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UPOV

CAJ/XXII/5

ORIGINAL: English

DATE: March 31, 1988

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Twenty-second Session
Geneva, April 18 to 21, 1988

INTERNATIONAL (FAO) UNDERTAKING ON PLANT GENETIC RESOURCES

Document prepared by the Office of the Union

1. The Secretary-General received on February 25, 1988, a letter dated February 12, 1988, from Mr. L. Brader, Director, Plant Production and Protection Division of the Food and Agriculture Organization of the United Nations (FAO), reproduced in Annex I to this document. In summary, UPOV's assistance is sought for the drafting of an agreed interpretation of some controversial parts of the International Undertaking on Plant Genetic Resources adopted by Resolution 8/83 of the twenty-second session of the FAO Conference.

2. The International Undertaking is reproduced in Annex II. The controversial provisions are mainly Article 1, Article 2.1(a) and Article 5. They are as follows:

"Article 1 - Objective

"1. The objective of this Undertaking is to ensure that plant genetic resources of economic and/or social interest, particularly for agriculture, will be explored, preserved, evaluated and made available for plant breeding and scientific purposes. This Undertaking is based on the universally accepted principle that plant genetic resources are a heritage of mankind and consequently should be available without restriction."

"Article 2 - Definitions and Scope

"2.1 In this Undertaking:

(a) "plant genetic resources" means the reproductive or vegetative propagating material of the following categories of plants:

(i) cultivated varieties (cultivars) in current use and newly developed varieties;

...

(v) special genetic stocks (including elite and current breeders' lines and mutants)."

"Article 5 - Availability of Plant Genetic Resources

"5. It will be the policy of adhering Governments and institutions having plant genetic resources under their control to allow access to samples of such resources, and to permit their export, where the resources have been requested for the purposes of scientific research, plant breeding or genetic resource conservation. The samples will be made available free of charge, on the basis of mutual exchange or on mutually agreed terms."

3. A number of States have expressed "reservations," in particular at the time of adhering to the Undertaking, whose Article 11 provides that, at that time, "Governments and institutions will advise the Director-General of FAO of the extent to which they are in a position to give effect to the principles contained in the Undertaking." Annex III* recites the reservations relevant to the field of competence of UPOV; they are extracted from FAO document CPGR/85/3 Add. 1. Annex IV* contains extracts from FAO documents that address the question of reservations.

4. Those reservations relate mainly to special genetic stocks. The most important reasons for their exclusion from the scope of the Undertaking are as follows: special genetic stocks are usually not under the control of the Government (the party that accepts commitments by adhering to the Undertaking--in particular under Article 5) but are private (movable) property; their distribution would be commercially sensitive and counterproductive (see the reservation by the United Kingdom reproduced in Annex III); "material from various stages of genetic improvements in active breeding work cannot be expected to be available for exchange as it would hardly be possible to identify it in any request or search" (paragraph 35 of FAO document CPGR/85/3--remark by the FAO Secretariat on the response of countries, organizations and institutions to Resolution 8/83). It should also be noted that in the United States of America, pursuant to Section 52(3) of the Plant Variety Protection Act, a sample of viable seed of a variety being the subject of an application for protection has to be deposited and replenished periodically "in a public repository" (a genebank). However, this sample does not become a germplasm sample, governed by the rules and principles applying to true genetic resources: during the lifetime of the plant variety protection certificate, it is the official sample representing the variety.

5. Concerning varieties in current use, reservations have also been made on account of the fact that they are usually not deposited in genebanks--but are available in the trade. In that respect, the FAO Secretariat has acknowledged that "to provide samples of varieties in use to bona fide users for scientific or breeding purposes is common practice" (paragraph 34 of FAO document CPGR/85/3).

* Reproduced in English only in document CAJ/XXII/5 Add.

6. Reference has been made to plant variety protection and the UPOV Convention by several States--including UPOV non-member States--either explicitly or implicitly through a reservation in favor of existing laws and regulations or treaties. France in particular has deplored that there was no mention of the UPOV Convention in the Undertaking. However, it has been clarified subsequently that there was no conflict between the principles enshrined in the UPOV Convention and the goals of the Undertaking; indeed, the present text of Article 5(3) of the Convention establishes the principle that protected varieties may be used freely for further breeding work. In addition, should there be a conflict in one respect or another, the conflict would be resolved according to established principles, the primary consideration being the legal nature of the instruments concerned; in this respect, it has been stated and acknowledged that "as the International Undertaking on Plant Genetic Resources is not a legally binding instrument, adherence to it cannot be interpreted as a violation of existing legal instruments at national or international level" (paragraph 37 of FAO document CPGR/85/3).

