

ITPGRFA GB 8 Highlights: Tuesday, 12 November 2019

Delegates to the eighth session of the Governing Body (GB 8) of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA or Treaty) met in a morning plenary to exchange views on measures to enhance the functioning of the Multilateral System (MLS) of access and benefit-sharing. Afternoon and evening deliberations focused on the Funding Strategy, the Global Information System (GLIS), and farmers' rights. Discussions continued into the night on conservation and sustainable use of plant genetic resources for food and agriculture (PGRFA).

Enhancement of the Functioning of MLS

Delegates exchanged views on the report of the *Ad Hoc* Open-ended Working Group to Enhance the Functioning of the MLS (IT/GB-8/19/8.2 Rev.1). AFRICA suggested prioritizing the subscription system for access, and stressed, with the NEAR EAST, the PHILIPPINES, URUGUAY, INDIA, the INTERNATIONAL PLANNING COMMITTEE FOR FOOD SOVEREIGNTY (IPC), and many developing countries, that digital sequence information (DSI), also referred to as genetic sequence data, should be included in the revised Standard Material Transfer Agreement (SMTA). ZAMBIA warned against ignoring the potential impact of DSI on the functioning of the MLS. EGYPT and others stressed that countries have sovereign rights over genetic material and associated DSI.

AFRICA, the NEAR EAST, and the PHILIPPINES emphasized that they are open to negotiating the expansion of Annex I (list of crops in the MLS), as long as monetary benefits flow into and through the Benefit-sharing Fund (BSF). AFRICA underscored exclusion of *in situ* PGRFA from the expanded list and, with the PHILIPPINES, the possibility for parties to register reservations regarding a limited number of crops.

Noting that not all parties were present at the Working Group's deliberations, ECUADOR, with URUGUAY, CUBA, and GUATEMALA opposed expanding Annex I, underscoring the need for benefit-sharing. ECUADOR requested exploring why the private sector has not placed PGRFA in the MLS.

The EUROPEAN REGIONAL GROUP (ERG) noted willingness to continue negotiations. ASIA encouraged delegates to continue discussions to design a system that does not impede science, but allows for funding flows into the BSF. The PHILIPPINES, with many, supported a subscription system that covers all PGRFA in the MLS, excluding from payment obligations family farmers, indigenous peoples, and public plant breeding institutions, and including higher payment rates for users from non-parties.

CANADA supported sharing of information including DSI, and capacity building for its use. He said the SMTA focuses on material, not information; and supported adopting a revised SMTA, including single access and a subscription system.

NORWAY drew attention to the country's annual contribution to the BSF corresponding to 0.1% of annual seed sales and, with the CGIAR Consortium, noted that the Treaty provisions on benefit-sharing from commercialization could apply to both material and information arising from such material. NORWAY further expressed support for a subscription system in the revised SMTA. SWITZERLAND called for balancing the single access and subscription systems to make subscription preferable.

FRANCE emphasized the need to maintain the multilateral character of the system, staying faithful to the Treaty's text. He stressed that there can be no revision of the SMTA if Annex I is not extended, underscoring the need to maintain the possibility for single access and to reflect on the implications of addressing DSI. Warning against overregulation, BRAZIL pointed to broad support for mandatory benefit-sharing payments, expanding Annex I, and addressing DSI.

AUSTRALIA expressed concerns regarding the proposed inclusion of DSI and did not support measures to manage it. FINLAND opposed any reference to DSI that would preempt decisions in other fora. She indicated readiness to discuss capacity building and technology transfer regarding DSI. JAPAN suggested undertaking studies on enhancing the MLS, and identified Annex I expansion, DSI, and benefit-sharing rates as core issues. AFRICA noted that failing to address DSI undermines the Treaty's founding principles, and proposed creating a DSI database under the MLS. CHILE and ARGENTINA emphasized that by definition genetic resources include genetic information. MALAYSIA proposed an overview of relevant national policies and legislation.

The IPC and VIA CAMPESINA cautioned that not addressing DSI may lead to privatization through patents of farmers' material in the MLS and subsequent prohibition of use. They stressed that the GB must recognize it has no effective means to enforce compliance, and proposed taxation systems focusing on the seed industry. The AFRICAN UNION said developing countries would not accept making PGRFA openly available via digital sequencing in exchange for a small segment of the seed sector's benefits. CIVIL SOCIETY denounced the injustices resulting from the Treaty's inability to address DSI. The INTERNATIONAL SEED FEDERATION (ISF) called for extension of Annex I, a workable subscription system, and reasonable user payments.

COSTA RICA and ARGENTINA supported extending the mandate of the Working Group. GB 8 Chair Christine Dawson (US) encouraged parties to continue informal consultations, noting

that the Bureau will discuss the way forward. RWANDA stressed the subscription system and DSI are core issues cutting across most items on the GB agenda.

Funding Strategy

Implementation: The Secretariat introduced the report on the implementation of the Funding Strategy (IT/GB-8/19/9.1), including a draft resolution. ECUADOR proposed requesting developed countries to report on their financial contributions. Noting that some developed countries do not meet their funding obligations, ARGENTINA, with LEBANON, suggested recalling respective Treaty provisions. NORTH AMERICA encouraged continued improvements and support for resource mobilization. The ERG drew attention to the first private sector contribution to the BSF held under an SMTA in June 2018. BRAZIL called for urgent contributions to the BSF. JAPAN cautioned against calculations based on market size for setting payment rates. The ISF suggested referencing the non-monetary benefits provided by the private sector. The IPC called for a simple and transparent BSF that eliminates loopholes and is accessible to smallholder farmers.

