



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



E

Item 8 of the Provisional Agenda

FIFTH SESSION OF THE GOVERNING BODY

Muscat, Oman, 24-28 September 2013

REPORT ON THE IMPLEMENTATION OF THE MULTILATERAL SYSTEM OF ACCESS AND BENEFIT SHARING

EXECUTIVE SUMMARY

1. This document provides summary information on the major elements of the Multilateral System, where relevant by reference to the working documents in which they are addressed. There remain numerous gaps in information regarding resources made available under SMTAs. Technical studies in the biennium, and “Easy-SMTA”, have provided a finer grain of information than in the previous report, but there is little information on materials that natural and legal persons in the jurisdictions of Contracting Parties may have put into the Multilateral System, or legal and administrative measures that Contracting Parties have taken to encourage this.
2. The Ad Hoc Advisory Technical Committee on the SMTA and the Multilateral System has prepared a number of opinions and recommendations for the consideration of the Governing Body, and proposed text for the possible updating of the SMTA at this session.
3. The Ad Hoc Advisory Committee on the Funding Strategy has implemented its mandate to explore and identify “innovative approaches” to benefit-sharing, with a view to ensure an adequate and timely flow of resources to the Benefit-sharing Fund. It has recommended the establishment of an Ad Hoc Open-ended Working Group to Expand Benefit-sharing and the Scope of the Multilateral System, with the mandate to prepare the various decisions that will be needed to give effect to the package of measures for consideration for adoption by the Governing Body, at its Sixth Session.
4. There is a considerable challenge which is already being addressed at national level and inter-sessional processes to ensure that administrative measures for the implementation of the Nagoya Protocol make provision for the legal space that the Treaty needs.
5. Two-High-Level Roundtables on the International Treaty, convened by Contracting Parties, have played an important role in affirming the importance of the Treaty in the international arena. There are important new initiatives by stakeholder groups, to provide non-monetary benefit-sharing in the context of the Treaty’s Funding Strategy, particularly in follow-up to the Rio Six-Point Action Plan. These include the launching of a Platform for the co-development and transfer of technology, and of a Public-private partnership for pre-breeding. Elements of a draft Resolution on all aspects of the Multilateral System are provided for the consideration of the Governing Body in the Addendum, IT/GB-5/13/5/Add.1, which forms an integral part of this report.

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I. INTRODUCTION

1. Article 19.3 of the Treaty provides that:

“The functions of the Governing Body shall be to promote the full implementation of this Treaty, keeping in view its objectives, and, in particular, to (a) provide policy direction and guidance to monitor, and adopt such recommendations as necessary for the implementation of this Treaty and, in particular, for the operation of the Multilateral System.”

2. The Governing Body received a comprehensive Report on the implementation of the Multilateral System at its Fourth Session,¹ and agreed to again review the implementation of the Multilateral System at the current Session.

3. This document provides a further progress Report on the implementation of the Multilateral System as a whole. The primary focus is on the provisions of the Treaty, and on the measures that Contracting Parties and others are taking to bring the Multilateral System into full operation. As far as possible, it follows the format of the last Report, and focuses on developments during the biennium, and outstanding matters that should be brought to the attention of the Governing Body.

4. In Resolution 4/2011, the Governing Body asked Contracting Parties to provide certain information related to the Multilateral System, and stressed the importance of this being available to the Secretary *“six months prior to the Fifth Session of the Governing Body, so that a full report may be prepared for its Fifth Session”*.

5. By a Notification of 20 February 2013, the Secretary again brought to the attention of Contracting Parties the Governing Body’s request for this information. Such information as was received from Contracting Parties is incorporated in this document.

6. A number of other matters regarding the implementation of the Multilateral System are dealt with under other items of the agenda, for which other documents have been prepared. In those cases the present, document does not deal with the matter in depth, but a cross-reference will, where relevant, be made to the relevant documents. The relevant documents are the following:

- IT/GB-5/13/6, *Reviews and assessments under the Multilateral System, and of the implementation and operation of the Standard Material Transfer Agreement;*
- IT/GB-5/13/7, *Report on the implementation of the Funding Strategy*
- IT/GB-5/13/11, *Report on matters concerning the relationship between the Governing Body and the Commission on Genetic Resources for Food and Agriculture;*
- IT/GB-5/13/14, *Report on cooperation with the Convention on Biological Diversity;*
- IT/GB-5/13/17, *Vision paper in the development of the Global information System in the context of Article 17 of the Treaty;*
- IT/GB-5/13/19, *Report on the operations of the Third Party Beneficiary;*
- IT/GB-5/13/21, *Report on the relationship with the International Agricultural Research Centres of the Consultative Group on International Agricultural*

¹ IT/GB-4/11/12, *Report on the implementation of the Multilateral System of Access and Benefit-sharing*, available at <http://www.planttreaty.org/sites/default/files/gb4w12e.pdf>.

Research and other relevant international institutions under Article 15 of the Treaty;

- IT/GB-5/13/Inf. 3, *Report of the Ad Hoc Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System;*
- IT/GB-5/13/Inf. 4, IT/GB-4/13/Inf. 4/Add.1 and IT/GB-4/13/Inf. 4/Add2, *Reports of the Ad Hoc Technical Advisory Committee on the Funding Strategy.*

7. The document concludes with a brief over-all picture of the implementation status of the Multilateral System, and, in the Addendum IT/GB-5/13/5/Add.1, which forms an integral part of this report, identifies possible elements of a Resolution on the implementation of the Multilateral System, for consideration by the Governing Body.

II. MAJOR DEVELOPMENTS IN THE INTERNATIONAL ENVIRONMENT OF IMPORTANCE FOR THE IMPLEMENTATION OF THE MULTILATERAL SYSTEM

8. As requested by the Governing Body at its last Session, the Secretary has participated in meetings of the World Intellectual Property Organization of relevance to the Multilateral System, particularly its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which continues to discuss a draft instrument on the Protection of Traditional Knowledge and Genetic Resources. At its 24th Session, in April 2013, the text of the Draft Articles, under Article 10, *Consistency with the General Legal Framework*, included an “optional addition”, which states that its provisions “should be fully in line with the FAO’s 2001 Treaty on resources”.

9. By Resolution 8/2011, the Governing Body “*request[ed]* the Secretary to continue participating in relevant meetings of the International Union for the Protection of New Varieties of Plants” (UPOV), given its close linkages with the Multilateral System. UPOV has accordingly been kept abreast of developments in the Multilateral System, and the UPOV Council took two decisions in the course of the biennium to increase collaboration between the Treaty and the UPOV Convention. It authorized its Secretariat to provide dedicated access to the UPOV Pluto Database, in the preparation of a Study entitled *Assessing the potential for monetary payments from the exchange of plant genetic resources under the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture*.² The UPOV Secretariat also participated in the peer-review of this study and provided valuable inputs. At its Forty-Sixth Ordinary Session on 1 November 2012, the UPOV Council “approved the participation of the Office of the Union in the ... ITPGRFA Platform for the Co-Development and Transfer of Technologies”³, and the Secretariat has therefore participated as a technical advisory partner in the meetings of the Platform partners.

10. At its Fourth Session, the Governing Body welcomed the adoption of the Nagoya Protocol, decided to establish and maintain cooperation with the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol, and called on Contracting Parties to ensure that any legislative, administrative or policy measures taken for the implementation of both the Treaty and the Convention on Biological Diversity (and its Nagoya Protocol), are consistent and mutually supportive.

² *In Identifying Benefit Flows, Studies on the Potential Monetary and Nonmonetary Benefits Arising from the International Treaty on Plant Genetic Resources for Food and Agriculture*. FAO. 2013. Available at: <http://www.planttreaty.org/content/identifying-benefit-flows>.

³ UPOV Press Release No.92, dated 1 November 2012 (<http://www.upov.int/export/sites/upov/news/en/pressroom/pdf/pr92.pdf>)

11. At its fourth meeting, in November 2011, the *Ad Hoc* Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System:

requested the Secretariat to continue monitoring and participating in the relevant processes related to the Nagoya Protocol and the Convention on Biological Diversity in order to promote practical and harmonious interfaces between general access and benefit-sharing requirements and the operation of the Treaty and its Multilateral System, both nationally and internationally.

