



CONVENTION ON BIOLOGICAL DIVERSITY

Distr.
GENERAL

UNEP/CBD/COP/7/INF/18
17 December 2003

ENGLISH ONLY

CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Seventh meeting

Kuala Lumpur, 9-20 and 27 February 2004

Item 19.8 of the provisional agenda*

THE IMPLICATIONS OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE ON THE ISSUES UNDER ARTICLE 8(j) AND RELATED PROVISIONS

Note by the Executive Secretary

CONTENTS

	<i>Page</i>
I. INTRODUCTION	3
II. THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE	3
A. Overview and basic objectives.....	3
B. Recognition of Farmers' Rights.....	4
III. ARTICLE 8(j) OF THE CONVENTION ON BIOLOGICAL DIVERSITY AND ARTICLE 9 OF THE INTERNATIONAL TREATY	6
A. Indigenous and local communities and farmers: the scope of Article 8(j) of the Convention on Biological Diversity and Article 9 of the Treaty	6
B. Respecting, preserving and maintaining traditional knowledge, innovations and practices (Article 8(j) of the Convention on Biological Diversity).....	7
C. Protection and encouragement of customary uses of biological resources that are compatible with conservation and sustainable-use requirements (Article 10(c) of the Convention on Biological Diversity)	8
D. Requirements regarding prior informed approval/consent in relation to access to and utilization of traditional knowledge (Article 8(j) of the Convention on Biological Diversity)	8

* UNEP/CBD/COP/7/1 and Corr.1.

IV.	CONCLUSIONS	9
<i>Annex.</i>	STATUS OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE, AS AT 22 DECEMBER 2003	10

I. INTRODUCTION

1. The International Treaty on Plant Genetic Resources for Food and Agriculture (“the Treaty”) was adopted by the Conference of the Food and Agriculture Organization of the United Nations (FAO) on 3 November 2001, through resolution 3/2001. In its decision VI/6, the Conference of the Parties to the Convention on Biological Diversity congratulated FAO and its Commission on Genetic Resources for Food and Agriculture (CGRFA) on successfully completing the negotiation of the Treaty, recognizing the important role that the Treaty will have, in harmony with the Convention on Biological Diversity, for the conservation and sustainable utilization of, facilitated access to, and the fair and equitable sharing of benefits of this important component of biological diversity. The Conference of the Parties also appealed to Parties and other Governments to give priority consideration to the ratification of the Treaty. The Conference of the Parties will establish and maintain cooperation with the CGRFA while it acts as the Interim Committee for the Treaty, and upon entering into force, the Governing Body, and has requested the Executive Secretary of the Convention on Biological Diversity to develop cooperation with the secretariat of the CGRFA in its capacity as the Interim Committee for the Treaty, and upon its establishment, with the secretariat of the Treaty.

2. In paragraph 1 of decision VI/10, the Conference of the Parties requested the Executive Secretary of the Convention on Biological Diversity to examine, in collaboration with the Food and Agriculture Organization of the United Nations, the implication of the International Treaty on Plant Genetic Resources for Food and Agriculture on the issues under Article 8(j) and related provisions of the Convention on Biological Diversity. The present note, which has been prepared jointly by the secretariats of the Convention on Biological Diversity and the CGRFA, provides an assessment of such implications. It should be noted that the scope of the note is necessarily limited by the fact that it is not the role of the secretariats to interpret in any way the provisions of either instrument: this is a function that can only be exercised by the respective Contracting Parties and the dispute settlement procedures set up by those instruments.

3. Following the introduction, part II presents a brief overview of the Treaty, including an overview of Farmers’ Rights under Article 9, and various other provisions of the Treaty that are related to such rights. In part III, a more comprehensive analysis is presented on the relationship between Article 8(j) and related provisions of the Convention on Biological Diversity, and Article 9 and related provisions of the Treaty. The last section sets out the conclusions of the assessment.

II. THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

A. *Overview and basic objectives*

4. The objectives of the Treaty, expressed in Article 1.1, are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security.

