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PARTICIPATION OF FAO IN THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY

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PARTICIPATION OF FAO IN THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY

I. BACKGROUND

The Convention on Biological Diversity and Resolution 2 (*"International cooperation for the conservation of biological diversity and the sustainable use of its components pending the entry into force of the Convention on Biological Diversity"*), annexed to the Final Act of the Nairobi Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity, contain two main provisions regarding the establishment and functioning of the Secretariat.

(i) Interim Secretariat

Paragraph 3 of Resolution 2 refers to the **Interim secretariat** and states that: *"The Conference... requests the Executive Director of the United Nations Environment Programme to provide the secretariat on an interim basis until the Convention has entered into force and also requests the Executive Director to seek the full and active involvement of the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization in the establishment and operations of the Interim Secretariat..."* Paragraph 3 of the same Resolution 2 adds that: *"The conference... invites the FAO and the UNESCO to provide full support to the establishment and operations of the Interim Secretariat".*

FAO has cooperated with the Interim Secretariat in several ways, including the provision of the services of an FAO legal expert during the first and second sessions of the Intergovernmental Committee on the Convention on Biological Diversity (ICCBD) (Geneva, 11-15 October 1993, and Nairobi, 20 June-1 July 1994) as part of the Interim Secretariat, and secondly through general liaison and cooperation with the Interim Secretariat including the preparation of documents. While cooperation through direct involvement in the Interim Secretariat has worked well, both FAO and UNESCO have proposed that cooperation with the Interim Secretariat be placed on a more formal basis in the future.

(ii) Permanent Secretariat

Art. 24.2 of the Convention on Biological Diversity deals with the **permanent Secretariat** and states:

"At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention".

The Intergovernmental Committee on the Convention on Biological Diversity, at its second Session, proposed, for the consideration by the Conference of the Parties, a

list of attributes that an organization should be required to demonstrate in order to be considered as a "competent international organization" for the purposes of being designated to provide the Secretariat services¹ and recommended that all interested competent international organizations should notify their interest to the Interim Secretariat before 15 August 1994. It was considered that the submission of offers should be sufficiently flexible to accommodate several options, including the possibility that the Secretariat be established jointly by a consortium of agencies and bodies within the United Nations family, or that one organization be chosen to carry out the Secretariat functions with other agencies possibly participating in the Secretariat².

II. FAO OFFER TO PARTICIPATE IN A JOINT PERMANENT SECRETARIAT

On 12 August 1994, FAO sent an official notification of its interest in participating in a joint Secretariat. Further details on this participation were sent on 19 August, in which the attributes listed by the Committee and relevant to FAO's proposal were addressed (a copy of this second notification is annexed to the present document).

FAO's offer does not envisage the possibility of FAO being designated to provide the entire Secretariat on its own. Rather, it is premised on the option of FAO participating together with other competent international organizations in a joint Secretariat. Consequently, addresses only those attributes relevant to such participatory status.

FAO's contribution would consist in:

- (i) seconding one or two professionals to the Permanent Secretariat;
- (ii) keeping, through appropriate internal mechanisms, a permanent liaison with it; and
- (iii) carrying out specific tasks, at the request of the Conference of the Parties, on mutually agreed terms.

It may be useful to indicate under each of the above points, the way in which FAO would see such contribution functioning in practice.

¹ The text of the Report (UNEP/CBD/IC/2/L.3, item 4.1.3) is attached as Annex I.

² Cfr. Report (UNEP/CBD/IC/2/L.3, item 4.1.3), Paragraph 17:

"17. One representative proposed that the Conference of the Parties might be in a position also to consider the option that the Secretariat be established jointly by a consortium of agencies and bodies within the United Nations family and suggested that the following organizations may be considered: UNEP, FAO, UNESCO, UNDP and DPCSD. Other representatives considered that the Conference of the Parties might also be in a position to consider the option that one organization be chosen to carry out the Secretariat functions, with other agencies possibly participating in the Secretariat. Therefore, the submission of offers should be sufficiently flexible to accommodate such an option."

(i) **Secondment of professional staff to the Permanent Secretariat**

At the second Session of the ICCBD, two possible options were envisaged for joint participation by agencies in the Secretariat to be established under the Convention. One would be for the Secretariat to be established jointly by a consortium of agencies and bodies within the United Nations family, presumably functioning on the basis of equal responsibility. The second envisages that a single organization be designated to provide the Secretariat and that other organizations participate in the Secretariat presumably through secondment of personnel on a continuing or *ad hoc* basis. It is the view of FAO that the first option would be somewhat cumbersome and might well cause undue problems of coordination among the agencies. In FAO's view, the second option would be preferable, with FAO and other interested agencies seconding experience personnel to a Secretariat operated by a single organization designated by the Contracting Parties. In this connection, the Director-General would be prepared to second one or two professionals to the Secretariat, as indicated in the formal offer.