12. The protocol is yet to enter into force, but a number of processes are planned or ongoing in preparation for its entry into force and eventual implementation. In this context, the Governing Body may wish to note that the Nagoya Protocol processes remain of high importance to the Treaty, and that the scope and presence for the Treaty needs to be systematically recognized, not only in the context of inter-agency partnership, but, most importantly, in the context of the collaboration and coordination among the different implementing authorities that will be needed at national level, in the implementation of the International Regime of Access and Benefit-sharing.

13. As requested by the Governing Body, pursuant to Resolution 8/2011, the Secretariat participated in the meetings of the Convention on Biological Diversity. The Secretariat has also cooperated closely with, and held joint activities with, the Secretariat of the Convention, in light of both the pending entry into force and implementation of the Nagoya Protocol, and the importance of this for the implementation of the Multilateral System. Details and the outcomes of these activities are provided in Document IT/GB-5/13/14, *Relationship with the Convention on Biological Diversity*.

14. On the margins of the Summit on Sustainable Development in Rio de Janeiro, the Governments of Brazil, Norway and Italy organized *The Second High-level Roundtable on the International Treaty on Plant Genetic Resources for Food and Agriculture*,⁴ under the auspices of the High-level Task Force of the Benefit-sharing Fund. During the High-level Roundtable, the Executive Secretary of the Convention on Biological Diversity drew attention to the fact that, following the adoption of the Nagoya Protocol, the Treaty plays the central role in regulating access to plant genetic resources for food and agriculture and benefit-sharing, as an integral constituent of the International Regime of Access and Benefit-sharing. He indicated that the Convention was now looking towards the Treaty, to learn from its experience in the implementation of functional, global access and benefit-sharing systems. On this occasion, the Executive Secretary of the Convention and the Secretary of the Treaty signed and launched a *Joint Initiative of the Secretariats of the International Treaty and the Convention on Biological Diversity, on Sustainable Development, Technology Transfer and Capacity-building*, within the context of the existing *Memorandum of Cooperation* between the two organizations, pursuant to Resolution 8/2011 of the Governing Body. The Joint Initiative provides for joint activities to promote the harmonious implementation of the Multilateral System and the Nagoya Protocol, and is described in greater detail in document IT/GB-5/13/14, *Report on Cooperation with the Convention on Biological Diversity*.

15. The Secretary had also signed a *Memorandum of Understanding* with the United Nations Environment Programme (UNEP), which includes cooperation in capacity-building activities dealing with access and benefit-sharing issues and the Multilateral System.

16. The Second High-level Roundtable also adopted *The Rio Six-Point Action Plan for the International Treaty Plant Genetic Resources for Food and Agriculture*, which proposed a number of priority actions to be undertaken by stakeholders, within the context the Treaty. These were: (1) to establish a Platform for the Co-Development and Transfer of Technologies, within the context of non-monetary benefit-sharing under the Treaty; (2) to promote a Public-private Partnership for Pre-breeding; (3) to facilitate a new Keystone-type dialogue, to complete the governance of all plant genetic resources for food and agriculture under the Treaty; (4) to

⁴ <http://www.planttreaty.org/content/HLRT2>

raise awareness of the actual and potential value of underutilized species of local and regional importance for food security and sustainable development; (5) to sensitize policy makers and other key stakeholders about the importance of fully implementing the Treaty, not only for food and agriculture, but also for food security, nutrition and the resilience of agriculture systems, particularly in the context of the climate change; and (6) to explore the possible expansion the list of the crops included in *Annex I* to the Treaty⁵.

17. The host Governments of the High-level Roundtable provided a report to the Bureau of the Governing Body, and will report on the outcomes at this Session, under the Agenda Item 6 of the Provisional Agenda, *Reports from high-level initiatives on the International Treaty*.

18. During *The Second High-level Roundtable*, the Government of Indonesia announced that it would host *The Third High-level Roundtable on the International Treaty* in 2013, in order to take stock of progress in the implementation of the *Rio Six-Point Action Plan*, and report to the present Session of the Governing Body. This was convened in Bandung, Indonesia, on 2 July 2013. It welcomed the substantial progress that had been made in the short period since the adoption of the *Rio Six-point Action Plan*, and the fact that the first three of six action points were already being implementation by stakeholders. It warmly welcomed these important initiatives.

19. In summing up, the Indonesian Minister of Agriculture noted that all these efforts would contribute to enhancing the efficiency of the Treaty. He foresaw the development by the Governing Body of a packet of measures to build on the success of the Treaty, by improved benefit-sharing, through innovative approaches, the in-built reviews provided for in the Treaty, and the expansion of facilitated multilateral access under the Treaty. The Government of Indonesia will present the Report of *The Third High-level Roundtable* under Item 6, *Reports on High Level Initiatives of Contracting Parties*.

20. At its Thirteenth Session, the Commission on Genetic Resources for Food and Agriculture established an *Ad Hoc* Technical Working Group on Access and Benefit-Sharing for Genetic Resources for Food and Agriculture. The First Session of the Working Group was held in Svalbard, Norway, from 11 to 13 September 2012. It made a number of recommendations in the light of its Terms of Reference.

21. At its Fourth meeting in November 2011, the *Ad Hoc* Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System⁶ noted the Working Group's report. The Committee welcomed the recommendations of the Working Group and

“restated that the scope of the Treaty was all plant genetic resources for food and agriculture, and that the Governing Body, therefore, had the mandate and authority to decide and carry out work on all matters within this scope, including any further work on access and benefit-sharing for plant genetic resources for food and agriculture. It noted that such work should therefore be carried out by the Governing Body and advised the Governing Body to continue its close collaboration with other bodies regarding access and benefit-sharing, in particular the Convention on Biological Diversity and the Commission. It requested the Secretariat to continue coordinating with the Secretariat of the Commission in order to promote complementarity in the work of the two bodies and avoid duplication of efforts. The Committee recommended that the outcomes and follow-up processes be brought to the attention of the Governing Body at its Fifth Session, in particular with a view to reaffirming the mandate and authority of the Governing Body on all plant genetic resources for food and agriculture; deciding on any possible role it might wish the Committee to play on any related future work; and ensuring that the

⁵ For more information, see <http://www.planttreaty.org/content/rio-six-point-action-plan-2012>

⁶ See Report of the Committee: IT/GB-5/13/Inf.3

*Governing Body performs its functions in accordance with its mandate on access and benefit-sharing for plant genetic resources for food and agriculture”.*⁷

22. At its Fourteenth Session, “the Commission, taking into account the International Treaty, the Convention on Biological Diversity, the Nagoya Protocol and other relevant international agreements and ongoing processes” considered the recommendations of the Working Group and, *inter alia*:⁸

(i) *encouraged countries that have not done so, to consider the option of ratifying or acceding to the International Treaty as soon as possible, to promote its full implementation in regard to plant genetic resources for food and agriculture and to recognize the importance of providing support to countries for this purpose, in particular through the capacity-building activities under the International Treaty;*

(iii) *invited the Governing Body of the International Treaty, in its continued governance of plant genetic resources for food and agriculture, to continue to closely coordinate with the Commission, in order to address in a complementary way the distinctive features and specific uses of plant genetic resources for food and agriculture, especially in light of the development of access and benefit-sharing measures at both national and international levels;*

(ix) *requested its Secretary to invite stakeholder groups to report on voluntary codes of conduct, guidelines and best practices, and/or standards in relation to access and benefit-sharing for all subsectors of genetic resources for food and agriculture, and to compile them for consideration by the intergovernmental technical working groups and for review by the Commission at its Fifteenth Regular Session, while acknowledging that voluntary measures should not undermine legally binding provisions developed as part of domestic legislative, administrative or policy measures;*

(xii) *requested the intergovernmental technical working groups to explore access and benefit-sharing issues for their respective subsectors;*

(xv) *requested that the output of this process ... be Draft Elements to Facilitate Domestic Implementation of Access and Benefit-Sharing for Different Subsectors of Genetic Resources for Food and Agriculture, taking into account relevant international instruments on access and benefit-sharing. These draft elements would be voluntary tools to assist national governments, not new international access and benefit-sharing instruments.*

23. The Governing Body is invited to note or welcome, as appropriate, these number of developments of relevance to the implementation of the Multilateral System and, taking into account the implications of the related processes, provide any further guidance it deems appropriate in that regard. Relevant elements of a draft Resolution are provided in the Addendum IT/GB-5/13/5/Add.1.

III. COVERAGE OF THE MULTILATERAL SYSTEM (ARTICLES 11 AND 15.1a)

A. Plant genetic resources held by Contracting Parties, and by International Institutions, under Article 15

24. The Governing Body has stressed the importance of identifying the plant genetic resources for food and agriculture that are available, under the Multilateral System.

