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CONFERENCE

Thirty-first Session

Rome, 2-13 November 2001

INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

I. BACKGROUND

1. The **International Undertaking on Plant Genetic Resources** was adopted by the Conference in November 1983.¹ A number of agreed interpretations of the Undertaking were subsequently adopted and annexed to the Undertaking by Conference Resolutions in 1989 and 1991.² The Undertaking, to which 113 countries have adhered, was the first comprehensive international instrument on plant genetic resources. It has been monitored by the FAO Commission on Genetic Resources for Food and Agriculture,³ as the corner-stone of FAO's Global System on Plant Genetic Resources for Food and Agriculture.

2. In May 1992, the Agreed Text of the **Convention on Biological Diversity** was adopted in Nairobi, Kenya. In adopting the text of the Convention, countries adopted Resolution 3 of the Nairobi Final Act, which recognized that access to *ex situ* collections not acquired in accordance with the Convention, and Farmers' Rights, were outstanding matters which the Convention had not addressed, for which solutions should be sought within FAO's Global System on Plant Genetic Resources for Food and Agriculture.

3. In June 1992, the **United Nations Conference on Environment and Development** called for the strengthening of the FAO Global System and its adjustment in line with the Convention on Biological Diversity, as well as for the realization of Farmers' Rights.

4. In November 1993, the **Conference** accordingly requested "*the Director-General to provide a forum for negotiation among governments:*

(a) *for the adaptation of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity,*

¹ Resolution 8/83.

² Resolutions 4/89, 5/89 and 3/91.

³ Until 1995, the FAO Commission on Plant Genetic Resources

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- (b) *for consideration of the issue of access on mutually agreed terms to plant genetic resources, including ex situ collections not addressed by the Convention, as well as*
- (c) *for the issue of the realization of Farmers' Rights*".⁴

II. THE NEGOTIATIONS

5. Negotiations began at the Commission's First Extraordinary Session in November 1994, and continued at three regular and five extraordinary sessions until 30 June 2001, supported by six inter-sessional meetings of the Chairman's Contact Group⁵ that was established to facilitate the negotiations.⁶

6. Progress in the negotiations has been regularly reported to **the Conference of the Parties to the Convention on Biological Diversity**, which has repeatedly confirmed, in all its meetings since the inception of the negotiations, its support for an Undertaking which addresses the special needs of agricultural biodiversity.

7. The **Council and the Conference** have monitored the process of the negotiations and stressed the high priority given to completing them. In particular the **Council, in June 1999**, made an appeal "*that the revised Undertaking ..., at the latest, be submitted to the Hundred and Nineteenth Session of the Council in November 2000*". The **Conference, in November 1999**, "*confirmed that the negotiations on the revision of the International Undertaking would proceed on the basis that the Undertaking would take the form of a legally-binding instrument, closely linked to FAO and the Convention on Biological Diversity*", and "*requested that the text of the revised International Undertaking be finalized, as planned, for submission to the Hundred and Nineteenth Session of the Council in November 2000*".

8. In view of the fact that negotiations were still on-going, the **Council, in November 2000**, "*reaffirmed its commitment to the finalization of the revised International Undertaking within the auspices of FAO*", and "*requested [the Chairman of the Commission] to convene, in consultation with the Director-General and subject to the availability of funding, further sessions of the Contact Group as required, followed by a negotiating session of the Commission to finalize and agree upon the text of the International Undertaking for submission to the Thirty-first Session of the Conference in November 2001*". Subsequently, **in June 2001, the Council** "*recalled the request of the Hundred and Nineteenth Session of the Council to submit the text to the Thirty-first Session of the FAO Conference in November 2001*".

9. Finally, **in June 2001, the Commission** "*adopted the text of the International Undertaking on Plant Genetic Resources*", and "*requested the Director-General to transmit it, through the Seventy-second session of the Committee on Constitutional and Legal Matters (8-9 October 2001) and the Hundred and Twenty-first session of the Council (30 October-1 November 2001), to the Thirty-first Session of the Conference (2-13 November 2001), for its consideration and approval*". At the same time, "*In adopting the text of the International Undertaking, the Commission also forwarded to the Thirty-first session of the Conference the draft of a resolution, to be considered for adoption in parallel with the International Undertaking, regarding interim arrangements for its implementation*".

III. PREPARATION FOR CONSIDERATION OF THE REVISED INTERNATIONAL UNDERTAKING BY THE THIRTY-FIRST SESSION OF THE CONFERENCE.

⁴ Resolution 7/93.

⁵ The Contact Group comprised 40 countries and the European Community.

⁶ By the Commission at its Eighth Regular session, in April 1999.

10. In accordance with Rule XXI.1(a) of the General Rules of the Organization, a Circular State Letter was sent on 1 August 2001, requesting comments by 21 September 2001. The letter was accompanied by the text of the Undertaking and by a *Report of the Director-General on the Technical, Administrative and Financial Implications of the International Undertaking on Plant Genetic Resources, as adopted by the Sixth Extraordinary session of the Commission on Genetic Resources for Food and Agriculture*.

11. The text of the Undertaking and the draft Conference Resolution regarding the interim arrangements for its implementation, together with the comments received in response to the Circular State letter, were considered by the **Committee on Constitutional and Legal Matters** (CCLM), at its Seventy-second Session, 8-10 October 2001.

12. The CCLM report was submitted to the **Council**, at its Hundred and Twenty-first Session on October-November 2001, as document CL 121/5. The Circular State Letter and the Report of the Director-General referred to in paragraph 10, together with the comments received, were submitted to the Council as document CL 121/5 Sup.

IV. ACTION BY THE CONFERENCE

13. On the basis of the *Report of the Hundred and Twenty-first Session of the Council* (document **CL 121/REP**), which will provide the Conference with the results of discussions during the Council, the **Conference** will consider the Undertaking and the draft Resolution.