

ITPGRFA GB 7 HIGHLIGHTS: THURSDAY, 2 NOVEMBER 2017

A morning plenary addressed items on: appointment of the Secretary; the communication strategy; and digital sequence information. In the afternoon, plenary discussed draft resolutions on: the 2030 Agenda; sustainable use; collaboration with the CBD, the Crop Trust, the CGRFA, and other bodies; compliance; and MLS operations. Contact groups on farmers' rights and on enhancing the MLS met in the evening. A night plenary addressed revised draft resolutions, including on: cooperation with the CBD, the CGRFA and other bodies; MLS operations; and the Funding Strategy. Deliberations continued into the night.

PLENARY

MLS ENHANCEMENT: Contact Group Co-Chair Bert Visser (the Netherlands) reported "considerable progress" on a draft resolution and the setting up of an informal group to consider two outstanding issues; and announced that the contact group will resume for the last time in the evening to continue work on the SMTA.

APPOINTMENT OF THE SECRETARY: Annick van Houtte, FAO Legal Office, presented the relevant documents (IT/GB-7/17/29-30). All regional groups approved the appointment of Kent Nnadozie as Secretary. NORTH AMERICA and SOUTH WEST PACIFIC stressed that the exceptional process for Secretary selection in 2016 must not create a precedent for future appointments.

FAO outlined a new long-term procedure for the appointment of the Secretary and the renewal of appointments. Cameroon, for AFRICA, supported subjecting the appointment to FAO standard procedure, cautioning against politicizing the process. Indonesia, for ASIA, called for: ensuring transparency in shortlisting; and, supported by Iran, for NEAR EAST, and ECUADOR, including in the selection committee all Bureau members. The ERG recommended that the selection panel should: comprise more party representatives; ensure gender balance; and, supported by NEAR EAST, shortlist a maximum of three candidates. The US, supported by ECUADOR, AUSTRALIA and BRAZIL, considered it premature to adopt the procedure proposed by FAO. AUSTRALIA, supported by the ERG, proposed that the Bureau be tasked with reaching a compromise.

COMMUNICATION STRATEGY: The Secretariat introduced the communication strategy (IT/GB-7/17/23), outlining key objectives, messages, target audiences and resources needed. Many underscored the importance of an effective communication strategy. The ERG, with the US and CANADA, objected to the creation of a new position for a communication and outreach officer; while AFRICA, ECUADOR and BRAZIL supported it.

Chair Sabran noted consensus on welcoming the communication strategy and acknowledged different opinions about the new position.

DIGITAL SEQUENCE INFORMATION: Plenary addressed a draft resolution proposed by Africa. The US noted that digital sequence information should be considered under MYPOW, as previously agreed. Namibia, for AFRICA, pointed out that there will be no GB resolution on the MYPOW as it was agreed that the Bureau will address it intersessionally. He stressed that the African proposal aims for consensus by drawing from the relevant CGRFA resolution; and said Africa will not approve any other resolution unless digital sequence information is addressed. Noting that, although the development of the MYPOW has been referred to the Bureau, a resolution on the issue is still required, delegates agreed to discuss the African proposal in that context.

Discussion resumed in the afternoon. AFRICA and ECUADOR called for setting up a process for deliberation to enable thorough discussion at GB 8. Delegates debated whether to address the issue in a self-standing resolution or in the resolution on the MYPOW.

On the African proposal, AFRICA suggested including references to the relevant decisions under the Nagoya Protocol and CGRFA. Cautioning against duplication of work, the ERG called for engaging in ongoing work under the CBD and CGRFA, to ensure PGRFA perspectives are taken into account, and reporting on progress at GB 8. The ERG proposed requesting the Secretariat to provide the draft scoping report on potential implications of new synthetic biology and genomic research trajectories on the ITPGRFA to the CBD and CGRFA Secretariats to inform their processes. The ERG and the US proposed deleting language on: keeping the issue in the agenda after GB 8; evaluating and following up on the identified areas for additional investigation in the scoping report; establishing an expert advisory group; and urging users of digital sequence information on PGRFA obtained from the MLS, who derive benefits from its utilization, to make voluntary contributions to the BSF. The US further suggested deleting language linking digital sequence information to Treaty implementation. BOLIVIA, opposed by the US, proposed adding reference to "new emerging applications/uses of digital material" alongside any reference to digital sequence information. A new draft will be prepared for discussion.

2030 AGENDA: Delegates debated language on: the monitoring process for SDG targets 2.5 (genetic diversity) and 15.6 (fair and equitable benefit-sharing and appropriate access); financial obligations according to Treaty provisions; an ERG proposal on the MLS contribution to the achievement of the SDGs; and a US proposal to delete reference to farmers' rights in relation to mainstreaming plant genetic diversity into national development strategies.

SUSTAINABLE USE: The US cautioned against references to farmers' rights until a resolution on that topic is addressed, with CANADA, opposed by BOLIVIA, expressing concern about duplication. BOLIVIA, with NAMIBIA, proposed regional capacity-building workshops also on sustainable biodiverse production systems. NAMIBIA, ECUADOR, YEMEN, URUGUAY and BOLIVIA, opposed by CANADA and the ERG, recommended reconvening the Technical Committee on Sustainable Use.

COMPLIANCE: Delegates discussed whether the costs of facilitating the participation of Compliance Committee members should be subject to availability of financial resources.