25. Resolution 4/2011, the Governing Body requested all Contracting Parties:

⁷ Ibid.

⁸ Paragraph 40, CGRFA-14/13/Report; available at: <http://www.fao.org/docrep/meeting/028/mg538e.pdf>

“to report on their plant genetic resources for food and agriculture that are in the Multilateral System, in accordance with Article 11.2 of the Treaty, and to take measures to make information on these resources available to potential users of the Multilateral System.”⁹

26. In response to a notification that the Secretariat issued in February 2013 to gather information related to the Multilateral System, two communications were received, from the European Regional Group and from the Nordic Genetic Resource Centre (NORDGEN).¹⁰ The communications provide information about the number of accessions in the Multilateral System, the SMTAs concluded, and monetary benefit-sharing, within the respective regions. They are available to the Governing Body as information documents.

27. Since the Fourth Session of the Governing Body, a more detailed picture of the resources within the Multilateral System is now available, as the result of research undertaken in the context of a study supported by the Government of Australia. The study prepared a table¹¹ with all the world’s *ex situ* holdings of crop genetic resources for food and agriculture, as listed in *The Second Report on the State of the World’s Plant Genetic Resources for Food and Agriculture*.¹² The Study broke the information down into five crops/crop groups: wheat, maize, rice, other *Annex 1* resources, and non-*Annex 1* resources, of both countries and International Institutions that are part of the Treaty and others. It then listed the part of those resources that had been notified to the Treaty as being available under the terms and conditions of the SMTA.¹³

28. This table has been updated, with information available to the Secretariat, and is attached as *Appendix to this document*. It provides the Governing Body with its first comprehensive overview of the *ex situ* plant genetic resources for food and agriculture that are theoretically available to the Treaty, as part of the Multilateral System. It also identifies, on a country-by-country basis, the resources known to have actually been made available. It also provides information on the plant genetic resources that are not currently part of the Multilateral System, because they are not in *Annex 1*, which some Contracting Parties are making available under the terms and conditions of the SMTA.

Crops	World <i>ex situ</i> holdings (accessions)	World holdings: % with Parties	% of Parties’ holdings actually available	World holdings: % with Institutions	% of Institutions’ holdings actually available	World holdings: % with Parties + Institutions	% of Parties’ + Institutions’ holdings actually available	% of total world holdings actually available
Wheat	911,405	49.92	26.89	16.85	100.00	66.76	45.34	30.27
Rice	782,628	38.54	2.46	16.70	100.00	55.24	31.94	17.65
Maize	326,159	40.55	8.78	8.23	100.00	48.78	24.18	11.79
Other <i>Annex 1</i>	2,492,448	57.24	24.55	12.08	99.06	69.32	37.53	26.02
Non- <i>Annex 1</i>	2,484,244	58.42	4.46	2.68	74.91	62.00	8.52	5.28

⁹ Resolution 4/2011.

¹⁰ The notification is available at the following URL:
http://www.planttreaty.org/sites/default/files/0016_NCP_GB5_MLS_en.pdf

¹¹ *Identifying Benefit Flows, Studies on the Potential Monetary and Nonmonetary Benefits Arising from the International Treaty on Plant Genetic Resources for Food and Agriculture*. FAO. 2013. Available at:
<http://www.planttreaty.org/content/identifying-benefit-flows>.

¹² *The Second Report on the State of the World’s Plant Genetic Resources for Food and Agriculture*, FAO, Rome, 2010, Table A2, *Germplasm collections by crop*, pp. 244-283. These figures are as at 28 December 2009.

¹³ <http://www.planttreaty.org/inclusions>

TABLE 1. PROPORTION OF WORLD HOLDINGS OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE HELD WITH CONTRACTING PARTIES AND ARTICLE 15 INTERNATIONAL INSTITUTIONS, AND RESOURCES CURRENTLY AVAILABLE UNDER THE TERMS AND CONDITIONS OF THE SMTA

29. The information in the *Appendix* to this document is summarized in table 1, in order to provide a synoptic picture of the percentage of world holdings of the five crops/crop groups:
- (a) that are held by Contracting Parties and International Institutions that have concluded agreements with the Governing Body under Article 15 of the Treaty,
 - (b) the part of these holdings that are actually available, and
 - (c) the part of total world holdings that this represents.
30. The picture varies greatly by crop/crop group. Wheat is the best represented, with 66% of world holdings with Contracting Parties and International Institutions, and 45.34% of their holdings being actually available, representing 30.27% of world holdings. Although other *Annex 1* crops, as a block, are even better represented in the holdings of Parties and International Institutions (with 69.32%), the proportion actually available is lower (37.53%), covering only 26.02% of world holdings. Maize is relatively poorly represented, with only 17.65% of world holdings actually available, and rice is even more so, with only 11.79% of world holdings actually available. It is interesting to note that 8.52% of Parties' and International Institutions' holdings of non-*Annex 1* materials are actually available, representing 5.28% of world holdings. These include non-*Annex 1* materials held by International Institutions in accordance with Article 15.1b of the Treaty, and non-*Annex 1* materials that Parties are making available under the terms and conditions of the SMTA, by a national decision.
31. It is also interesting to consider the difference between the availability of the materials held by Parties, and the materials held by International Institutions. For wheat, International Institutions are making available 1.25 times the number of materials that Parties are; for rice, 17.61 times; and, for maize, 2.32 times. In the case of other *Annex 1* materials, however, Institutions are making available only 0.83 times the materials that Parties are. For non-*Annex 1* materials, there is almost parity (1.03 times).
32. There is, so far, no effective measure of *in situ* resources that are to be available, in accordance with Article 12.3h of the Treaty, where:
- Without prejudice to the other provisions under [Article 12], the Contracting Parties agree that access to plant genetic resources for food and agriculture found in in situ conditions will be provided according to national legislation or, in the absence of such legislation, in accordance with such standards as may be set by the Governing Body.*
33. In that regard, it may be recalled that, in the previous biennium, the *Ad Hoc* Technical Advisory Committee on the Multilateral System and the Standard Material Transfer Agreement had noted that these provisions, in the context of access and benefit-sharing, apply to material under the management and control of Contracting Parties, and in the public domain, and consequently, that the scope of possible future standards established by the Governing Body should address material of that status.
34. The Committee had also agreed that the work on Article 12.3h needed to be further developed, in particular with regard to the relationship between Article 12.3h and other provisions in Article 12, and the implications of national legislation for access to *in situ* plant genetic resources, and specifically to those resources that are part of the Multilateral System. In this biennium, the Committee did not again take up the issue, but, with a view to strengthening coverage of the Multilateral System, the Governing Body may wish to request the Committee to further pursue the issue, if it is reconvened.

**B. Plant genetic resources held by natural and legal persons
within the jurisdiction of Contracting Parties**

35. The information regarding plant genetic resources held by natural and legal persons within the jurisdiction of Contracting Parties remains very sparse. In Resolution 4/2011, the Governing Body requested Contracting Parties:

To take measures to encourage natural and legal persons within their jurisdictions to include plant genetic resources for food and agriculture in the Multilateral System, and inform the Secretary accordingly.

To provide more information to the Secretary on the inclusion of plant genetic resources for food and agriculture in the Multilateral System by natural and legal persons within the jurisdiction of Contracting Parties.

36. At the time of writing, no such reports had been received.

37. At the time of the last report, the only two direct reports from such natural and legal persons were from two public-private associations in France: the *Association pour l'étude et l'amélioration du maïs* (PRO-MAIS) and the *Association française des semences de céréales à paille et autres espèces autogames* (AFSA). Since then, the following notifications have been received. The accessions in question of are "other Annex 1 resources".

	<i>Number of accessions</i>
• Maseno University, Kenya	12
• Peermade Development, India	8
• University of Costa Rica	131

**C. Plant genetic resources received from the Multilateral System
which recipients are obliged to make available**

38. In addition to the resources known to be available from Contracting Parties, International Institutions, and private and legal persons in the jurisdiction of Contracting Parties, a number of resources become available under a number of other mechanisms.

39. Persons receiving materials, and conserving them, are obliged to make them available to the Multilateral System, under the SMTA, in accordance with its Article 6.3. As noted in the previous Report, it is the practice of the International Agricultural Research Centres of the CGIAR to make public the recipients of material, which makes possible to know who may be holding such materials. No other information is available.