7. The question of the recognition of the rights of plant breeders gave rise to that of the recognition of "farmers' rights," that is, "some sort of compensation for [the] most valuable contribution [of farmers] to the enrichment of the plant genetic resources of the world" (paragraph 3 of Appendix G to document CPGR/87/REP, being the report on the second session of the Commission on Plant Genetic Resources), or the rights "of people/farmers (in the broad sense of the word) who had first domesticated wild plants and conserved and genetically improved the cultivated varieties over the millenia" (paragraph 8 of Appendix F to the said document). Annex V* contains extracts of FAO documents on the subject.

8. The concept of "farmers' rights" is one which, no doubt, will be pursued within FAO. It is still in need of further definition, even as regards its most fundamental aspects, as shown by the proposals for alternative names such as "right of the countries of origin" or "gene donors" (paragraph 8 of Appendix F to document CPGR/87/REP) or "rights of centre of origin countries" or "rights of farmers in centres of origin countries" (paragraph 38 of document CPGR/87/REP). Nevertheless the underlying principle appears to meet with wide acceptance among participants in the Commission. In particular, a working group "considered such rights to be fair recognition for the spade work done by thousands of previous generations of farmers, and which had provided the basis for the material available today and to which the new technologies were in large measure applied" (paragraph 8 of Appendix F to document CPGR/87/REP).

9. The preceding quotation continues as follows: "The Group agreed that what was at issue here was not individual farmers or communities of farmers but the rights of entire peoples who, though having bred, maintained and improved cultivated plants, had still not achieved the benefits of development nor had they the capacity to produce their own varieties." It may be doubted whether this presentation--which is a step in the thinking process that led to the concept of farmers' rights and which cannot but generate controversy--is correct: as noted by a few delegations at the second session of the Commission on Plant Genetic Resources, "it would not be feasible to attribute farmers' rights to any particular country of origin, since there had been a constant exchange of plant genetic resources over time among the various regions of the

* Reproduced in English only in document CAJ/XXII/5 Add.

world, and since such exchanges had been mutually beneficial" (paragraph 42 of document CPGR/87/REP). In addition, such rights should then not only be recognized--by any country--to a few developing countries whose territory is totally or in part in the center of origin of a cultivated species, but also to developed countries in which farmers have also developed considerable genic and genomic diversity.

10. In fact, the ultimate goal should be to ensure that plant genetic resources, "a heritage of mankind [which] consequently should be available without restriction," are "explored, preserved, evaluated and made available for plant breeding and scientific purposes" (Article 1 of the Undertaking), in full knowledge of the fact that "full advantage can be derived from plant genetic resources through an effective programme of plant breeding" and that "progress in plant breeding is essential to the present and future development of agriculture" (preamble of Resolution 8/83). In this respect, "the Working Group concurred that Breeders' Rights and Farmers' Rights were parallel and complementary rather than opposed, and that the simultaneous recognition and international legitimization of both these rights could help to boost and speed up the development of the people of the world" (paragraph 12 of Appendix F to document CPGR/87/REP).

11. Beyond the contribution which UPOV could offer to FAO following its request, it seems advisable that there be within UPOV a reflection on how to best achieve the "simultaneous recognition and international legitimization of both these rights." There is also another reason for which such a reflection is advisable: the proposal made for the revision of Article 5(3) of the Convention which aim at introducing a form of compensation to the breeder of a protected variety for the exploitation of a derived variety, created by using the protected variety as "initial source of variation" or "genetic resource."

11. The Committee is invited to express its views on the above matter and to take the necessary decisions concerning further action.

