



The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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FIFTH SESSION OF THE GOVERNING BODY

Muscat, Oman, 24-28 September 2013

RESOLUTION 11/2013

OPERATION OF THE THIRD PARTY BENEFICIARY

THE GOVERNING BODY,

- (i) **Recalling** that under Article 12.4 of the Treaty, facilitated access to the Multilateral System shall be provided pursuant to a Standard Material Transfer Agreement adopted by the Governing Body at its First Session; and that under Article 13.2 of the Treaty, benefits arising from the use, including commercial, of plant genetic resources for food and agriculture under the Multilateral System shall be shared fairly and equitably through the mechanisms specified under that Article;
- (ii) **Recalling further** that the Governing Body, at its Third Session, had approved the Third Party Beneficiary Procedures for the carrying out of the roles and responsibilities of Third Party Beneficiary as identified and prescribed in the Standard Material Transfer Agreement under the direction of the Governing Body and, at its Fourth Session, the Mediation Rules to promote the effective functioning of the Third Party Beneficiary and provide an opportunity for cost containment;
- (iii) **Recalling further** that, in accordance with Article 4.2 of the Third Party Beneficiary Procedures, the Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement from the parties under the Standard Material Transfer Agreement or any other natural or legal persons;
- (iv) **Recognizing further** that the Third Party Beneficiary will require adequate financial and other resources and that FAO acting as Third Party Beneficiary shall not incur any liabilities in excess of the funds available in the Third Party Beneficiary Operational Reserve;

Hereby,

1. **Thanks** the FAO Council and other relevant bodies of FAO for formally approving the Mediation Rules and the correspondingly amended Third Party Beneficiary Procedures;
2. **Further thanks** the Arbitration and Mediation Center of WIPO for having agreed to act as Administrator of the Mediation Rules;

3. **Notes** the Report on the Operation of the Third Party Beneficiary and **thanks** FAO and the Secretary for providing the report in accordance with Article 9 of the Third Party Beneficiary Procedures, and further **requests** the Secretary to continue providing, at each session of the Governing Body, such a report;
4. **Stresses** the importance for the effective functioning of the Third Party Beneficiary, of Article 4.2 of the Third Party Beneficiary Procedures, according to which the Third Party Beneficiary may receive information on possible non-compliance with the obligations of the provider and recipient under a Standard Material Transfer Agreement from the parties under the Standard Material Transfer Agreement or any other natural or legal persons;
5. **Decides** to maintain the Third Party Beneficiary Operational Reserve for the 2014-2015 biennium at the current level of USD 283,280, and to review same at its Sixth Session;
6. **Authorizes** the Secretary to draw upon the Third Party Beneficiary Operational Reserve as may be needed for the implementation of the functions of the Third Party Beneficiary;
7. **Calls** upon Contracting Parties, States that are not Contracting Parties, intergovernmental organizations, non-governmental organizations and other entities to contribute periodically, as necessary, to the Third Party Beneficiary Operational Reserve, in order to maintain it at a level commensurate with the needs;
8. **Welcomes** the functional and cost-effective information technology tools that the Secretary has developed to facilitate the submission, collection and storage of information in the implementation of Article 4.1 of the Third Party Beneficiary Procedures, which states that the Governing Body shall make available to the Third Party Beneficiary the information provided to it, and **thanks** the Government of Spain for the generous financial support to the development of such tools;
9. **Requests** the Secretary to provide the Governing Body with detailed information on the use of resources for the purposes of implementation of the Third Party Beneficiary Procedures, as part of the information accompanying the Financial Statements that are made available to Contracting Parties;
10. **Requests** the Secretary to continue applying adequate measures to ensure the integrity of information and, where required, confidentiality of the information provided in the implementation of Article 4.1 of the Third Party Beneficiary Procedures.