40. At its previous Session, the Governing Body:

*"emphasize[d] that plant genetic resources for food and agriculture listed in Annex I of the International Treaty resulting from the projects funded under the first round of the project cycle shall be made available according to the terms and conditions of the Multilateral System, and that information generated by these projects shall be made publicly available within one year of the completion of the project and requests the Secretariat to develop practical and simple measures and systems that will facilitate that the entities implementing such projects meet such requirements."*¹⁴

41. Following the same logic of promoting the availability of material in the Multilateral System through funded projects, the Global Crop Diversity Trust, in the context of an international project for regeneration and safety duplication of threatened crop collections, now close to completion, concluded a number of grant agreements with government genebanks and

¹⁴ Resolution 3/2011, *Implementation of the Funding Strategy of the Treaty*.

International Institutions, as well as other holders of collections. One of the conditions in the agreements was that all regenerated germplasm be made available to, or otherwise dealt with, through the SMTA.

D. Documenting the plant genetic resources within the Multilateral System

42. Resolution 4/2011:

Stresse[d] the importance of the continued identification and documentation of the plant genetic resources for food and agriculture within the Multilateral System, so that they may be accessed for the purpose of utilization and conservation for research, breeding and training for food and agriculture using the FAO/IPGRI Multicrop Passport Descriptor List;

Recognize[d] that improving access to and availability of information in the Multilateral System continues to be an important priority and that there is a need to support the relevant authorities and entities, particularly in developing countries, in improving their capacity to provide, manage or access information in respect of the Multilateral System.

43. Bioversity International, in the course of implementation of the Joint Capacity-building Programme for Developing Countries, has provided selected developing countries with support for the identification of plant genetic resources for food and agriculture in the Multilateral System. The expected result of this work is a notification of availability of plant genetic resources for food and agriculture under the SMTA to the Secretariat of the International Treaty, by the national institutions responsible for the management of the resources.

IV. LEGAL AND OTHER APPROPRIATE MEASURES TO PROVIDE FACILITATED ACCESS TO PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE WITHIN THE MULTILATERAL SYSTEM (ARTICLE 12)

44. In Resolution 4/2011, the Governing Body:

Urge[d] Contracting Parties, in accordance with Article 12.2, to take necessary legal and other appropriate measures to provide access to plant genetic resources for food and agriculture through the Multilateral System, within a clear time-frame, and request[ed] them to report on such information, using the standard format to be adopted by the Governing Body.

45. By a notification of 20 February 2013, the Secretary accordingly drew Contracting Parties' attention to the outstanding request for such information. However, as at the date of the preparation of this document, no such information had been provided to the Secretariat.

V. BENEFIT-SHARING IN THE MULTILATERAL SYSTEM (ARTICLE 13)

A. Sharing the benefits of the use of plant genetic resources for food and agriculture: information exchange; access to and transfer of technology; and capacity-building

46. In Resolution 4/2011, the Governing Body "thank[ed] the Governments of Indonesia and Norway for convening a Global Consultation on Benefit-sharing under the Multilateral System". It "invite[ed] Contracting Parties and other relevant stakeholder to explore innovative benefit-sharing measures within the purview of Articles 13.2a, b, and c of the Treaty". It also "request[ed] the Secretary, under the guidance of the Bureau, to facilitate the necessary measures to implement the non-monetary benefit-sharing mechanisms of Articles 13.2a,b and c".

47. During the biennium, groups of stakeholders undertook a number of actions on their own initiative, in implementation of points of the *Rio Six-point Action Plan*, to construct

practical vehicles for non-monetary benefit sharing, in accordance with the priorities of Article 13.2a, b and c, and in the context of the Treaty's Funding Strategy.

48. One such action point recommended that stakeholders establish a Platform for the co-development and transfer of technologies, within the context of non-monetary benefit-sharing under the Treaty. A number of potential partners in such an initiative therefore convened a meeting in Brasilia, Brazil, in August 2012, co-chaired the Brazilian Agriculture Research Corporation (Embrapa) and the Indonesian Agency for Agricultural Research and Development (IAARD).¹⁵ The meeting envisaged the Platform as a cooperation activity where institutions with relevant skills and mandates, including technical bodies and donor institutions, could work together to structure and promote practical technology co-development and transfer. IAARD convened a second meeting of the Platform in Bandung, Indonesia, from 30 June to 1 July 2013, preceding the Third High Level Roundtable on the International Treaty. The Minister of Agriculture of Indonesia, H.E. Suswono, then reported to the High-level Roundtable on the Platform initiative, in the context of a review of follow-up to *The Rio Six-point Action Plan*.

49. A second action point recommended that stakeholders establish an International public-private partnership for pre-breeding. A Technical Consultation convened by FAO, through the Global Partnership Initiative for Plant Breeding Capacity Building (GIPB), the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture, and the Italian National Academy of Sciences in Rome, from 30 to 31 May 2013, welcomed the recommendation of the Action Plan. It drew together representatives of a number of institutions with direct experience in pre-breeding, and in public-private partnerships for pre-breeding.

50. Participants presented on a wide range of approaches to crop improvement involving public-private partnerships. They agreed on the importance of conducting a thorough needs assessment, to identify the objectives of, and articulate the most effective arrangements for an International public-private partnerships for pre-breeding, under the aegis of the International Treaty on Plant Genetic Resources for Food and Agriculture.

51. The full reports of the meetings will be presented to the Governing Body by the relevant Contracting Parties and stakeholders under Agenda Item 6, *Reports from high-level initiatives on the International Treaty*.¹⁶

¹⁵ http://www.planttreaty.org/sites/default/files/brasilgia_2012_report.pdf

¹⁶ IT/GB-5/13/1.

B. Sharing of monetary and other benefits of commercialisation

52. In the present biennium, no benefit-sharing payments resulting from the use of the current SMTA — either mandatory or voluntary — were received.

53. Recognizing the need for a better understanding of when payments resulting from the use of the current SMTA may be expected, and the need for a regular and predictable flow a resources to the Benefit-sharing Fund, the Government of Australia supported a project, entitled *Assessing the potential for monetary payments from the exchange of plant genetic resources under the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture*, under which a series of studies were undertaken, and have recently been published.¹⁷

54. One of these studies, *Modelling payments to the Benefit-sharing Fund*,¹⁸ suggests that monetary benefits of commercialization under the terms and conditions of the current SMTA are potentially large, but will take a longer time to build up than has generally been assumed. Moreover, many Contracting Parties have not yet made available their materials under the SMTA, or have made available only part of their materials, which will delay the build-up of income. The study also indicates that income is crucially dependent on two factors: whether, as seems to be the case, breeders avoid use of materials under an SMTA, when a product that would require mandatory payments is planned; and whether voluntary payments are in fact made, and made at a significant level.

55. The Governing Body, in Resolution 3/2011, highlighted the need to identify regular and predictable sources of funding for the Benefit-sharing Fund, and “emphasize[d] the need to further explore innovative approaches in engaging voluntary donors to the Benefit-sharing Fund, in particular various private sector prospects such as the seed and the food processing industry.” Accordingly, the *Ad Hoc* Advisory Committee on the Funding Strategy has, during the biennium, identified a number of such possible innovative approaches. These are described in the reports of the *Ad Hoc* Advisory Committee on the Funding Strategy and related documentation, and several of these innovative approaches relate to the SMTA and the Multilateral System. Those relevant to the SMTA and Multilateral System include, in particular: revisiting Article 6.11 of the SMTA; revisiting Article 6.7 of the SMTA; expanding the coverage of the Multilateral System; and upfront payments on access, to be discounted against payments due under the SMTA upon the commercialization of a product. The full information is contained in documents IT/GB-5/13/7 and IT/GB-5/13/Inf.4, IT/GB-5/13/Inf.4/Add.1 and IT/GB-5/13/Inf.4/Add.2.

VI. THIRD PARTY BENEFICIARY PROCEDURES

56. A report on the operation of the Third Party Beneficiary is before the Governing Body, as document IT/GB-5/13/19. The Governing Body may wish to consolidate any guidance given to the Third Party Beneficiary into the Resolution on the Multilateral System.

VII. THE ROLE OF INFORMATION IN THE IMPLEMENTATION OF THE MULTILATERAL SYSTEM

A. “Easy-SMTA”: information technology support for users of the SMTA

57. Resolution 4/2011:

¹⁷ The studies will be available at the Fifth Session of the Governing Body. They are available at <http://www.planttreaty.org/content/identifying-benefit-flows-within-international-treaty-2013>.