5. The objectives of this comprehensive agreement are to be attained by closely linking the Treaty to both FAO and the Convention on Biological Diversity (Article 1.2). The Treaty covers all plant genetic resources for food and agriculture (Article 3), while the Multilateral System of Access and Benefit Sharing set up under part IV of the Treaty applies to certain crops listed in annex I to the Treaty. The definitions used in the Treaty (see Article 2) are largely derived from and consistent with those in the Convention on Biological Diversity. Under Article 4 of the Treaty, Parties are to ensure, as a general obligation, the conformity of their laws, regulations and procedures with their obligations under the Treaty.

6. The Treaty includes, in its Articles 5 and 6, provisions for the conservation and sustainable use of plant genetic resources for food and agriculture. These provisions are central to the Treaty and provide a modern framework for action for the conservation and sustainable use of plant genetic

resources for food and agriculture. They draw heavily on the Global Plan of Action for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Agriculture (“the Global Plan of Action”), an agreed framework for the conservation and sustainable use of plant genetic resources for food and agriculture adopted at the Leipzig International Technical Conference in 1996 and subsequently endorsed by the FAO Conference and by the Conference of the Parties to the Convention on Biological Diversity in decision III/11. The provisions of Articles 5 and 6, *inter alia*, develop various themes already existing under the Convention on Biological Diversity while providing the specificity for plant genetic resources for food and agriculture, which focus is lacking in the Convention. Attention is given to conserving diversity at the genetic, species and agro-ecosystem levels.

7. In seventh and eighth preambular paragraphs, and in the substantive elements of Article 9, the Treaty gives ground-breaking recognition to Farmers’ Rights as they relate to plant genetic resources for food and agriculture, which have now been formally endorsed in a legally binding international instrument. In fact, the Treaty maintains a strong farmer focus, as several other provisions, such as Articles 5, 6, 12.3(e), 13.2(b)(iii), 13.3, and 18.5, deal with matters related to farmers. Because Article 9 of the Treaty and Article 8(j) of the Convention on Biological Diversity have a number of elements in common, Article 9 will be examined in more detail in the next section.

8. Under Article 10.1, Contracting Parties recognize the sovereign rights of States over their own plant genetic resources for food and agriculture. It is in the exercise of those sovereign rights that the Contracting Parties agree, under part IV of the Treaty, to establish a multilateral system to facilitate access to plant genetic resources for food and agriculture for the purpose of utilization and conservation for research, breeding and training for food and agriculture and to share in a fair and equitable way the benefits arising from the utilization of these resources. The list of crops covered by the Multilateral System is set out in annex I of the Treaty. The list includes 35 of the major food crops and 29 forage crops, established according to the criteria of food security and interdependence. The Multilateral System includes all plant genetic resources on the list that are under the management and control of the Contracting Parties and are in the public domain, and Article 15 makes provision for the International Agricultural Research Centres (IARCs) of the Consultative Group on International Agricultural Research (CGIAR) to bring in their extensive *ex situ* germplasm collections. Other holders of these crops are invited to include their collections in the Multilateral System. The Multilateral System also provides for benefit sharing. Benefits include access itself, exchange of information, access to and transfer of technology, capacity-building and the sharing of monetary and other benefits arising from commercialization. Those who create commercial products that incorporate plant genetic resources for food and agriculture accessed from the multilateral system must pay an equitable share of the benefits arising from the commercialization of the product into a fund to be administered by the Treaty’s Governing Body, when restrictions are placed on the availability of the product to others for further research and breeding. Where there are no such restrictions, the recipient who commercializes the product is merely encouraged to make such a payment. The funds thus acquired will form part of the Treaty’s Funding Strategy and will flow primarily to farmers, especially in developing countries and countries with economies in transition, who conserve and sustainably use plant genetic resources for food and agriculture (Article 13.3).

9. At the closure for signature of the Treaty on 4 November 2002, 77 States and the European Community had signed the Treaty: at the time of finalizing the present note, 33 instruments of ratification, acceptance, approval or accession have been deposited with the Director-General of FAO. ^{1/} The Treaty will enter into force 90 days after the deposit of the fortieth instrument of accession, acceptance or ratification. It is expected to enter into force in early 2004.

