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منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

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United  
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Organisation  
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Unies  
pour  
l'alimentation  
et  
l'agriculture

Organización  
de las  
Naciones  
Unidas  
para la  
Agricultura  
y la  
Alimentación

## COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

**First Inter-sessional Meeting of the Contact Group**  
(Rome, 20-24 September 1999)

### **REVISION OF THE INTERNATIONAL UNDERTAKING ON PLANT GENETIC RESOURCES, IN HARMONY WITH THE CONVENTION ON BIOLOGICAL DIVERSITY**

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### **TEXT FOR ARTICLE 14, BENEFIT-SHARING, ESTABLISHED BY THE CONTACT GROUP DURING ITS FIRST INTER-SESSIONAL MEETING**

The first Inter-sessional Meeting of the Chairman's Contact Group addressed only one item: the continuation of the negotiations for the revision of the International Undertaking on Plant Genetic Resources, in harmony with the Convention on Biological Diversity. It negotiated text for Article 14, and agreed that there would be no formal report of the Meeting.

The present document makes available, for the record, the following:

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Text for Article 14, <i>Benefit-sharing in the Multilateral System</i> , established by the Contact Group during its First Inter-sessional Meeting	1-3

*Appendix A:* List of Participants

*Appendix B:* Membership of the Contact Group

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**TEXT FOR ARTICLE 14, BENEFIT-SHARING IN THE MULTILATERAL SYSTEM, ESTABLISHED BY THE CONTACT GROUP DURING ITS FIRST INTER-SESSIONAL MEETING**

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**Article 14 - Benefit-sharing in the Multilateral System<sup>1</sup>**

14.1 Parties agree that access to PGRFA in the Multilateral System is subject to the benefit-sharing under this article.<sup>2</sup> The Parties recognize that facilitated access to PGRFA within the Multilateral System constitutes itself a major benefit of the Multilateral System and agree that benefits accruing therefrom shall be shared fairly and equitably in accordance with the provisions of this Article.

14.2 The Parties agree that benefits arising from the use[<sup>3</sup>, including commercial] of PGRFA under the Multilateral System shall be shared through the transfer of technology, capacity-building, the exchange of information, and [funding]<sup>4</sup>[the fair and equitable sharing of the results of research and development and the benefits arising from commercial and other utilization of these PGRFA], taking into account the priority activity areas in the rolling GPA, under the guidance of the Governing Body,<sup>5</sup> [and] as set forth below:

(a) Exchange of information:

Parties agree to make available information which shall, inter alia, encompass catalogues and inventories, information on technologies, results of technical, scientific and socio-economic research, including characterization, evaluation and utilization, regarding those PGRFA under the Multilateral System. Such information shall be made available, where non-confidential, subject to applicable law and in accordance with national capabilities.<sup>4</sup> Such information shall be made available to all Parties to the International Undertaking through the information system of the Multilateral System.<sup>5</sup>

(b) Access to and transfer of technology:

(i) [Parties undertake to provide and/or facilitate access to technologies for the conservation, characterization, evaluation and use of PGRFA which are under the Multilateral System. Recognizing that some technologies can only be transferred through genetic material, Parties shall provide and/or facilitate access to such technologies and genetic material which is under the Multilateral System and to improved varieties and genetic material developed through the use of PGRFA under the Multilateral System.

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<sup>1</sup> Pending the adoption of symmetrical terms in Articles 12 and 13.

<sup>2</sup> Pending the adoption of symmetrical text in Article 13.

<sup>3</sup> Pending the adoption of Article 17.

<sup>4</sup> Pending discussion of Articles 12 and 13.

<sup>5</sup> The information system shall be described later.

Access to these technologies, improved varieties and genetic material shall be provided and/or facilitated, while respecting applicable property rights and access laws, and in accordance with national capabilities.]