So far as the status of the seconded personnel is concerned, the second session of the ICCBD *"agreed that the Secretariat would operate only under the authority of the Conference of the Parties and not as a closed group of experts"* (cfr. ANNEX I, Paragraph II). It is therefore clear that the Secretariat's staff, no matter which organization it comes from, should be responsible to and under the sole authority of the Executive Secretary of the Secretariat, who, on his or her turn, is responsible to the Conference of the Parties. Indeed to adopt any other approach would, in the opinion of FAO, make it impossible for the Secretariat to be managed properly and to serve the Contracting Parties efficiently. Under FAO's rules, the seconded personnel would become staff members of the organization designated to provide the main bulk of the Secretariat. The costs of the secondment would be covered by the regular budget of the Secretariat.

The secondment of personnel from individual agencies to the new Secretariat would bring with it an infusion of experience and expertise in the contributing agencies fields of competence and would also facilitate informal channels of cooperation and liaison between the Secretariat and the participating agencies. It would not, however, and this FAO wishes to emphasize strongly, obviate or in any way diminish to need for continuing and strengthened liaison and cooperation between the Secretariat, as a separate unit, and the individual participating agencies.

(ii) **Liaison and cooperation with the Secretariat**

As noted above, it is envisaged in the FAO's offer, that close liaison and cooperation be maintained between the new Secretariat and the individual participating agencies, such liaison and cooperation to be channelled through, and be the responsibility of, the Executive Secretary of the Secretariat. In this sense, FAO would expect the basic approach decreed by the Contracting Parties to the Biodiversity Convention as set out in Resolution 2 adopted by the Nairobi Conference for the Interim Secretariat to be maintained, i.e. that of full and active involvement in and cooperation with the Secretariat. Such liaison and cooperation could include preparation of documents, or contributions to documents prepared by the Secretariat, on matters within

the respective fields of competence of the participating organizations, comments on draft papers and proposals affecting the work of the organizations, etc.

(iii) Carrying out of specific tasks, at the request of the Conference of the Parties

The liaison and cooperation, envisaged above, would be established at the level of the individual Secretariats. FAO should also be prepared to respond directly to requests from the Conference of Parties of the Biodiversity Convention to carry out specific tasks in the areas of its specific competence, i.e. genetic resources for food and agriculture, under the guidance of its own inter-governmental machinery, e.g. the FAO Commission on Plant Genetic Resources.

III. CONCLUSIONS AND SUGGESTED ACTION BY THE WORKING GROUP

The above clarifications of the way in which FAO sees its participation in a joint Secretariat working in practice, is presented to the Working Group for its background information and for such comments as it may care to make.

**INTERGOVERNMENTAL COMMITTEE ON THE CONVENTION ON
BIOLOGICAL DIVERSITY**
Report of the Second Session (Nairobi, 20 June-1 July 1994), Item 4.1.3
(UNEP/CBD/IC/2/L.3, ITEM 4.1.3)

"4.1.3. Selection of a competent international organization to carry out the functions of the Secretariat of the Convention

I. *The Committee had before it a note prepared by the Secretariat (UNEP/CBD/IC/2/6). Working Group I considered this item under the following headings:*

- (a) Attributes of competent international organizations;*
- (b) Procedure for receiving offers from interested organizations;*
- (c) Other matters relevant to the establishment of the Secretariat.*

II. *With regard to 12 (a) above, the Working Group agreed that the Secretariat would operate only under the authority of the Conference of the Parties and not as a closed group of experts, but maintain active consultation with relevant entities at the local, national and international levels. The Group agreed also that the Committee should recommend to the Conference of the Parties the following list of attributes:*

- (a) Relevance of the mandate, general objectives and substantive activities of the organization to the purpose and objectives of the Convention;*
- (b) Extent to which the organization could provide technical support to the substantive work to be undertaken under the Convention and coordinated by the Secretariat;*
- (c) Past and/or current involvement in the process associated with the development or operation of the Convention; or other indicators of familiarity with the Convention;*
- (d) Demonstrated effectiveness of the organization in its own sphere of activities;*
- (e) The organization as a context for establishing effective working relationships with other conventions and their secretariats, especially those related to conservation of biological diversity and sustainable development;*
- (f) Experience in providing secretariat functions to an intergovernmental process;*
- (g) Existing organizational infrastructure - information systems, communication instruments - and financial and administrative framework conducive to the discharge of the Secretariat functions;*