¹⁸ The study was presented to the *Ad Hoc* Advisory Committee on the Multilateral System. It was also publicly launched at an event on the International Treaty organized by the Permanent Representation of Ecuador and the Liaison Office of FAO in Geneva at the High-level Segment of the Economic and Social Council of the United Nations in Geneva on 4 July 2013.

Stresse[d] the need to document exchanges under the Multilateral System through Standard Material Transfer Agreement operations, including through adequate reporting on concluded Standard Material Transfer Agreements in accordance with Resolution 5/2009”.

58. The Governing Body, also:

*“Recognized]d the importance for the functioning of the Multilateral System in general, and of the Third Party Beneficiary in particular, of effective information technology tools, and requests the Secretary to give priority to completing them, and putting them at the disposal of users of the Standard Material Transfer Agreement”.*¹⁹

59. During the biennium, the Secretariat has rolled out an on-line, web-based SMTA-management system — Easy-SMTA²⁰— as a practical tool to assist users of the SMTA to prepare SMTAs on-line, and to fulfil their reporting obligations.

B. Analysis of data in the Data Store, as of 26 June 2013

60. The System has 261 registered users, 36 of whom joined during the first six months of 2013. Of these, 65% are individuals and 34 legal entities. Not all the users yet utilize the reporting tools. Some use Easy-SMTA only to generate SMTAs. There are currently thirteen users who have reported as Providers, and 5,560 have been recorded as recipients.²¹ It is to be noted that the data stored in Easy-SMTA contains SMTAs reported by genebanks of two Article 15 International Institutions,²² and three large genebanks of Contracting Parties, and covers different reporting periods.

61. As of 26 June 2013, the Data Store has recorded data related to 17,725 SMTAs from providers located in ten countries, distributing material to recipients based in 147 countries. Out of those SMTAs, 12,997 were sent to recipients in Contracting Parties, while 4,728, some 26,28%, were sent to recipients not in Contracting Parties.

62. As of the same date, more than 1.5 million samples have been reported, and of those 223,223 (14,34%) are plant genetic resources for food and agriculture under development. As many as 71,62% of these samples went to recipients based in non-Contracting Parties. In interpreting this information, it should be noted that there are Article 15 International Institutions based in countries that are not Contracting Parties.

63. The statistics indicate also that 47,651 reported samples (3%) are of *non-Annex 1* crops. A further analysis of the reported SMTAs reveals that 131 agreements transferred non-*Annex 1* material to developing countries. Moreover, 3,300 SMTAs (18,62%) were issued by a non-Article 15 International Institution, transferring altogether 80,214 samples.

C. Progress in developing the Global Information System

64. Resolution 4/2011:

Welcome[d] the efforts underway to coordinate and improve information systems documenting plant genetic resources for food and agriculture, based on existing information systems, in order to develop and strengthen the Global Information System, foreseen in Article 17, consistent with Article 12.3b, of the International Treaty, and requests the Secretary to further develop the Vision Paper prepared for the current Session of the Governing Body;

65. Detailed information on the process and progress in the implementation of Article 17 of the Treaty is contained in document IT/GB-5/13/17.

¹⁹ Resolution 5/2011, *Operation of the Third Party Beneficiary*.

²⁰ The Easy-SMTA tool, which both allows on-line generation of SMTAs, and provides a tool by which users may fulfil their reporting obligations, is on line at <https://mls.planttreaty.org/itt/>.

²¹ Number of recipients with different names, as reported, and different email addresses, when available.

²² Namely, CIMMYT and IRRI.

VIII. SUPPORT TO CONTRACTING PARTIES AND USERS OF THE MULTILATERAL SYSTEM

66. An update on developments concerning the Joint Capacity-building Programme is provided in document IT/GB-5/13/21, *Report on the Relationship between the Governing Body and the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other Relevant International Institutions under Article 15 of the Treaty*.

IX. THE WORK OF RELEVANT COMMITTEES IN THE BIENNIUM

A. The *Ad Hoc* Technical Advisory Committee on the Multilateral System and the Standard Material Transfer Agreement

67. The Committee held two meetings in the biennium, with the second meeting resumed once, in July 2012, to deal an unfinished agenda item. The reports of the meeting are available to the Governing Body as an information document.²³

68. At its Third Meeting, generously hosted by the Government of India, the Committee advised on, and provided opinions on, a number of questions: inclusion of material into the Multilateral System: non-food/non-feed uses of plant genetic resources for food and agriculture; transfer to farmers, for direct use for cultivation; legal space for the operation of the Multilateral System in the context of access and benefit-sharing regimes; the use of the SMTA in the transfer of plant genetic resources for food and agriculture to affiliate companies; and the restoration of breeding lines; and the definition of genera and species of *Annex I* crops. In response to questions from users of the Multilateral System in the context of a project, the Committee advised on: monetary benefit-sharing obligation in not-for-profit projects; monetary benefit-sharing obligation and the geographical extent of the restrictions triggering such obligations; the calculation of benefit-sharing payments at the point of sale of the product on the open market; and monetary benefit-sharing obligations in relation to the sale of hybrids.

69. As a general advice, the Committee encouraged providers and recipients of plant genetic resources for food and agriculture to build the capacity of their own legal and policy advisors for the implementation of the SMTA and their obligations under the Multilateral System, in the light of their own specific circumstances.

70. At its fourth meeting in November 2012, the Committee re-affirmed that the scope of the Treaty is all plant genetic resources for food and agriculture, and that the Governing Body may decide on all matters within this scope, including any further work on access and benefit-sharing. It proposed the following text for consideration by Contracting Parties to provide legal space for the Treaty in national access and benefit-sharing legislation:

“Pursuant to the obligations established by the International Treaty on Plant Genetic Resources for Food and Agriculture, access to and the transfer of plant genetic resources for food and agriculture covered by the Treaty, and sharing the benefits arising from their utilization, should be subject only to the conditions set out in or consistent with the said Treaty, as applicable.”

71. It also requested the Secretariat to follow the development of implementation guidelines in relation to the *Principles on the Management of Intellectual Assets of the Consultative Group on International Agricultural Research*. It addressed the questions of: whether a genebank can collect, conserve and distribute samples of plant varieties protected by plant breeder's rights, without the right holder's consent; whether an SMTA is needed in cases where *Annex I* planting material is transferred for sale, after multiplication; and what constitutes the “minimal cost involved”, in terms of Article 12.3b of the Treaty.

²³ IT/GB-5/13/Inf.3.

72. With regard to the updating of the SMTA, the Committee suspended discussions, so that members could consult within their regional groups. It resumed its meeting in April 2013 to deal with this unfinished agenda item and:

- a) Considered the option of incorporating of all clarifications or interpretations in the text of the SMTA, either in the main text or in footnotes (Option 1); examined the proposed clarifications to, and interpretations of the text of the SMTA, including its footnotes; and developed the text of Option 1, which is provided in *Appendix 1* to its Report;
- b) Considered the option of reflecting clarifications or interpretations in explanatory notes accompanying the SMTA (Option 2); examined the text of the explanatory notes and revised it, keeping in brackets text where there was no agreement within the Committee; and developed the revised text of the explanatory notes to the SMTA, which is provided in *Appendix 2* to its Report;
- c) Proposed, in addition to Options 1 and 2, an Option 3, in which clarifications to or interpretations of the SMTA could go in a Schedule to the SMTA; and developed the text of Option 3, which is provided in *Appendix 3* to its Report.

73. The Committee re-emphasized the need for continued interaction between the different constituencies of the Treaty and the Convention on Biological Diversity, especially at the national level, in the course of their implementation. With a view to facilitating and increasing direct interactions among the relevant membership processes of the Treaty and Convention on access and benefit-sharing, the third meeting of the Committee, hosted by the Government of India, was held back-to-back with the second meeting of the Convention's Intergovernmental Committee on the Nagoya Protocol, also hosted by the Government of India.

74. Furthermore, since the Committee's third meeting was held during the same period and in the same vicinity, members of the Committee also attended the third workshop jointly organized by the Secretariat and the Secretariat of the Convention.²⁴ It was specifically aimed at facilitating discussions, exchange of views and experiences, with a view to identifying possible capacity-building strategies in the implementation of the Nagoya Protocol, and its harmonious relationship with the Treaty. The workshop provided an effective opportunity for the members of the Committee to interact with colleagues in the Convention's processes, and to start looking at the access and benefit-sharing interfaces and synergies between the Treaty and the Nagoya Protocol. The Governing Body may wish to consider how the *Ad Hoc* Technical Advisory Committee on the Standard Material Transfer Agreement and the Multilateral System, if reconvened, may continue and further increase the effectiveness of its role, to advance the dialogue, cooperation and the harmonious interfaces between the Treaty and the Convention and the Nagoya Protocol, especially at the expert or technical level. If it so considers, the Governing Body may wish to stipulate these roles in the terms of reference it may establish for the Committee in the next biennium.