B. Recognition of Farmers’ Rights

10. The Treaty’s recognition of Farmers’ Rights is of particular relevance in the examination of its implication on the issues under Article 8(j) and related provisions. The Treaty, in Article 9.1, recognizes

^{1/} A list of participants is given in the annex to this document. An updated list can be found at <http://www.fao.org/Legal/TREATIES/033s-e.htm>.

“the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world”.

11. The Treaty provides that the responsibility for realizing Farmers' Rights lies with national governments. Contracting Parties, in accordance with their needs and priorities, should, as appropriate, and subject to national legislation, take measures to protect and promote those rights, including the protection of relevant traditional knowledge, the right to participate equitably in sharing benefits, and the right to participate in relevant decision-making at national level (Article 9.2(a-c)). With the entry into force of the Treaty, and the adoption of enabling measures in member countries, the Article on Farmers' Rights provides a legal framework that they may use as a basis for the effective participation of indigenous and local communities and farmers in decision-making that directly affects them.

12. It is also pertinent to ask who the farmers are, to whom these rights are relevant. The Treaty itself does not give a definition of the term “farmer” in this context, although Article 9.1, in recognizing the contribution of farmers, does refer in particular to those in the centres of origin and crop diversity. In its *State of the World's Plant Genetic Resources for Food and Agriculture*, FAO provides the following description of the groups of farmers to which the Farmers' Rights as defined under the Treaty are most likely to apply:

“Resource-poor farmers constitute over half of the world's farmers and produce 15-20% of the world's food. These farmers have not benefited as much as others from modern high yielding varieties. It is estimated that some 1,400 million people, approximately 100 million in Latin America, 300 million in Africa and 1,000 million in Asia are now dependent on resource-poor farming systems in marginal environments.

“A majority of the world's resource-poor farmers are women. Worldwide, women produce more than 50% of all the food that is grown. In many developing countries, this percentage can be much higher. For instance, it is estimated that women produce 80% of the food grown in sub-Saharan Africa, 50 - 60% in Asia, 46% in the Caribbean, 31% in North Africa and the Near East, and about 30% in Latin America.” ^{2/}

13. Regarded as an important landmark in contemporary treaty law, the recognition of Farmers' Rights within the framework of this Treaty represents a major step towards the wider acknowledgement and genuine implementation of the rights conferred on informal innovators (“traditional farmers”), who, in the sixth preambular paragraph, are placed on a parallel and equal footing with the “modern breeders”, the formal innovators who use classical plant breeding methods and modern biotechnologies and whose innovations are frequently protected by Intellectual Property Rights. While Farmers' Rights do not constitute intellectual property rights in the formal sense, they do however provide a basis for the recognition of the collective innovation of farmers and indigenous and local communities on which agriculture is based.

14. The three elements of farmers' rights referred to in Article 9.2, are important substantive provisions. The right to participate equitably in sharing benefits is a significant addition to the rights of farmers and indigenous and local communities, and, potentially, to the benefits that might accrue to them. Important also is the right to participate in making decisions at the national level on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture. This includes, for example, decisions relating to the implementation of the Global Plan of Action, and thus reinforces the call in the Global Plan of Action itself for the involvement of all stakeholders.

15. The operational provisions of the Treaty place responsibility for realizing Farmers' Rights on national Governments. In accordance with their needs and priorities, they may take measures, subject to their national legislation, to address the substantive provisions of Article 9.2 in this new area of Farmers'

^{2/} *The State of the World's Plant Genetic Resources for Food and Agriculture*. FAO, Rome, 1998, p. 25.

Rights. In 2000, the Organization of African Unity released an African Model Law for the Protection of the Rights of Local Communities, Farmers And Breeders, and for the Regulation of Access to Biological Resources, part V of which addresses Farmers' Rights. India is the first country to have passed a law in this area: the Protection of Plant Varieties and Farmers' Rights Act No. 53 of 31 August 2001. Some of the relevant provisions of both texts are clearly inspired by, if not modelled after, the concept of Farmers' Rights as developed under the International Undertaking on Plant Genetic Resources for Food and Agriculture, ^{3/} and now within the Treaty.