[Annexes follow]

ANNEX I



联合国

粮食及

农业组织

FOOD AND
AGRICULTURE
ORGANIZATION
OF THE
UNITED NATIONS

ORGANISATION
DES NATIONS
UNIES POUR
L'ALIMENTATION
ET L'AGRICULTURE

ORGANIZACION
DE LAS NACIONES
UNIDAS PARA
LA AGRICULTURA
Y LA ALIMENTACION

منظمة
الأغذية
والزراعة
للأمم
المتحدة

Via delle Terme di Caracalla, 00100 Rome, Italy

Cables: FOODAGRIROME

Telex: 810181 FAOI

Facsimile: 6799583

Telephone: 57971

Our Ref.: PL 40/15

Your Ref.:

IN REPLY PLEASE QUOTE OUR
REFERENCE NUMBER OF THIS
LETTER TO AVOID DELAY IN
DELIVERY OF YOUR RESPONSE

Dear Mr. Bogsch,

12 FEB 1988

As you are aware, in November 1983 the Twenty-Second Session of the FAO Conference approved the International Undertaking on Plant Genetic Resources and decided to establish a Commission to coordinate the implementation of the principles of the Undertaking. Until now, 114 countries have become members of the Commission on Plant Genetic Resources (CPGR) and/or adhered to the International Undertaking, among which all Member Nations of UPOV, with the only three exceptions of Japan, South Africa and the United States of America. However, many of UPOV's Member Nations have made some reservations expressing their concern about the fact that plant breeders' rights are not explicitly recognized in the International Undertaking and, furthermore, that a restrictive interpretation of some articles of the Undertaking may result in a non-compatibility between plant breeders' rights and some articles of the International Undertaking.

However, the CPGR has "recognized that although in some respects the Undertaking could present some legal problems for certain countries, plant breeders' rights would be a legitimate interest and would not necessarily constitute an impediment to access to protected varieties for the purpose of research and the creation of new varieties" and has requested its Working Group (23 countries representing FAO regions) to negotiate "an agreed interpretation of the controversial parts of the International Undertaking on Plant Genetic Resources, and to include in this interpretation clarification and recognition of plant breeders' rights and farmers' rights" (rights of nations for providing their genetic material).

In a previous meeting, the Working Group of the Commission had "concurred that breeders' rights and farmers' rights were parallel and complementary rather than opposed, and that the simultaneous recognition and international legitimization of both these rights

./.

Mr. Arpad Bogsch
Secretary General
International Union for the Protection
of New Varieties of Plants
34, chemin des Colombettes
1211 Geneva 20
SWITZERLAND

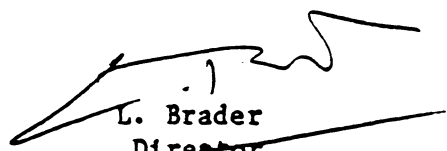
could help to boost and speed up the development of the people of the world". The FAO Secretariat was asked "to examine possible mechanisms for giving concrete expressions [to the farmers' rights]... through the International Fund [for Plant Genetic Resources]". The Commission supported in general this request and put it into the context of the "agreed interpretation of the International Undertaking", to be negotiated. Following the Commission's meeting and at its request, FAO has established an International Fund for Plant Genetic Resources that provides a financial channel to compensate countries for providing genetic diversity.

Discussions and recommendations on the above are well reflected in the report of the Second Session of the Commission on Plant Genetic Resources (mainly in paras. 20, 29 to 33, and 34 to 36), which also includes the report of the Second meeting of the Commission's Working Group (Appendix F) and a summary report (Appendix G) of the deliberations on the subject of a Contact Group that met during the debates of the Commission, and which included countries that had adhered to the International Undertaking, countries that had adhered with reservations and countries that had not adhered to it, as well as member and non-member countries of the Commission.

Knowing UPOV's interest in the matter, we are approaching you to ask, firstly, for your comments and ideas on which kind of interpretation should, in your opinion, be ideally agreed on and how it could be achieved; and, secondly, your availability or the identification of an UPOV expert to prepare a short draft document on the requested "agreed interpretation", under an Author's Contract agreement. We are also asking other experts to provide us with a similar type of information.

... Please find enclosed for your information copies of the International Undertaking on Plant Genetic Resources,¹ the report of the Second Session of the Commission on Plant Genetic Resources,² an updated list of the 114 countries which are members of the FAO Commission on Plant Genetic Resources and/or have adhered to the International Undertaking on Plant Genetic Resources,³ and a copy of the circular state letter announcing the establishment of the International Fund,⁴ plus an article with background information on FAO activities on plant genetic resources.⁵

Yours sincerely,



L. Brader
Director
Plant Production and Protection
Division

¹ Reproduced in Annex II.