B. The *Ad Hoc* Advisory Committee on the Funding Strategy

75. The Committee held three meetings in the biennium. Its Seventh Meeting was held in September 2012, and this meeting was resumed twice, in March 2013, and in July 2013, to deal with an unfinished agenda items. The reports of the meeting are available to the Governing Body as information documents.²⁵

76. At its Third and Fourth Sessions, the Governing Body tasked the Committee to "advise the Governing Body on resource mobilization efforts", and for this reason to "explore innovative approaches in engaging voluntary donors to the Benefit-sharing Fund, in particular various

²⁴ Details of the joint workshops and other cooperation initiatives are provided in Document IT/GB-5/13/14.

²⁵ IT/GB-5/13/Inf.4, IT/GB-5/13/Inf.4/Add.1 and IT/GB-5/13/Inf.4/Add.2

private sector prospects such as the seed and the food processing industry”. The Committee undertook extensive inter-sessional work and identified seven innovative approaches. Some of these approaches, as noted in paragraph 58 above, would involve revisiting the SMTA, the coverage of the Multilateral System, the levels and modalities of payment under the SMTA, and other aspects of the current SMTA and Multilateral System.

77. As mandated by the Governing Body, in Resolutions 3/2009 and 3/2011, the identification of these innovative approaches has been pursued in the context of the Treaty’s Funding Strategy, with the aim of putting use-based income for the Benefit-sharing Fund on a sustainable and predictable long-term basis.

78. At its second resumed meeting, the Committee concluded that the various innovative approaches that it had identified are technically interlinked and interdependent, with the implication that they need to be addressed together. It also concluded that a number of different innovative approaches could each provide a separate source of income to the Benefit-sharing Fund, and that the objective should therefore be to “stack” a number of approaches within a single package, which could assure an adequate and sustainable flow of income to the Benefit-sharing Fund.

79. It further recommended that further development of innovative approaches should be addressed systematically and to build such a package. It identified a number of preparatory studies to be undertaken, including on how a decision to implement an expanded scope of the Multilateral System could most effectively be implemented; how to enhance the Treaty’s monetary and non-monetary benefit-sharing mechanisms; and an analysis of the factors that influence the willingness of stakeholder groups, in particular the plant breeding industry, and donors, to make voluntary contributions to the Benefit-sharing Fund.

80. The Committee accordingly recommended that the Governing Body establish an *Ad Hoc* Open-ended Working Group to Expand Benefit-sharing and the Scope of the Multilateral System, with the mandate to develop and implement the Business Plan, and prepare the various decisions that will be needed to give effect to the package of measures for consideration for adoption by the Governing Body, at its Sixth Session.

**X. REVIEW OF THE MATERIAL TRANSFER AGREEMENT
BEING USED BY THE INTERNATIONAL AGRICULTURAL RESEARCH CENTRES
OF THE CONSULTATIVE GROUP ON INTERNATIONAL AGRICULTURAL
RESEARCH AND OTHER RELEVANT INTERNATIONAL INSTITUTIONS, FOR
PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE NOT INCLUDED
IN ANNEX I TO THE TREATY**

81. At its Second Session, the Governing Body endorsed the use of the SMTA by the International Agricultural Research Centres, for plant genetic resources for food and agriculture other than those listed in *Annex I* of the Treaty and collected before its entry into force, with an interpretative footnote or series of footnotes that indicated that certain of its provisions should not be interpreted as precluding such use of the SMTA.²⁶ It also decided that it would review these measures during its consideration of the SMTA at its Third Session,²⁷ and similarly at its Fourth Session.

82. At its Fourth Session, the Governing Body noted:

the continued successful use of the Standard Material Transfer Agreement by the International Treaty to be used by the International Agricultural Research Centres of the Consultative Group on International Agricultural Research, and decide[d] to further review such use of the Standard Material Transfer Agreement at its Fifth Session.

²⁶ Paragraph 68, IT/GB-2/07/Report.

²⁷ Ibid.

83. Since its first introduction in February 2008, the International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions have continued to use the SMTA with footnotes, following its approval by the Governing Body at its Second Session. In this regard, although only two Centres provided reports through the Secretariat, the experience of the individual Centres indicates that no significant objections or difficulties have been raised regarding the use of such SMTAs.

84. More generally, it is to be noted that, unlike in previous Sessions of the Governing Body, there is no single, consolidated, comprehensive report from the International Agricultural Research Centres of the Consultative Group on International Agricultural Research to this session, on their collective experiences in the implementation of the Multilateral System. The Governing Body had found such consolidated reports very useful in the past, and the absence at this Session constitutes a major gap in information that could assist the Governing Body's deliberations on this and related issues. The Governing Body may, therefore, wish to note this, and encourage the Centres, to the extent feasible and through the relevant administrative structures, to continue the practice of providing information and reports on their experiences in the implementation of the Multilateral System, and their use of the SMTA, in a collective report.

85. The Governing Body is invited to provide any further guidance it deems appropriate in the circumstances.

XI. THE CURRENT STATE OF IMPLEMENTATION OF THE MULTILATERAL SYSTEM

86. The review in this document of the major elements of the Multilateral System and the use of the SMTA, shows that more information of value to the Governing Body is becoming available to assist it in its task of monitoring and providing policy direction and guidance, but that there remain gaps and uncertainties.

87. The international environment in which the International Treaty functions has changed considerably during the biennium, in particular with the adoption of the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*. The International Treaty, like the Nagoya Protocol itself, is one of the constituent elements of the International Regime of Access and Benefit-sharing. This was formally stated by Conference of the Parties to the Convention on Biological Diversity, in adopting the Nagoya Protocol, which also:²⁸

“recogniz[es] the interdependence of all countries with regard to genetic resources for food and agriculture as well as their special nature and importance for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change and acknowledg[es] the fundamental role of the International Treaty on Plant Genetic Resources for Food and Agriculture”, and that “that international instruments related to access and benefit-sharing should be mutually supportive”.

88. There remains, however, a considerable challenge at national level, to ensure that legislative, policy and administrative measures for the implementation of the access and benefit-sharing regimes fully provide the legal space required for the implementation of the Treaty, including the capacity to address all aspects of its scope, namely all plant genetic resources for food and agriculture. The *Ad Hoc* Technical Advisory Committee on the SMTA and Multilateral System has been addressing various technical questions that arise at the interfaces between the implementation of the Multilateral System and the Nagoya Protocol. Given the importance and implications of this interface to the Treaty, this work must be continued on a priority basis in the next biennium. The importance and urgency of this work will expand with the entry into force of the Protocol and the constitution of its Meeting of the Parties, and it is important to adequately

²⁸ Decision X/1, *Access to genetic resources and the fair and equitable sharing of benefits arising from their utilization*.

integrate the dialogue with the Nagoya implementation process into the terms of reference of the *Ad Hoc* Technical Advisory Committee, if reconvened, as reflected in the elements of a draft Resolution contained in the Addendum IT/GB-5/13/5/Add.1 to this document. The growing importance of the coordination and liaison with the CBD as a core implementing function of the Treaty has also been duly reflected in the biennial work programme, as required by the Treaty text and requested in Resolutions 8/2009 and 8/2011 of the Governing Body.

89. The *Ad Hoc* Advisory Technical Committee on the Multilateral System and the SMTA has also prepared a number of opinions and recommendations for the consideration of the Governing Body during the biennium, and has prepared text for the possible updating of the SMTA at this session, under Agenda Item 8.1. These opinions and recommendations are of major importance for ensuring clarity and developing policy for the operation, implementation and maintenance of the Multilateral System. The Committee's work is also the pivotal interface for dialogue between Contracting Parties and the users of the Multilateral System, in order to enhance the responsiveness and relevance of the System to user needs, and thereby to ensure the continued user-confidence of the System.

90. At the international level, there is productive and on-going cooperation with the Secretariat of the Convention on Biological Diversity, as well as with the Union for the Protection of New Varieties of Plants (UPOV) and the World Intellectual Property Organization (WIPO).