16. In addition to the substantive elements of Article 9.2 of the Treaty, the Treaty contains substantive provisions regarding both benefit-sharing and finance, which are essentially international in nature. The Treaty foresees various forms of benefit-sharing of importance for developing countries, and indigenous and local communities and farmers. Article 13.3 of the Treaty states that "benefits arising from the use of plant genetic resources for food and agriculture that are shared under the Multilateral System should flow primarily, directly and indirectly to farmers who conserve and sustainably utilize plant genetic resources for food and agriculture". These benefits include the exchange of information, access to and transfer of technology, capacity-building, and the sharing of monetary and other benefits of commercialization. The latter form part of the Treaty's Funding Strategy. Under the Funding Strategy, the Governing Body will periodically set a funding target within which to mobilize funds from a wide variety of sources for agreed projects and programmes with priority given, under Article 18.5, to farmers in all countries, especially in developing countries and countries with economies in transition, who conserve and sustainably use plant genetic resources for food and agriculture. In setting the funding target, the Governing Body will take into account the Global Plan of Action.

17. Contracting Parties will also have to prepare for compliance with the Treaty, particularly in terms of building the capacities and acquiring the tools necessary to exercise their rights and fulfil their obligations. Among the chief measures to be taken in this respect are the policy and legal ones. Domestic policies and laws relating to plant genetic resources for food and agriculture may need to be designed or adjusted to meet the Treaty requirements, as explicitly stated in Articles 4, 5 and 6. Under Article 21, the Governing Body is to approve cooperative and effective procedures and operational mechanisms to promote compliance with the Treaty and address issues of non-compliance.

18. Farmers' Rights are crucial to food security in providing an incentive for the conservation and development of plant genetic resources that constitute the basis of food and agriculture production throughout the world. Making Farmers' Rights a reality, under the Treaty, at the national level as well as between nations, will represent a challenge for the years to come - and one of the manifold tasks to be promptly and steadily tackled in implementing the Treaty.

III. ARTICLE 8(j) OF THE CONVENTION ON BIOLOGICAL DIVERSITY AND ARTICLE 9 OF THE INTERNATIONAL TREATY

A Indigenous and local communities and farmers: the scope of Article 8(j) of the Convention on Biological Diversity and Article 9 of the Treaty

19. Neither of the terms "indigenous and local communities embodying traditional lifestyles" or "farmers" is defined, in the Convention on Biological Diversity or the Treaty, respectively. Both groups, whether separately, or together, constitute a significant proportion of the world's population and bear significant responsibility for global food and medicinal security based on their development, conservation and use of plant genetic resources. It would also seem apparent that there must in practice be a large element of overlap between the two groups.

^{3/} The concept of Farmers' Rights was first established in FAO Conference Resolution 5/89, where Farmers' Rights are defined in as "rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity". See <http://www.fao.org/ag/cgrfa/IU.htm>.

20. However, it is to be noted that the first paragraph of Article 9 of the Treaty refers to both local and indigenous communities and farmers in recognizing their contributions to the development and conservation of plant genetic resources. In Article 5 and 6, the concept of “farmers and local communities” is used in the context of on-farm management of plant genetic resources for food and agriculture and plant breeding activities, while, in the context of the *in situ* conservation of wild crop relatives and wild plants for food production, the need to support, *inter alia*, “the efforts of indigenous and local communities”, is specified. Both on-farm and wild crops relatives *in situ* are of course essential for sustainable agriculture, and may in practice be the concern of the same or overlapping groups. To this extent, Article 8(j) of the Convention on Biological Diversity and Article 9 of the Treaty can be seen as mutually reinforcing, although not necessarily covering the same ground or at least not from the same precise perspective.

B. *Respecting, preserving and maintaining traditional knowledge, innovations and practices (Article 8(j) of the Convention on Biological Diversity)*

21. The Treaty calls for Contracting Parties, in accordance with Article 9.2(a), to take measures as appropriate, and subject to national legislation, to protect traditional knowledge relevant to plant genetic resources for food and agriculture, in part fulfilment of their responsibility for realizing Farmers’ Rights. The Convention on Biological Diversity, in the first part of Article 8(j), requires Contracting Parties, as far as possible and as appropriate, and subject to national legislation, to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity”. For the purposes of implementing this first part, the Conference of the Parties has focused on three aspects which it sees necessary, namely: (i) the need to respect traditional knowledge, innovations and practices; (ii) their maintenance; and (iii) their protection.