² Parts reproduced in Annexes IV and V.

³ Reproduced overleaf.

⁴ Circulated to the members of the Consultative Committee by circular No. U 1270 of December 21, 1987.

⁵ Not reproduced.

February 1988

MEMBERS OF THE FAO COMMISSION ON PLANT GENETIC RESOURCES
AND/OR COUNTRIES WHICH HAVE ADHERED TO THE
INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES

AFRICA

BENIN 1/
BOTSWANA 1/
BURKINA FASO 1/2/
CAMEROON 1/2/
CAPE VERDE 1/2/
CENTRAL AFRICAN
REP. 1/2/
CHAD 1/2/
CONGO 1/
COTE D'IVOIRE 2/
ETHIOPIA 1/
GABON 1/2/
GAMBIA 1/
GUINEA 2/
GUINEA-BISSAU 1/
KENYA 1/2/
LIBERIA 1/2/
MADAGASCAR 1/ 2/
MALAWI 2/
MALI 1/ 2/
MAURITANIA 1/ 2/
MAURITIUS 1/ 2/
MOROCCO 1/
MOZAMBIQUE 2/
RWANDA 1/
SENEGAL 1/ 2/
SIERRA LEONE 1/
SUDAN 1/
TOGO 1/
UGANDA 1/
ZAMBIA 1/ 2/
ZIMBABWE 2/

ASIA AND THE
SOUTH WEST PACIFIC

AUSTRALIA 1/
BANGLADESH 1/ 2/
DEMOCRATIC PEOPLE'S
REP. OF KOREA 1/ 2/
FIJI 2/
INDIA 1/ 2/
INDONESIA 1/
KOREA, REPUBLIC OF 1/2/
NEPAL 2/
NEW ZEALAND 2/
PAKISTAN 1/
PHILIPPINES 1/ 2/
SOLOMON ISLANDS 2/
SRI LANKA 1/ 2/
THAILAND 1/
TONGA 2/

EUROPE

AUSTRIA 1/2/
BELGIUM 2/
BULGARIA 2/
CYPRUS 1/ 2/
DENMARK 1/ 2/
FINLAND 1/ 2/
FRANCE 1/ 2/
GERMANY, FEDERAL
REP. OF 1/ 2/
GREECE 1/ 2/
HUNGARY 1/ 2/
ICELAND 1/ 2/
IRELAND 1/ 2/
ISRAEL 1/ 2/
ITALY 1/
LIECHTENSTEIN 2/
NETHERLANDS 1/ 2/
NORWAY 1/ 2/
POLAND 1/ 2/
PORTUGAL 1/
SPAIN 1/ 2/
SWEDEN 1/ 2/
SWITZERLAND 1/ 2/
TURKEY 1/ 2/
UNITED KINGDOM 1/ 2/
YUGOSLAVIA 1/

LATIN AMERICA AND
THE CARIBBEAN

ANTIGUA & BARBUDA 2/
ARGENTINA 1/ 2/
BARBADOS 1/ 2/
BELIZE 1/
BOLIVIA 1/ 2/
BRAZIL 1/
CHILE 1/ 2/
COLOMBIA 1/ 2/
COSTA RICA 1/
CUBA 1/ 2/
DOMINICA 1/ 2/
DOMINICAN REP. 1/ 2/
ECUADOR 1/
EL SALVADOR 1/ 2/
GRENADA 2/
GUATEMALA 1/
GUYANA 1/
HAITI 1/ 2/
HONDURAS 1/ 2/
JAMAICA 2/
MEXICO 1/ 2/
NICARAGUA 2/
PANAMA 1/ 2/
PARAGUAY 2/
PERU 1/ 2/
SAINT CHRISTOPHER
AND NEVIS 1/
SAINT LUCIA 1/
SAINT VINCENT AND
THE GRENADINES 1/
URUGUAY 1/
VENEZUELA 1/

NEAR EAST

AFGHANISTAN 1/
BAHRAIN 2/
EGYPT 1/ 2/
IRAN, ISLAMIC
REP. OF 1/ 2/
IRAQ 2/
KUWAIT 2/
LEBANON 2/
LIBYA 1/ 2/
OMAN 2/
SYRIA 1/ 2/
TUNISIA 1/ 2/
YEMEN ARAB REP. 1/
YEMEN, P.D.R. 2/

NORTH AMERICA

1/ Members of the Commission 2/ Countries which have adhered to the Undertaking
The above totals 114 countries which have become members of the Commission (90) or
which have adhered to the Undertaking (82) or both.