- (h) *The extent to which the organization would ensure autonomy and independence of the Secretariat, particularly in terms of governance and budget. High overhead costs paid to a host organization should be avoided. Instead, administrative services should be provided cost-effectively. It was suggested that the Head of the Secretariat be appointed by the Conference of the Parties;*
- (i) *The expertise of the organization in matters of the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources;*
- (j) *The organization's ability to operate on the global, regional and national levels; the ease of its accessibility by and collaboration with Governments and non-governmental organizations; the efficiency of its communications system and of its information gathering capacity;*
- (k) *The organization's ability to accommodate any future decision by the Conference of the Parties as to the location of the Secretariat.*

III. *The Working Group, realizing the need to ensure the autonomy of the Secretariat, recommended that an interested organization shall also indicate to the Conference of the Parties:*

- (a) *The support it would be able to provide for the operations of the Secretariat, for example, in the aspects of recruitment, fund management, administrative support, assistance with organization and servicing of meetings organized under the Convention; and whether there would be a charge to the Secretariat budget for such services;*
- (b) *Its ability to support, through its own budgetary possibilities and mechanisms, the operations of the Convention and the activities of the Secretariat; and its ability to make temporary cash advances to guarantee the Secretariat's cash flow;*
- (c) *The stature of the Secretariat within its organization;*
- (d) *The degree of operational autonomy for the Secretariat within the organization's system of governance in carrying out the decisions, and in responding to the requests and needs, of the Conference of the Parties;*
- (e) *The extent to which the head of the Secretariat will be able to take, following the decisions of the Conference of the Parties, independent decisions on administrative, budgetary, and personnel matters and decisions that affect the functioning of the Secretariat;*
- (f) *The organization's willingness to accommodate any future decision by the Conference of the Parties as to the location of the Secretariat, in consultation with the country concerned;*

- (g) *What approval process will be required from its governing authority, and the possible time frame for such approval to be obtained;*
- (h) *How soon it could be prepared to establish the Secretariat and undertake the responsibility for the discharge of the Secretariat functions."*

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**COPY OF THE FORMAL FAO PROPOSAL FOR PARTICIPATION
IN THE SECRETARIAT OF THE BIODIVERSITY CONVENTION**

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Annex VI

Letters dated 12 August and 19 August 1994 from Mr. H. de Haen, Assistant Director General, Agriculture Department, Food and Agriculture Organization of the United Nations to Ms. A. Cropper, Executive Secretary, Interim Secretariat for the Convention on Biological Diversity

12 August 1994

In relation to the recommendations of the Second Session of the Intergovernmental Committee on the Convention on Biological Diversity with regard to the establishment of a Secretariat of the Convention, in accordance with Article 24 paragraph 2 of the Convention, I wish to inform you that FAO is currently formulating its suggestions that will be sent to you early next week. I apologize for the delay.

19 August 1994

Further to my faxed interim reply of 12 August 1994, I send you herewith FAO's proposal in response to the recommendation by the Intergovernmental Committee on the Convention on Biological Diversity, at its Second Session in Nairobi from 20 June to 1 July 1994, regarding the designation of the Secretariat, in accordance with Article 24, paragraph 2 of the Convention.

The Second Session of the ICCBD drew up a list of attributes that an organization required to be considered for the provision of the Secretariat. We have addressed all those attributes, listed in item 4.1.3 of UNEP/CBD/IC/L.3, that we believe are relevant to FAO's proposal for participation in a joint Secretariat. We will nevertheless be happy to provide you with any additional information that may be required.

No budgetary provisions exist for the current biennium (1994-1995) to cover expenses that may result from participation in the Secretariat. Should the Conference of the Parties invite FAO to participate in the Secretariat, it would be the competence of the FAO governing bodies to consider any resulting budgetary implications.