22. While different terms are used in the Treaty and the Convention, it would seem difficult to draw significant conclusions from this different terminology concerning the scope of the responsibilities of States under the two instruments. Traditionally the term “protect” has been used in law to place more emphasis on the notion of protecting rights from interference by third parties. However, in general terms the notion of “protect” would seem to presuppose the notions of recognition, respect and preservation. In this context it is to be noted that the provisions of Article 9.2(a) of the Treaty are supported by general provisions elsewhere in the Treaty, such as the provisions of Article 5 regarding the survey, inventory, collection of, and the assessment of threats to, plant genetic resources for food and agriculture, the general provisions for support to farmers and local community efforts to manage on-farm resources, as well as the provisions foreseeing support to indigenous and local communities’ efforts to promote *in situ* conservation of wild crop relatives and wild plants for food production. The provisions of Article 9.2(a) of the Treaty regarding the protection of traditional knowledge relevant to plant genetic resources for food and agriculture are more strongly worded than the corresponding language of Article 8(j) of the Convention on Biological Diversity.

23. The Conference of the Parties has undertaken an extensive examination of the best ways and means of providing protection for traditional knowledge, innovations and practices within the context of the Convention on Biological Diversity. Likewise, a number of initiatives are being closely examined within the World Intellectual Property Organization (WIPO) by its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The Ad Hoc Working Group on Article 8(j) under the Convention on Biological Diversity is charged, *inter alia*, with developing guidelines “that will assist Parties and Governments in the development of legislation or other mechanisms, as appropriate, to implement Article 8(j) and its related provisions (which could include *sui generis* systems), and definitions of relevant key terms and concepts in Article 8(j) and related provisions at international, regional and national levels, that recognize, safeguard and fully guarantee the rights of indigenous and local communities over their traditional knowledge, innovations and practices, within the context of the Convention”.

24. Currently a range of options is being considered, including the use of existing intellectual property mechanisms (patents, plant breeders' rights, geographic indicators, trade marks), *sui generis* systems, customary law, the use of contractual arrangement (based on prior informed consent and mutually agreed terms), registers of traditional knowledge, guidelines and codes of practice, and improved operational links between national intellectual property bodies and indigenous and local communities and their organizations (see decision VI/10 of the Conference of the Parties, paras. 33 and 39). A number of these approaches are being further examined in accordance with decision VI/10, including a close examination of *sui generis* systems for the protection of traditional knowledge, in accordance with paragraph 34 of decision VI/10, with the intention of producing a set of suggested elements for such systems for the consideration of the Conference of the Parties at its seventh meeting.

C. *Protection and encouragement of customary uses of biological resources that are compatible with conservation and sustainable-use requirements (Article 10(c) of the Convention on Biological Diversity)*

25. In Article 9(3), the Treaty specifies that "nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national legislation".

26. This clause recognizes these common and widespread traditional practices that are essential to local food security and at the core of farmer innovations, through the local adaptation and development of plant genetic resources for food and agriculture in response to local conditions and farmer preferences. The legal import of the provision is neutral, in that it preserves the situation as it is, in the context of national legislation.

27. In its Article 6.1, the Treaty specifies that Contracting Parties should develop and maintain appropriate policy and legal measures that promote the sustainable use of plant genetic resources for food and agriculture. Article 6.2 then describes some of the measures that Contracting Parties might put in place for the sustainable use of plant genetic resources for food and agriculture. These measures include: (i) pursuing fair agricultural policies for the development and maintenance of diverse farming systems that enhance the sustainable use of agricultural biological diversity and other natural resources; (ii) strengthening research which enhances and conserves biological diversity by maximizing intra- and inter-specific variation especially for the benefit of farmers who generate and use their own varieties and apply ecological principles in maintaining soil diversity and combating diseases, weeds and pests; (iii) promoting plant breeding efforts, with the participation of farmers, to strengthen the capacity to develop varieties particularly adapted to social, economic and ecological conditions; (iv) broadening the genetic base of crops and increasing the range of genetic diversity available to farmers; (v) promoting the expanded use of local and locally adapted crops, varieties and underutilized species; (vi) supporting the wider use of diversity of varieties and species in on-farm management, conservation and sustainable use of plant genetic resources for food and agriculture in order to reduce crop vulnerability and genetic erosion, and promote increased world food production compatible with sustainable development; and (vii) reviewing and adjusting breeding strategies and regulations concerning variety release and seed distribution. These measures, which are drawn largely from the Global Plan of Action, are broader than, but in no way inconsistent with, the provisions of Article 10(c) of the Convention on Biological Diversity. They are in addition to the measures already described in paragraph 22 above in relation to Article 5 with respect to support for farmer and indigenous and local community efforts to manage and conserve on-farm their plant genetic resources for food and agriculture, and by promoting *in situ* conservation of wild crop relatives and wild plants by supporting the efforts of indigenous and local communities.