91. Two High-level Roundtables on the International Treaty were convened by Contracting Parties during the biennium, which played an important role in affirming the importance of the Treaty in the international arena, and in providing ideas and facilitating political momentum for the further development of the Treaty.

92. Documenting the material available under the terms and conditions of the SMTA remains a challenge. There is now a fuller picture of the plant genetic resources that individual Contracting Parties have notified as being available to the Multilateral System, in accordance with Article 11.2 of the Treaty, as well as of non-*Annex I* resources that are being made available under SMTAs. There remain considerable differences between countries in identifying the resources that they have made available to the Multilateral System. This is a matter that the Governing Body may wish to pursue further, as this has a direct negative effect, not only on plant breeding and food security, but also on the ability of the SMTA to generate income for the Benefit-sharing Fund.

93. There remains virtually no information on materials that natural and legal persons in the jurisdictions of Contracting Parties may have put into the Multilateral System, which is significant in the context of the review of "whether access shall continue to be facilitated to those natural and legal persons that have not included these plant genetic resources for food and agriculture in the Multilateral System" (Treaty Article 11.4), due under Item 8 of the *Draft Provisional Agenda*.²⁹ Moreover, there is no information on legal and administrative measure that Contracting Parties have taken to encourage them to make their materials available, in fulfilment of this article of the Treaty.

94. The on-line information tool for the generation, use and reporting of SMTAs — Easy-SMTA — by which users of the SMTA may generate, use and report SMTAs on-line in a user-friendly way, is now up and running. It has provided useful information for the management of the Multilateral System, by the Governing Body, such as in section VII.B above. The Secretariat has also reported on the development of the tool in documents IT/GB-5/13/19, *Report on the Operations of the Third Party Beneficiary*, and IT/GB-5/13/17, *Vision Paper on the Further Development of Article 17, Global Information System*.

95. There have been important new initiatives by groups of stakeholders, on their own responsibility, to provide for systematic non-monetary benefit-sharing in the context of the Treaty's Funding Strategy, particularly in follow-up to the *Rio Six-Point Action Plan*. These

²⁹ IT/GB-5/13/2.

include the launching of a Platform for the co-development and transfer of technology, and of a Public-private partnership for pre-breeding.

96. With the support of the Government of Australia, there has been important new conceptual work on the size and nature of the international seed and planting material market, and on the likely future income to the Treaty and its Benefit-sharing Fund, which has identified a number of limitations in the functioning of the current SMTA. Connected with this has been the work of the *Ad Hoc* Advisory Committee on the Funding Strategy, in implementing the mandate given it by the Governing Body to explore and identify “innovative approaches” to benefit-sharing, with a view to ensure an adequate and timely flow of resources to the Benefit-sharing Fund. The Committee has recommended the establishment of an *Ad Hoc* Open-ended Working Group to Expand Benefit-sharing and the Scope of the Multilateral System, with the mandate to prepare the various decisions that will be needed to give effect to the package of measures for consideration for adoption of the Governing Body at its Sixth Session.

97. The International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other relevant international institutions have continued to successfully use the SMTA with footnotes. They still constitute the largest user group of the SMTA, and have regularly referred to the *Ad Hoc* Technical Advisory Committee on the Multilateral System and the SMTA, for advice on a wide range of technical issues. However, there is need for the Centres to continue providing information and reports to the Governing Body in a collective manner, in order to give a more comprehensive and accurate picture of the operation of the Multilateral system, in particular in the implementation of the SMTA.

98. Significant progress has been made with implementation of the Third Party Beneficiary Procedures, as reported in document IT/GB-5/13/19, both in respect of facilitating its operation and of applying the procedures to a possible case of violation of the SMTA. In the light of such progress, the Governing Body may wish to note that the Third Party Beneficiary remains a necessary and practical safeguard to the functioning of the Multilateral System.

XII. POSSIBLE ELEMENTS OF A DECISION BY THE GOVERNING BODY

99. Elements of a draft Resolution for the consideration of the Governing Body are provided in the Addendum IT/GB-5/13/5/Add.1 to this document.

WORLD CROP GENETIC RESOURCES AND MATERIAL AVAILABLE UNDER SMTAS

COUNTRIES AND INTERNATIONAL INSTITUTIONS	Treaty member	Wheat accessions	Wheat accessions available	% available	Rice accessions	Rice accessions available	% available	Maize accessions	Maize accessions available	% available	Other Annex 1 accessions	Annex 1 accessions available	% available	Non-Annex 1 accessions	Accessions available	% available	TOTAL Annex 1	TOTAL Annex 1 & non-Annex 1
Afghanistan	√	1,726			102			101			997			39			2,926	2,965
Albania	√	555						643			846			1,610			2,044	3,654
Algeria	√										402			583			402	985
Andorra																		
Angola	√	20			44			861			1,577			627			2,502	3,129
Antigua and Barbuda								5			79			92			84	176
Argentina		4,657			1			6,457			27,038			38,647			38,153	76,800
Armenia	√	4,777	152	3.18				21	14	66.67	5,218	1,287	24.66	2,246	12	0.01	10,016	12,262
Australia	√	24,740			1,723			1,330			98,929			85,823			126,722	212,545
Austria	√	1,263	1,323	104.75	1			387	60	15.50	5,590	4,150	74.24	3,813			7,241	11,054
Azerbaijan		3,314						1,046			2,237			7,330			6,597	13,927
Bahamas																		
Bahrain																		
Bangladesh	√	565			6,806			69			8,622			17,978			16,062	34,040
Barbados											77			101			77	178
Belarus																		
Belgium	√	1,809						1,000			4,938	1,909	38.66	1,866			7,747	9,613
Belize					28			25			59			89			112	201
Benin	√				597			668			5,173			492			6,438	6,930
Bhutan	√							40						48			40	88
Bolivia		100						1,480			1,912			14,265			3,492	17,757
Bosnia and Herzegovina														31				31
Botswana								13			3,497			1,031			3,510	4,541
Brazil	√	31,913			23,497			11,241			138,710			141,726			205,361	347,087

COUNTRIES AND INTERNATIONAL INSTITUTIONS	Treaty member	Wheat accessions	Wheat accessions available	% available	Rice accessions	Rice accessions available	% available	Maize accessions	Maize accessions available	% available	Other Annex 1 accessions	Annex 1 accessions available	% available	Non-Annex 1 accessions	Accessions available	% available	TOTAL Annex 1	TOTAL Annex 1 & non-Annex 1
Dominica											39			41			39	80
Dominican Republic					48			6			610			3,104			664	3,768
Ecuador	√	919			2,238			4,493			12,533			14,604			20,183	34,787
Egypt	√	2,867						1,605			3,984	40	1.00	459			8,456	8,915
El Salvador	√							411			769			652			1,180	1,832
Equatorial Guinea																		
Eritrea	√																	
Estonia	√	293	442	150.85							1,274	2,092	164.21	1,228	225	18.32	4,983	6,211
Ethiopia	√	13,421			133			1,219			37,642			16,423			52,415	68,838
Fiji	√							15			385			310			400	710
Finland	√	356									1,856			96			2,212	2,308
France	√	27,421			17,654			18,298			71,297			129,052			134,670	263,722
Gabon	√										48			43			48	91
Gambia																		
Georgia		68						8			25			553			101	654
Germany	√	29,794	29,220	98.07				1,512	1,244	82.28	78,157	77,563	99.24	38,979	34,017	87.27	109,463	148,442
Ghana	√				550			1,260			5,137			8,510			6,947	15,457
Greece	√	2,755			476			2,341			6,304			4,429			11,876	16,305
Grenada											11			28			11	39
Guadeloupe								200			292			3			492	495
Guatemala	√	15			14			30			3,698			2,221			3,757	5,978
Guinea	√				78			45			116			1,010			239	1,249
Guinea-Bissau	√																	
Guyana					216						113			2,580			329	2,909
Haiti								54			513						567	567
Honduras	√	5						910			5,066			2,028			5,981	8,009