Enhancement: Alwin Kopse (Switzerland), Co-Chair of the *Ad Hoc* Advisory Committee on the Funding Strategy and Resource Mobilization, presented a report on the enhancement of the Funding Strategy (IT/GB-8/19/9.2), including proposals on: a resolution; target ranges for the BSF; a new funding strategy 2020-2025; an operations manual for the BSF; and terms of reference for a potential standing committee.

Many supported the draft resolution. The ERG welcomed the strategy's programmatic approach. ECUADOR and others welcomed collaborating with new funding sources. Some stressed the need to decide on the MLS enhancement before adopting a new funding strategy.

The DEMOCRATIC REPUBLIC OF THE CONGO (DRC) called for substantially higher targets for the BSF, while ASIA, CANADA, and the ERG supported realistic ones. URUGUAY pointed to USD 25 million as a reasonable annual target for the BSF.

The ERG supported a target of USD 0.9-1.1 billion per year over a period of 10 years for Treaty implementation, with a milestone of 40% to be achieved by 2026, while CANADA opined that such a target is overly ambitious. CANADA suggested revision of the cost-based methodology used by the Committee.

The ERG, the DRC, URUGUAY, and CANADA supported establishment of a standing committee. ASIA preferred maintaining the current *ad hoc* status of the committee.

An informal group continued discussions in the evening.

Global Information System

The Secretariat introduced a report and draft resolution on GLIS (IT/GB-8/19/10), noting that 29 countries have begun to indicate digital object identifiers (DOIs) and that 834,252 PGRFA have been identified and linked through the registration of DOIs on the GLIS Portal. Axel Diederichsen (Canada), Co-Chair of the Scientific Advisory Committee on GLIS, summarized the Committee's outcomes, suggesting that DOIs could be a useful starting point to address genetic sequence data.

INDIA requested enhancing cooperation with relevant institutions. With the ERG, he supported DOIs remaining voluntary. ECUADOR, opposed by the US, called for addressing benefit-sharing from genetic sequence data. URUGUAY and BRAZIL stressed the potential for DOIs to link and track germplasm and related information. CANADA proposed that the Committee continue and revise guidelines for the application of DOIs, taking into account national genebanks.

AFRICA proposed that GLIS-related databases require that DSI users accept the SMTA conditions before access. FARMERS' ORGANIZATIONS said accessing DSI should be subject to the free prior informed consent of knowledge holders. The CGIAR pointed to the obligation to make non-confidential information available. The ISF supported GLIS as a tool for utilization of PGRFA. An informal group continued discussions in the evening.

Farmers' Rights

The Secretariat introduced the report of the *Ad Hoc* Technical Expert Group (AHTEG) on Farmers' Rights (IT/GB-8/19/12.2, 12/Inf.2 and 12/Inf.3). Rakesh Chandra Agrawal (India), AHTEG Co-Chair, reported on the development of an inventory of national measures, best practices, and lessons learned for the realization of farmers' rights.

Many supported the draft resolution and welcomed progress on the inventory. JORDAN highlighted difficulties faced by smallholders using local varieties. AFRICA noted that efforts to realize farmers' rights are hindered by poor donor support and inadequate farmer participation in national policy development.

ASIA, ECUADOR, NORWAY, CHILE, CÔTE D'IVOIRE, CAMEROON, GUATEMALA, ZIMBABWE, and SWITZERLAND supported continuation of the AHTEG. NORTH AMERICA, the EU, AUSTRALIA, and JAPAN said the AHTEG should retain its original terms of reference. CÔTE D'IVOIRE and CIVIL SOCIETY called for effective representation of peasants, farmers, and indigenous peoples. ECUADOR, ZIMBABWE, the IPC, and others proposed the AHTEG draft voluntary guidelines on farmers' rights implementation.

SWITZERLAND requested the Secretariat to continue the ongoing process established by the Council of International Union for the Protection of New Varieties of Plants (UPOV) on the interrelations between the UPOV Convention and the Treaty. The EU encouraged analyzing possible areas of interrelation between farmers' rights, the Treaty, the UPOV Convention, and the World Intellectual Property Organization.

The EU supported a regulatory framework and a favorable economic environment for all farmers, from subsistence to commercial farmers, to have the right to: choose the best available seeds that fulfill their needs; access quality seeds; and save, use, and exchange seeds, subject to national laws. The CGIAR noted the draft resolution highlights concrete legal measures to promote the realization of farmers' rights.

A contact group was established to continue deliberations.

In the Corridors

The second day of deliberations focused on the "hot potato" of the meeting's agenda, namely the adoption of a package of measures to enhance the functioning of the MLS. An open exchange of views in plenary revealed significant road blocks, particularly on the issue of DSI, or genetic sequence data. Many long-standing delegates and observers stressed that addressing DSI in the revised SMTA is paramount for the Treaty to maintain its relevance and integrity in view of the rapid pace of technological developments. Others insisted that DSI does not fall within the Treaty's scope and reiterated the need for a free flow of PGRFA-related information. Furthermore, developing countries noted that substantive and effective benefit flows is a prerequisite for expanding the list of crops under the MLS, while developed countries stressed that the expansion is necessary for the revision of the SMTA. With such a "chicken and egg" scenario clear to everyone in the room, discussions were suspended to allow for further informal consultations. The way forward still unclear, most participants left FAO headquarters rather pessimistic on the potential for bridging opposing positions, noting that "a radically new, inspired way out, if not a small miracle" will be needed to reach consensus.