D. *Requirements regarding prior informed approval/consent in relation to access to and utilization of traditional knowledge (Article 8(j) of the Convention on Biological Diversity)*

28. Article 8(j) of the Convention on Biological Diversity requires Contracting Parties, as far as possible and as appropriate, to promote the wider application of knowledge, innovations and practices of

indigenous and local communities with the approval and involvement of the holders of such knowledge, innovations and practices, and encourage the equitable sharing of benefits arising from their utilization.

29. The Treaty contains provisions regarding the wider application of local and locally adapted plant genetic resources for food and agriculture, and the promotion of plant breeding efforts, which, with the participation of farmers, particularly in developing countries, strengthen the capacity of develop varieties particularly adapted to social, economic and ecological conditions, including in marginal areas. Article 9, Farmers' Rights, specifically provides for national Governments to take measures as appropriate and subject to their national legislation to protect and promote traditional knowledge pertinent to plant genetic resources for food and agriculture, and the right to equitably participate in sharing benefits arising from the utilization of those resources. Article 12.3 ("Facilitated access to plant genetic resources for food and agriculture within the Multilateral System") provides that access to such resources, including material being developed by farmers, shall be at the discretion of its developer, during the period of its development, and that access to plant genetic resources protected by intellectual and other property rights shall be consistent with relevant international agreements, and with relevant national laws. Moreover, without prejudice to the other provisions of the article, access to resources 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 of the Treaty. The Treaty consistently provides for the linking of plant genetic resources for food and agriculture with the information relating to them.

30. The issue of prior informed consent (PIC) has been the subject of much attention under the Convention on Biological Diversity in connection with both Article 15.5, in the context of access to genetic resources and benefit-sharing, and Article 8(j). The Conference of the Parties at its sixth meeting adopted the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization (decision VI/24 A, paragraph 3), which are "without prejudice to the access and benefit-sharing provisions of the FAO International Undertaking for Plant Genetic Resources for Food and Agriculture". The Bonn Guidelines contain, in paragraphs 24-40, the basis of a system of PIC for incorporation by Parties in the establishment of their own national access regimes. The Ad Hoc Working Group on Article 8(j), under task 7 of the first phase of its programme of work, is also in the process of developing guidelines that will address, *inter alia*, matters of prior informed approval in accordance with Article 8(j), to complement the section on PIC in the Bonn Guidelines. In accordance with paragraph 34 of decision VI/10 this will effectively culminate in a set of suggested elements for *sui generis* legislation for the protection of the knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity. The Conference of the Parties, in paragraph 47 of decision VI/10, has also urged Parties and Governments to examine, as appropriate, relevant provisions of the Convention on Biological Diversity with respect to prior informed consent and mutually agreed terms where traditional knowledge is used in its original form or in the development of new products and/or new applications.

IV. CONCLUSIONS

31. As will be appreciated, there are many similarities between the issues raised by Article 8(j) and related provisions of the Convention on Biological Diversity and Article 9 of the Treaty, in terms of national implementation. This suggests that Governments, when addressing the requirements of the two international instruments, will need to ensure coherence, when framing legislation, policies, strategies and action plans for the conservation and sustainable use of biological diversity in general, and for plant genetic resources for food and agriculture in particular. While the accent will thus be on implementing action at the national level, further work by the Governing Body on the implementation of the Treaty will undoubtedly be of great relevance for the issues raised by both Article 9 of the Treaty and Article 8(j) of the Convention on Biological Diversity.