[Annex II follows]

ANNEX II

	منظمة الأغذية والزراعة للأمم المتحدة	CPGR/87/Inf. 3 January 1987
	联合国粮食及农业组织	
	FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS	
	ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE	
	ORGANIZACION DE LAS NACIONES UNIDAS PARA LA AGRICULTURA Y LA ALIMENTACION	

COMMISSION ON PLANT GENETIC RESOURCES

Second Session

Rome, 16-20 March 1987

EXTRACT OF THE TWENTY-SECOND SESSION OF THE FAO CONFERENCE

Rome, 5-23 November 1983

Resolution 8/83INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES 1/ 2/

THE CONFERENCE,

Recalling its Resolution 6/81 on plant genetic resources,Recognizing that:

- (a) plant genetic resources are a heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations;
- (b) full advantage can be derived from plant genetic resources through an effective programme of plant breeding, and that, while most such resources in the form of wild plants and old land races are to be found in developing countries, training and facilities for plant survey and identification and plant breeding are insufficient or even not available in many of those countries;
- (c) plant genetic resources are indispensable for the genetic improvement of cultivated plants, but have been insufficiently explored and are in danger of erosion and loss;

Considering that:

- (a) the international community should adopt a concrete set of principles designed to promote the exploration, preservation, documentation, availability and full use of relevant plant genetic resources essential to agricultural development;
- (b) it is the responsibility of governments to undertake such activities as are needed to ensure the exploration, collection, conservation, maintenance, evaluation, documentation and exchange of plant genetic resources in the interest of all mankind; to provide financial and technological support to institutions engaged in such activities; and to ensure the equitable and unrestricted distribution of the benefits of plant breeding;
- (c) progress in plant breeding is essential to the present and future development of agriculture; and the establishment or strengthening of plant breeding and seed production capabilities, at the national, sub-regional and regional levels, is a prerequisite to making efficient use of international cooperation in the exploration, collection, conservation, maintenance, evaluation, documentation and exchange of plant genetic resources;

1. Adopts the International Undertaking on Plant Genetic Resources attached hereto;
2. Requests the Director-General to transmit this Resolution and the attached International Undertaking to Member Nations of FAO, to non-Member Nations which are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency, and to autonomous international institutions having responsibilities with respect to plant genetic resources, and to invite them to inform him whether or not they are interested in the Undertaking and to what extent they are in a position to give effect to the principles contained in the Undertaking;

1/ The delegation of New Zealand reserved its position on the text of the International Undertaking on Plant Genetic Resources because there was no provision which took account of plant breeders' rights.

2/ The delegations of Canada, France, Germany (Federal Republic of), Japan, Switzerland,

Article 3 - Exploration of Plant Genetic Resources

3.1 Governments adhering to this Undertaking will organize or arrange for missions of exploration, conducted in accordance with recognized scientific standards, to identify potentially valuable plant genetic resources that are in danger of becoming extinct in the country concerned, as well as other plant genetic resources in the country which may be useful for development but whose existence or essential characteristics are at present unknown, in particular:

- (a) known land races or cultivars in danger of becoming extinct due to their abandonment in favour of the cultivation of new cultivars;
- (b) the wild relatives of cultivated plants in areas identified as centres of genetic diversity or natural distribution;
- (c) species which are not actually cultivated but may be used for the benefit of mankind as a source of food or raw materials (such as fibres, chemical compounds, medicine or timber).

3.2 Special efforts will be made, in the context of Article 3.1, where the danger of extinction of plant species is certain, or is likely, having regard to circumstances such as the clearance of vegetation from tropical rain forests and semi-arid lands with a view to the expansion of cultivated areas.

Article 4 - Preservation, Evaluation and Documentation of Plant Genetic Resources

4.1 Appropriate legislative and other measures will be maintained and, where necessary, developed and adopted to protect and preserve the plant genetic resources of plants growing in areas of their natural habitat in the major centres of genetic diversity.

