable Use of Plant Genetic Resources), he underscored collaboration with other institutions and conventions in a participatory manner, focusing on the Joint Capacity-Building Programme of the Treaty and the Global Forum on Agricultural Research (GFAR), and the global consultation on farmers' rights.

Juanita Chaves, GFAR, reported on activities focusing on practical implementation of farmers' rights. She underlined the urgent need to better harness agricultural knowledge and innovation, whether from formal or informal seed systems, to help eradicate hunger and malnutrition. In terms of specific outcomes, she noted: capacity-building material on farmers' rights; support of agrobiodiversity fairs and co-organization of national meetings; inputs for improving national seed policies; promotion of the role of women in agriculture; training farmer leaders; and utilization of local languages to promote farmers' rights.

Teshome Hunduma, Development Fund of Norway, presented on the Fund's activities to support implementation of farmers' rights. He underscored that the Fund's programmes utilize local knowledge, local human resources and local institutions; and focused on challenges, including low awareness on the role of crop biodiversity across all stakeholder groups, low progress on the implementation of the Treaty and farmers' rights, and low institutional support, as well as contradicting legislation at the national level.

DISCUSSION: Asking parties to support farmers' rights implementation, a participant from Ecuador outlined his country's activities, including community seed banks and a draft seed law that recognizes farmers' rights.

Several participants noted incoherence with the Agreement on Trade-related aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO) and other legislation, calling on WTO to complete its revision of TRIPS Article 27.3(b) (exclusions from patentability). Mark Holderness, GFAR Executive Secretary, stressed that there should be as much recognition of the Treaty and farmers' rights as there is of other agreements and legislation. Expressing concern about the consolidation of the global seed industry, he urged ensuring that the full benefits of genetic resource utilization are delivered back to farmers when supplying them with improved seeds.

A delegate from Indonesia announced his country will host the Second Global Consultation on Farmers' Rights in July 2016, and India offered support.

Participants then addressed issues including: the need for clarity on the definition of "farmers"; and participation of farmers' representatives and civil society at both national and intergovernmental levels. Regarding the national level, farmers' participation in capacity-building projects and in decision making was emphasized. At the intergovernmental level, past proposals were highlighted on enhancing participation in informal groups and intersessional activities.

Holderness stressed the need to "take farmers' rights seriously," and noted the importance of innovation and collective action to put smallholders at the center of the process. Highlighting that equally important agricultural research and development takes place in the laboratory and on-farm, he underscored collaborative work between GFAR and the Treaty Secretariat on increasing awareness on farmers' rights and on promoting access to germplasm for smallholders, including women.