Appendix

1. I refer to my fax of 12 August: further to the decisions of the Second Session of the Intergovernmental Committee on the Convention on Biological Diversity with regard to the establishment of a Secretariat of the Convention, and in accordance with Article 24 paragraph 2 of the Convention, FAO wishes to notify the Interim Secretariat, and, through it, the Conference of the Parties, of its interest in participating in a joint Secretariat. FAO sees its role in dealing with biodiversity for food and agriculture as being complementary to the role of other UN Organizations, in particular to UNEP and UNESCO. FAO therefore envisages the participation, in a joint Secretariat, of these, and possibly other Organizations.
2. Biological diversity is the basis for agriculture, forestry and fisheries. FAO is the United Nations specialized agency responsible for food and agriculture, including forestry and fisheries. Article 1 of the FAO constitution requests that the organization "shall promote and, where appropriate, shall recommend national and international action with respect to: *inter alia* the conservation of natural resources and the adoption of improved methods of agriculture production." In carrying out this part of its mandate as regards the biotic natural resource base, FAO concentrates its technical competence on those living resources which are currently known to be of use to humanity, especially for food and agriculture.
3. UN work on biodiversity started in FAO in the early 1950s. Since then, the Organization has played a pioneering role in developing concepts and applications of genetic resources to agriculture, including the conceptualization of the relevant Programme Areas of UNCED Agenda 21. FAO is thus the principal repository in the UN System of expertise on biodiversity for food and agriculture. It assists its membership in the definition of policies for the conservation and sustainable use of genetic resources in food and agriculture through national programmes and projects. It compiles, analyses and interprets information through publications and meetings, and issues reports on the state of genetic resources. It also assists in the development of national legislation, international conventions, codes of practice and guidelines for the protection of biodiversity related to agriculture, forestry and fisheries. Furthermore FAO, being a co-sponsor of the CGIAR, cooperates closely with the International Agricultural Research Centres on issues of importance for biodiversity. FAO's close links with the International Plant Genetic Resource Institute (IPGRI) are of particular relevance in this context.
4. In the case of plants, for example, the Organization, guided by its member countries, has over the years developed a Global System for the conservation and sustainable utilization of plant genetic resources which includes: a legal framework, the International Undertaking for Plant Genetic Resources (110 countries have adhered to the Undertaking); a unique, permanent, intergovernmental forum, the Commission on Plant Genetic Resources (123 countries are members of the Commission); a number of other international agreements (such as the Conference Resolution on Farmers' rights) and codes of conduct (such as the International Code of Conduct for Plant Germplasm Collecting and Transfer); a World Information and Early Warning System on Plant Genetic Resources; and international networks of *ex situ* collections and *in situ* conservation areas.
5. Looking to the future, in line with the recommendations of UNCED, and as requested by the FAO Conference, FAO member countries are currently negotiating a revision of the International Undertaking for Plant Genetic Resources, to bring it into full harmony with the Convention on Biological Diversity. FAO, through a country-driven process, is also preparing a first Report on the State of the World Plant Genetic Resources as well as a

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costed Global Plan of Action, to be adopted at an International Technical Conference on Plant Genetic Resources, planned for 1996. Other examples of FAO's work in line with the provisions of the Convention include, *inter alia*, a livestock genetic resources programme, currently under development, and the international Code of Conduct for Responsible Fishing, currently being negotiated by countries in FAO.

6. FAO, together with UNEP and UNESCO, was one of the Agencies which collaborated in the drafting of the Convention. Its representatives subsequently participated in all phases of the negotiation of the Convention and its adoption. FAO has also collaborated closely with the Interim Secretariat in the First and Second ICCBDs, and in the technical meeting in Mexico, participating in all meetings both as members of the Interim Secretariat, and as observers.

7. For the reasons given above, FAO should be considered as meeting the criteria that would apply to participation in a joint secretariat, on the basis of item 4.1.3 of UNEP/CBD/IC/2/L.3.

8. FAO would propose contributing to the work of a joint secretariat as follows:

- (a) FAO would second one or two professionals to the CBD Secretariat. The costs of the secondment, including personnel and operating expenses, would be covered by the regular budget of the CBD Secretariat. It is understood that this represents no extra financial burden because expertise of agro-biodiversity would have anyway to be included in the Secretariat. The staff members would ensure liaison with FAO, and thus strengthen the secretariat's capacity to deal with matters pertaining to agro-biological diversity.
- (b) Through this liaison, FAO would place at the disposal of the Conference of Parties and the Secretariat its institutional memory, expertise and implementation mechanisms in matters concerning biological diversity at the level of genes, organisms and ecosystems of interest for agriculture, forestry and fisheries. This knowledge base would be channelled through an appropriate internal mechanism which would liaise with the Secretariat. FAO would also provide a collaborative bridge with relevant international agricultural research institutions.
- (c) Participation in the Secretariat will enable FAO to maintain close consultation with the Conference of Parties, and the CBD Secretariat in the development of FAO's own policies, and in carrying out its programmes and activities on agro-biodiversity. This consultation and mutual reporting will particularly apply to the follow-up of Resolution 3 of the Nairobi Final Act, where FAO was invited to seek solutions to outstanding matters of the Convention (access to existing *ex situ* collections not acquired in accordance with the Convention, and Farmers' Rights) within its Global System on Plant Genetic Resources. Some of these efforts may lead to international agreements which could provide a basis for possible protocols of the CBD.
- (d) Furthermore, FAO would carry out specific studies, prepare documentation and organize technical meetings at the request of the Conference of Parties and the Secretariat on mutually agreed terms.

9. FAO's participation in the Secretariat of the Convention along these lines would promote cooperation and avoid unnecessary duplication between those responsible for agriculture and those concerned with the environment at national and international levels. The resulting synergy should promote the more efficient implementation of the provisions of the Convention on Biological Diversity.