COOPERATION WITH THE CBD: CANADA requested bracketing reference to CBD Article 8(j) (traditional knowledge), in requesting cooperation with the CBD on developments and practical implementation experiences. SWITZERLAND and the US proposed eliminating reference to MYPOW, while CAMEROON recommended retaining a bracketed reference, pending consideration of the relevant resolution. NAMIBIA suggested reference to the Nagoya Protocol in relation to engagement in capacity-building activities on harmonious and mutually supportive implementation with the CBD.

MLS OPERATIONS: On a paragraph urging parties to identify at accession level the material that is available in the MLS and include the respective passport data in GLIS, delegates debated references to Genesys, WIEWS and other existing information systems.

NAMIBIA suggested, supported by BOLIVIA and opposed by the US, that CGIAR Centers include in their communications to the Treaty cases where the germplasm, or parts thereof, "or digital sequence information derived therefrom" is the subject matter of patent or plant variety protection applications.

The US, opposed by ECUADOR and BOLIVIA, requested deletion of language calling upon developed countries to comply with their obligations to allow developing countries to meet their commitments. Delegates agreed that regional training workshops be subject to available funds.

COOPERATION WITH OTHER BODIES: Delegates debated whether to refer to "use" or "utilization" of PGRFA. BRAZIL proposed text taking note of the Treaty's collaboration with GFAR.

COOPERATION WITH THE CROP TRUST: Following a brief discussion, delegates retained text on collaboration between the Crop Trust and the Treaty on development of standards for quality management of MLS material.

CONTACT GROUPS

FARMERS' RIGHTS: Delegates discussed terms of reference for a working group, technical expert group or advisory committee on farmers' rights. They considered whether the group should: produce an inventory of national measures that may be adopted, best practices and lessons learned for the realization of farmers' rights; and develop, in an inclusive and participatory manner, voluntary guidelines on the realization of farmers' rights at the national level, with a regional group requesting to clarify that the guidelines will also be non-prescriptive. A delegate preferred that the group consider options for encouraging and promoting the realization of farmers' rights based on the inventory, instead of developing guidelines. Delegates then considered the composition of the group, with some parties stressing the importance of ensuring the full and effective participation of farmers, in particular from centers of origin and crop diversity. After much deliberation, they agreed the group will comprise up to five government representatives, up to three farmers and up to three other stakeholders, per region.

ENHANCING THE MLS: Delegates addressed a consolidated text of the draft SMTA proposed by the Co-Chairs, following previous discussions in the contact group. Co-Chairs

Mozafari and Visser explained that: the basis of the proposed text is the subscription system with an option for single-use access; efforts have been made to distinguish between "withdrawal" and "termination"; changes have been made to sections on terminology regarding "sales" and "genetic parts or components," rights and obligations of the recipient and subscriber, termination, bankruptcy, amendments to the agreement, rate and modalities of payment, and terms and conditions of the subscription system; and the text is primarily tabled to inform the deliberations, rather than be accepted or rejected. Discussions focused on, *inter alia*: ways to ensure that previous proposals are not lost and that new suggestions can be made in the future; withdrawal; enforcement and damages; more general issues regarding enforceability of the SMTA, also in relation to the Third Party Beneficiary processes; and digital sequence information in relation to benefit-sharing obligations.

NIGHT PLENARY

COOPERATION WITH THE CBD: Delegates addressed a revised draft resolution and resolved outstanding matters regarding involving the Committee on the Funding Strategy in the development of strategic guidance for GEF-8, and information exchange on CBD Article 8(j) and Nagoya Protocol Article 10 (global multilateral benefit-sharing mechanism).

MLS OPERATIONS: Delegates debated, without reaching agreement, references to developed-country parties' financial obligations under the Treaty, and to digital sequence information or "information generated from the use of germplasm." They agreed, *inter alia*, on: urging parties to identify at accession level material that is part of the MLS and include passport data in the GLIS; inviting parties to use WIEWS, Genesys, or other existing information systems for the notification of data; appealing to parties and others to make available non-confidential characterization and evaluation data; requesting the Secretariat to provide GB 8 information on germplasm distribution within the MLS, including a separate analysis for parties and Article 15 institutions; and noting that the Intellectual Assets Principles explicitly require CGIAR to comply with their ITPGRFA-related obligations and serve as a mechanism for monitoring and compliance.

FUNDING STRATEGY: Delegates debated, among other issues, whether: the Committee meetings will be funded or not by the core budget; and BSF project reports should provide references to the genetic diversity of the crops in question and the complementarity between on-farm and *ex situ* conservation.

IN THE CORRIDORS

An eerie sense of suspense permeated the Kigali Convention Centre on Thursday. With several draft resolutions under consideration, Africa stressing that "nothing is agreed until everything is agreed, including on digital sequence information," and contact groups on farmers' rights and on the MLS still to reconvene in the evening, many participants started to wonder about what can reasonably be accomplished in the remaining 24 hours. "I have abandoned hope that a revised SMTA will emerge from this meeting," one commented. Another bleary-eyed participant chipped in, on her way to the late-night plenary: "I guess this GB session is mainly a procedural pit-stop: we will be lucky enough to set up an intersessional process to allow us to tackle digital sequence information and farmers' rights seriously in two years' time."

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of ITPGRFA GB 7 will be available on Monday, 6 November 2017 at <http://enb.iisd.org/biodiv/itpgrfa/gb7/>