4.2 Measures will be taken, if necessary through international cooperation, to ensure the scientific collection and safeguarding of material in areas where important plant genetic resources are in danger of becoming extinct on account of agricultural or other development.

4.3 Appropriate measures will also be taken with respect to plant genetic resources held, outside their natural habitats, in gene banks or living collections of plants. Governments and institutions adhering to this Undertaking will, in particular, ensure that the said resources are conserved and maintained in such a way as to preserve their valuable characteristics for use in scientific research and plant breeding, and are also evaluated and fully documented.

Article 5 - Availability of Plant Genetic Resources

5. It will be the policy of adhering Governments and institutions having plant genetic resources under their control to allow access to samples of such resources, and to permit their export, where the resources have been requested for the purposes of scientific research, plant breeding or genetic resource conservation. The samples will be made available free of charge, on the basis of mutual exchange or on mutually agreed terms.

II. INTERNATIONAL COOPERATION

Article 6 - General

6. International cooperation will, in particular, be directed to:

- (a) establishing or strengthening the capabilities of developing countries, where appropriate on a national or sub-regional basis, with respect to plant genetic resources activities, including plant survey and identification, plant breeding and seed multiplication and distribution, with the aim of enabling all countries to make full use of plant genetic resources for the benefit of their agricultural development;

3. Urges Governments and the aforesaid institutions to give effect to the principles of the Undertaking and to support and participate in the international arrangements outlined therein;

4. Endorses the Director-General's proposal for the establishment as soon as possible, within the framework of FAO, of an intergovernmental committee or other body on plant genetic resources open to all States interested in the Undertaking.

(Adopted 23 November 1983)

Annex to Resolution 8/83

INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES

I. GENERAL

Article 1 - Objective

1. The objective of this Undertaking is to ensure that plant genetic resources of economic and/or social interest, particularly for agriculture, will be explored, preserved, evaluated and made available for plant breeding and scientific purposes. This Undertaking is based on the universally accepted principle that plant genetic resources are a heritage of mankind and consequently should be available without restriction.

Article 2 - Definitions and Scope

2.1 In this Undertaking:

- (a) "plant genetic resources" means the reproductive or vegetative propagating material of the following categories of plants:
 - (i) cultivated varieties (cultivars) in current use and newly developed varieties;
 - (ii) obsolete cultivars;
 - (iii) primitive cultivars (land races);
 - (iv) wild and weed species, near relatives of cultivated varieties;
 - (v) special genetic stocks (including elite and current breeders' lines and mutants);
- (b) "base collection of plant genetic resources" means a collection of seed stock or vegetative propagating material (ranging from tissue cultures to whole plants) held for long-term security in order to preserve the genetic variation for scientific purposes and as a basis for plant breeding;
- (c) "active collection" means a collection which complements a base collection, and is a collection from which seed samples are drawn for distribution, exchange and other purposes such as multiplication and evaluation;
- (d) "institution" means an entity established at the international or national level, with or without legal personality, for purposes related to the exploration, collection, conservation, maintenance, evaluation or exchange of plant genetic resources;
- (e) "centre" means an institution holding a base or active collection of plant genetic resources, as described in Article 7.

2.2 This Undertaking relates to the plant genetic resources described in para. 2.1(a), of all species of economic and/or social interest, particularly for agriculture at present or in the future, and has particular reference to food crops.

- (b) intensifying international activities in preservation, evaluation, documentation, exchange of plant genetic resources, plant breeding, germ plasm maintenance, and seed multiplication. This would include activities carried out by FAO and other concerned agencies in the UN System; it would also include activities of other institutions, including those supported by the CGIAR. The aim would be to progressively cover all plant species that are important for agriculture and other sectors of the economy, in the present and for the future;
- (c) supporting the arrangements outlined in Article 7, including the participation in such arrangements of governments and institutions, where appropriate and feasible;
- (d) considering measures, such as the strengthening or establishment of funding mechanisms, to finance activities relating to plant genetic resources.