(ii) Access to and transfer of technology to countries, especially to developing countries and countries with economies in transition, shall be carried out through a set of measures, such as the establishment and maintenance of, and participation in, crop-based thematic groups on utilization of PGRFA,<sup>6</sup> all types of partnership in R & D and in commercial joint ventures on the material received, human resource development, and effective access to research facilities.

[(iii) Access to and utilization of information and technology protected by intellectual property rights and confidentiality shall be freely available for conservation purposes of PGRFA in the Multilateral System, and for the use of small farmers in developing countries and countries with economies in transition, whereas, for commercial purposes, access to and transfer of technology as referred to in (i) and (ii) above to developing country Parties and the countries with economies in transition shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms, where mutually agreed, through partnerships in research and development under the Multilateral System. In the case of technology subject to patents and other intellectual property rights, access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights.]

(c) Capacity building

Taking into account the needs of developing countries and countries with economies in transition, [as expressed through the priority they accord to building capacity in PGRFA in their plans and programmes,] in respect of those PGRFA covered by the Multilateral System, Parties [shall endeavour to]/[agree to], (i) establish and/or strengthen programmes for scientific and technical education and training in conservation and sustainable use of PGRFA, (ii) develop and strengthen facilities for conservation and sustainable use of PGRFA, in particular in developing countries and countries with economies in transition, and (iii) carry out scientific research preferably, and where possible, in developing countries and countries with economies in transition, in cooperation with institutions of such countries, and develop capacity for such research in fields where they are needed.

(d) Sharing of [monetary] benefits on commercialisation

[(i) Each Party to this Undertaking undertakes to pay, in accordance to the agreed Funding Strategy to be established under Article 16, an annual contribution representing percent of the value of the crops produced in its territory through the use of PGRFA listed in Article 12 to this Undertaking where such crops are produced from or through plant genetic materials or related processes in respect of which IPR protection has been sought under its national legislation. For this purpose, the value of the crops shall be calculated

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<sup>6</sup>

Pending discussion as appropriate under other Articles.

on the basis of the hectarage of the crops harvested multiplied by the average national yield per hectare for those crops and the average ex-farm price for the current year.

(ii) Developed countries, party to this Undertaking, undertake to make annual contributions to the Agreed Funding Strategy established under Article 16 in the proportions of their national contributions according to the United Nations Scale of Assessment.]

**CHAIRMAN'S NOTE:** FOR THE FIRST TIME, MEMBER COUNTRIES HELD A VERY RICH AND CONSTRUCTIVE DEBATE ON THIS CRUCIAL ISSUE. A NUMBER OF COUNTRIES AND GROUPS OF COUNTRIES STATED THAT THEY WERE CONSIDERING THE ISSUE VERY SERIOUSLY, AND COMMITTED THEMSELVES TO PRESENT TO THE NEXT MEETING OF THE CONTACT GROUP MODALITIES TO GIVE PRACTICAL EXPRESSION TO THE FAIR AND EQUITABLE SHARING OF COMMERCIAL BENEFITS, AND THE POSSIBILITY OF INVOLVING THE PRIVATE SECTOR.

14.3 The Parties agree that benefits arising from the use of PGRFA under the Multilateral System should flow [, *inter alia*,] primarily, directly and indirectly, to farmers in all countries, especially in developing countries and countries with economies in transition, who conserve and sustainably utilize PGRFA. [...]

14.4 The Governing Body will, at its first meeting, consider relevant policy and criteria for specific assistance under the agreed funding strategy established under Article 16 for the conservation of PGRFA in developing countries and countries with economies in transition whose contribution to the diversity of PGRFA in the Multilateral System is significant and/or which have special needs.

14.5 Parties recognize that the ability to fully implement the GPA, in particular of developing countries and countries with economies in transition, will depend largely upon the effective implementation of this Article and of the funding strategy as provided in Article 16.

**APPENDIX A – ANNEXE A – ANEXO A -****LIST OF DELEGATES AND OBSERVERS  
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