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Hungary	√	13,801			348			5,976			26,482			26,682			46,607	73,289
Iceland	√																	
India	√	66,442			127,012			7,340			202,158			237,033			402,952	639,985
Indonesia	√				7,263						11,990			7,238			19,253	26,491
Iran, Islamic Republic of	√	21,107			2,852			269			27,309			17,865			51,537	69,402
Iraq		445			31			10			275			382			761	1,143
Ireland	√	32	38	118.75							1,085	1,374	126.64	659	6	0.91	1,117	1,776
Israel		17,912			50			300			14,750			9,608			33,012	42,620
Italy	√	42,117	35,092	83.32				1,241			25,548	5,330	20.86	23,789			68,906	92,695
Jamaica	√										910			310			910	1,220
Japan		43,860			52,489			8,332			106,864			90,690			211,545	302,235
Jordan	√	1,228									646			1,396			1,874	3,270
Kazakhstan		27,517			1,018			783			13,675			19,906			42,993	62,899
Kenya	√	326	102	31.29	1,060	910	85.85	3,574	1,226	34.30	24,910	10,635	42.69	23,989			29,870	53,859
Kiribati	√													14				14
Kuwait	√																	
Kyrgyzstan	√	314						51			745			437			1,110	1,547
Lao, People's Democratic Republic	√				13,193			106			485			1,179			13,784	14,963
Latvia	√	703									2,760			3,993			3,463	7,456
Lebanon	√	90									135	46	34.07	432			225	657
Lesotho	√	71						139			174			264			384	648
Liberia	√										23			1,215			23	1,238
Libya	√	1,801									3,156			2,731			4,957	7,688
Lithuania	√	38						1			2,566			4,236			2,605	6,841
Luxembourg	√																	
Madagascar	√	7999	352	4.40	2,000	6,210	310.50	366	325	88.80	490	1,112	226.94	1,109			10,855	11,964

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Malawi	√	4			285	73	25.61	214	80	37.38	8,906	1,266	14.22	1,157			9,409	10,566
Malaysia	√				15,534						3,476			66,360			19,010	85,370
Maldives	√																	
Mali	√				1,334						5,379			689			6,713	7,402
Malta																		
Marshall Islands																		
Mauritania	√																	
Mauritius	√							16			59			195			75	270
Mexico		268						41,228			44,368			43,142			85,864	129,006
Micronesia, Federated States of																		
Moldova, Republic of																		
Monaco																		
Mongolia																		
Montenegro	√													10				10
Montserrat											19			15			19	34
Morocco	√	6,762	351	5.19	750			1,105			13,023			6,686			21,640	28,326
Mozambique		2			356			274			799			1,099			1,431	2,530
Myanmar	√																	
Namibia	√				15			11			1,706			1,264			1,732	2,996
Nauru																		
Nepal	√	381			3,167			767			4,350			1,362			8,665	10,027
Netherlands	√	6,585	4,913	74.61				518	488	94.21	14,984	13,109	87.49	41,096			22,087	63,183
New Zealand		2,667									11,984			16,075			14,651	30,726
Nicaragua	√				15			150			468			784			633	1,417
Niger	√	59			89			18			5,393			7,381			5,559	12,940

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Saudi Arabia	√																	
Senegal	√				2,265			106	14	13.21	1,346	35	2.60	3,182			3,717	6,899
Serbia		2,431						5,475			14,220			5,312			22,126	27,438
Seychelles	√										82			287			82	369
Sierra Leone	√				500			7			522			819			1,029	1,848
Slovakia	√	4,214						2,218			11,686			9,472			18,118	27,590
Slovenia	√										1,268			999			1,268	2,267
Solomon Islands											1,126			4			1,126	1,130
Somalia											94						94	94
South Africa		3,743			301			3,063			9,204			8,829			16,311	25,140
Spain	√	5,330	2,549	47.82	5			3,052	2,139	70.09	29,587	11,469	38.76	26,542			37,974	64,516
Sri Lanka					6,518			643			3,989			7,242			11,150	18,392
Sudan	√										3,369			1,809			3,369	5,178
Suriname	√				1,799						97			125			1,896	2,021
Swaziland	√				1			175			302			239			478	717
Sweden	√																	
Switzerland	√	7,383	7,544	102.18				191	321	168.06	8,180	9,636	117.80	12,059	12,719	105.47	15,754	27,813
Syrian Arab Republic	√	2,259			3			205			2,348			1,036			4,815	5,851
Tajikistan		1,725			2			9			1,407			410			3,143	3,553
Thailand					38,615			4,314			9,359			16,156			52,288	68,444
The Former Yugoslav Republic of Macedonia		46			193			40			176			733			455	1,188
Timor-Leste																		
Togo	√				84			111			760			312			955	1,267
Tonga											8						8	8
Trinidad and Tobago	√				105			3			731			375			839	1,214
Tunisia	√	163									86			255			249	504

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Turkey	√	5,487			305			1,639			14,751			26,156			22,182	48,338
Turkmenistan																		
Tuvalu											18			22			18	40
Uganda	√	419						25			9,037			2,026			9,481	11,507
Ukraine		7,381			345			5,801			22,579			28,601			36,106	64,707
United Kingdom	√	11,836	9,513	80.37	21			18			57,605	27,367	47.51	55,838	2,137	3.83	69,480	125,318
United Republic of Tanzania	√	5			224			371			4,075	277	6.80	1,810			4,675	6,485
United States of America		66,994			41,855			26,890			210,684			210,910			346,423	557,333
Uruguay	√	4,308			846			1,675			4,811			5,182			11,640	16,822
Uzbekistan		11,030			773			2,200			9,266			48,654			23,269	71,923
Vanuatu											662			2			662	664
Venezuela, Bolivarian Republic of	√				2,506			1,560			10,965			8,946			15,031	23,977
Viet Nam		53			14,998			4,790			6,259			20,099			26,100	46,199
Yemen	√	10						2			57			160			69	229
Zambia	√	17			218	196	89.91	456	685	150.22	4,036	3,459	85.70	4,364			4,727	9,091
Zimbabwe	√				49			29			747			3,982			825	4,807
SUBTOTAL FOR COUNTRIES	126	757,875	122,363	16.15	651,948	7,419	1.14	299,238	11,615	3.88	2,175,379	350,217	16.1	2,351,539	64,696	2.75	3,884,440	6,235,979
Africa Rice Centre	√				21,527	21,527	100.00										21,527	21,527
Bioversity International	√										1,199	1,199	100.00	8	8	100.00	1,199	1,207
International Centre for Tropical Agriculture (CIAT)	√										42,379	42,379	100.00	22,087	22,087	100.00	42,379	64,466
International Maize and Wheat Improvement Centre (CIMMYT)	√	113,449	113,449	100.00				26,421	26,421	100.00	33,521	33,521	100.00	180	180	100.00	173,391	173,571
International Potato Centre (CIP)	√										11,929	100		3,117	3,117	100.00	11,929	15,046

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International Centre for Agricultural Research in the Dry Areas (ICARDA)	√	38,850	38,850	100.00							80,704	80,704	100.00	13,239	13,239	100.00	119,554	132,793
World Agroforestry Centre (ICRAF)	√													1,785	1,785	100.00		1,785
International Crops Research Institute for the Semi-Arid Tropics (ICRISAT)	√										98,912	98,912	100.00	19,970			98,912	118,882
International Institute of Tropical Agriculture (IITA)	√										25,299	25,299	100.00	2,297			25,299	27,596
International Livestock Research Institute (ILRI)	√	12	12	100.00	17	17	100.00	8	8	100.00	4,112	4,112	100.00	14,614	14,614	100.00	4,149	18,763
International Rice Research Institute (IRRI)	√				109,136	109,136	100.00							25	25	100.00	109,136	109,161
Tropical Agricultural Research and Higher Education Centre (CATIE)	√							421	421	100.00	1,577	1,577	100.00	9,027	9,027	100.00	1,998	11,025
Centre for Pacific Crops and Trees (CePaCT) – SPC Community	√										1,445	1,445	100.00	65	65	100.00	1,445	1,510
International Cocoa Genebank	√													2,325	2,325	100.00		2,325
International Coconut Genebank for Africa and the Indian Ocean	√	890	890	100.00													890	890
International Coconut Genebank for the South Pacific	√	329	329	100.00													329	329
Mutant Germplasm Repository of the FAO/IAEA Joint Division	√																	
World Vegetable Centre (AVRDC)								71			15,992			40,459			16,063	56,522
West Indies Central Sugarcane Breeding Station														3,507				3,507

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SUBTOTAL FOR INTERNATIONAL INSTITUTIONS		153,530	153,530	100.00	130,680	130,680	100%	26,921	26,850	99.74	317,069	298,248	91.23	132,705	66,472	50.09	628,200	760,905
GRAND TOTAL		911,405	275,893	30.72	782,628	138,099	17.65	326,159	38,465	11.79	2,492,448	639,465	25.66	2,484,244	131,168	5.28	4,512,640	6,996,884