*Annex***STATUS OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR
FOOD AND AGRICULTURE, AS AT 22 DECEMBER 2003 ^{4/}**

The following instruments were deposited on the dates indicated:

Participant	Signature	Ratification	Acceptance	Approval	Accession
Algeria					13/12/2002
Angola	10/10/2002				
Argentina	10/6/2002				
Australia	10/6/2002				
Austria	6/6/2002				
Bangladesh	17/10/2002	14/11/2003			
Belgium	6/6/2002				
Bhutan	10/6/2002	2/9/2003			
Brazil	10/6/2002				
Burkina Faso	9/11/2001				
Burundi	10/6/2002				
Cambodia	11/6/2002		11/6/2002		
Cameroon	3/9/2002				
Canada	10/6/2002	10/6/2002			
Cape Verde	16/10/2002				
Central African Republic	9/11/2001	4/8/2003			
Chad	11/6/2002				
Chile	4/11/2002				
Colombia	30/10/2002				
Costa Rica	10/6/2002				
Côte d'Ivoire	9/11/2001	25/6/2003			
Cuba	11/10/2002				
Cyprus	12/6/2002	15/9/2003			
Democratic People's Republic of Korea					16/7/2003
Democratic Republic of the Congo					5/6/2003
Dominican Republic	11/6/2002				
Denmark	6/6/2002				
Egypt	29/8/2002				
El Salvador	10/6/2002	9/7/2003			
Eritrea	10/6/2002	10/6/2002			
Ethiopia	12/6/2002	18/6/2003			

^{4/} An up-to-date list is available at <http://www.fao.org/Legal/TREATIES/033s-e.htm>.

Participant	Signature	Ratification	Acceptance	Approval	Accession
European Community	6/6/2002				
Finland	6/6/2002				
France	6/6/2002				
Gabon	10/6/2002				
Ghana	28/10/2002	28/10/2002			
Germany	6/6/2002				
Greece	6/6/2002				
Guatemala	13/6/2002				
Guinea	11/6/2002			11/6/2002	
Haiti	9/11/2001				
India	10/6/2002	10/6/2002			
Iran, Islamic Republic of	4/11/2002				
Ireland	6/6/2002				
Italy	6/6/2002				
Jordan	9/11/2001	30/5/2002			
Kenya					27/5/2003
Kuwait					2/9/2003
Lebanon	4/11/2002				
Luxembourg	6/6/2002				
Madagascar	30/10/2002				
Malawi	10/6/2002	4/7/2002			
Malaysia					5/5/2003
Mali	9/11/2001				
Malta	10/6/2002				
Marshall Islands	13/6/2002				
Mauritania					11/2/2003
Mauritius					27/3/2003
Morocco	27/3/2002				
Myanmar					4/12/2002
Namibia	9/11/2001				
Netherlands	6/6/2002				
Nicaragua					22/11/2002
Niger	11/6/2002				
Nigeria	10/6/2002				
Norway	12/6/2002				
Pakistan					2/9/2003

Participant	Signature	Ratification	Acceptance	Approval	Accession
Paraguay	24/10/2002		3/1/2003		
Peru	8/10/2002				5/6/2003
Portugal	6/6/2002				
Saint Lucia					16/7/2003
Senegal	9/11/2001				
Serbia and Montenegro	1/10/2002				
Sierra Leone					20/11/2002
Spain	6/6/2002				
Sudan	10/6/2002	10/6/2002			
Swaziland	10/6/2002				
Sweden	6/6/2002				
Switzerland	28/10/2002				
Syrian Arab Republic	13/6/2002	26/8/2003			
Thailand	4/11/2002				
The former Yugoslav Republic of Macedonia	10/6/2002				
Togo	4/11/2002				
Tunisia	10/6/2002				
Turkey	4/11/2002				
United Kingdom	6/6/2002				
United States of America	1/11/2002				
Uganda					25/3/2003
Uruguay	10/6/2002				
Venezuela	11/2/2002				
Zambia	4/11/2002				
Zimbabwe	30/10/2002				