Article 7 - International Arrangements

7.1 The present international arrangements, being carried out under the auspices of FAO and other organizations in the United Nations System, by national and regional institutions and institutions supported by the CGIAR, in particular the IBPGR, for the exploration, collection, conservation, maintenance, evaluation, documentation, exchange and use of plant genetic resources will be further developed and, where necessary, complemented in order to develop a global system so as to ensure that:

- (a) there develops an internationally coordinated network of national, regional and international centres, including an international network of base collections in gene banks, under the auspices or the jurisdiction of FAO, that have assumed the responsibility to hold, for the benefit of the international community and on the principle of unrestricted exchange, base or active collections of the plant genetic resources of particular plant species;
- (b) the number of such centres will be progressively increased so as to achieve as complete a coverage as necessary, in terms of species and geographical distribution, account also being taken of the need for duplication, of the resources to be safeguarded and preserved;
- (c) the activities of the centres that are related to the exploration, collection, conservation, maintenance, rejuvenation, evaluation and exchange of plant genetic resources will be carried out with due account being taken of scientific standards;
- (d) sufficient support in funds and facilities will be provided, at the national and international levels, to enable the centres to carry out their tasks;
- (e) a global information system, under the coordination of FAO, relating to plant genetic resources maintained in the aforementioned collections, and linked to systems established at the national, sub-regional and regional levels, will be developed on the basis of relevant arrangements that already exist;
- (f) early warning will be given to FAO, or to any institution designated by FAO, of any hazards that threaten the efficient maintenance and operation of a centre, with a view to prompt international action to safeguard the material maintained by the centre;
- (g) the IBPGR pursues and develops its present activities, within its terms of reference, in liaison with FAO;
- (h) (i) the general expansion and improvement of related professional and institutional capability within developing countries, including training within appropriate institutions in both developed and developing countries, is adequately funded; and
(ii) the overall activity within the Undertaking ultimately ensures a significant improvement in the capacity of developing countries for the production and distribution of improved crop varieties, as required to support major increases in agricultural production, especially in developing countries.

7.2 Within the context of the global system any Governments or institutions that agree to participate in the Undertaking, may, furthermore, notify the Director-General of FAO that they wish the base collection or collections for which they are responsible to be recognized as part of the international network of base collections in gene banks, under the auspices or the jurisdiction of FAO. The centre concerned will, whenever requested by FAO, make material in the base collection available to participants in the Undertaking, for purposes of scientific research, plant breeding or genetic resource conservation, free of charge, on the basis of mutual exchange or on mutually agreed terms.

Article 8 - Financial Security

8.1 Adhering Governments, and financing agencies, will, individually and collectively, consider adopting measures that would place activities relevant to the objective of this Undertaking on a firmer financial basis, with special consideration for the need of developing countries to strengthen their capabilities in genetic resource activities, plant breeding and seed multiplication.

8.2 Adhering Governments, and financing agencies, will, in particular, explore the possibility of establishing mechanisms which would guarantee the availability of funds that could be immediately mobilized to meet situations of the kind referred to in Article 7.1(f).

8.3 Adhering Governments and institutions, and financing agencies, will give special consideration to requests from FAO for extra-budgetary funds, equipment or services needed to meet situations of the kind referred to in Article 7.1(f).

8.4 The funding of the establishment and operation of the international network, insofar as it imposes additional costs on FAO, in the main will be funded from extra-budgetary resources.

Article 9 - Monitoring of Activities and Related Action by FAO

9.1 FAO will keep under continuous review the international situation concerning the exploration, collection, conservation, documentation, exchange and use of plant genetic resources.

9.2 FAO will, in particular, establish an intergovernmental body to monitor the operation of the arrangements referred to in Article 7, and to take or recommend measures that are necessary or desirable in order to ensure the comprehensiveness of the global system and the efficiency of its operations in line with the Undertaking.

9.3 In the performance of its responsibilities outlined in Part II of this Undertaking, FAO will act in consultation with those Governments that have indicated to FAO their intention to support the arrangements referred to in Article 7.

III. OTHER PROVISIONS

Article 10 - Phytosanitary Measures

10. This Undertaking is without prejudice to any measures taken by Governments - in line with the provisions of the International Plant Protection Convention, adopted in Rome on 6 December 1951 - to regulate the entry of plant genetic resources with the aim of preventing the introduction or spread of plant pests.

Article 11 - Information on the Implementation of this Undertaking

11. At the time of adhering, Governments and institutions will advise the Director-General of FAO of the extent to which they are in a position to give effect to the principles contained in the Undertaking. At yearly intervals, they will provide the Director-General of FAO with information on the measures that they have taken or propose to take to achieve the objective of this Undertaking.

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