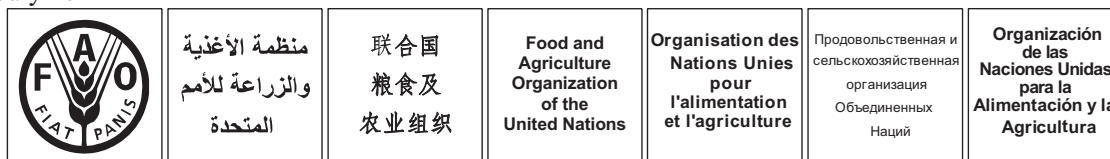


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COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Item 4 of the Provisional Agenda

AD HOC TECHNICAL WORKING GROUP ON ACCESS AND BENEFIT-SHARING FOR GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Longyearbyen (Svalbard), Norway, 11 - 13 September 2012

OPTIONS TO GUIDE AND ASSIST COUNTRIES IN DEVELOPING LEGISLATIVE, ADMINISTRATIVE AND POLICY MEASURES

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I. INTRODUCTION

1. The Commission mandated the Ad Hoc Working Group on Access and Benefit-sharing for Genetic Resources for Food and Agriculture (Working Group) to:

- identify relevant distinctive features of the different sectors and subsectors of genetic resources for food and agriculture (GRFA) requiring distinctive solutions;
- taking into account the relevant distinctive features identified, develop options to guide and assist countries, upon their request, in developing legislative, administrative and policy measures that accommodate these features; and
- analyze, as appropriate, possible modalities for addressing access and benefit-sharing (ABS) for GRFA, taking into account the full range of options, including those presented in the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Protocol).

2. The document, *Distinctive features of genetic resources for food and agriculture*,¹ identifies distinctive features of GRFA relevant to the design of ABS measures. The document, *Possible modalities for addressing access and benefit-sharing for genetic resources for food and agriculture*,² analyzes possible modalities for ABS measures reflecting the features of GRFA. The current document focuses on options to guide and assist countries, upon their request, in developing ABS measures. Both issues, *i.e.* the possible contents or modalities of ABS measures as well as means and ways to guide and assist countries in developing tailor-made ABS measures, are inextricably linked with each other. The Working Group may wish to consider sequentially which, if any, modalities of ABS for GRFA the Commission should address and which, if any, of the options for guiding and assisting countries in the development of ABS measures should be pursued.

3. In a first step, this document relates the task of the Working Group to devise options for guiding and assisting countries, to existing international ABS frameworks and on-going global efforts supporting the development of ABS frameworks. A range of options to guide and assist countries are presented. Following the analysis of possible modalities for addressing and ABS for GRFA, under agenda item 5, the Working Group may wish to recommend specific action, including by the Commission, to guide and assist countries, upon request.

II. THE NEED FOR GUIDANCE AND ASSISTANCE IN THE DEVELOPMENT ABS FRAMEWORKS FOR GRFA

4. The request by the Commission to the Working Group to develop options to guide and assist countries in the development of ABS measures that accommodate the distinctive features of GRFA should be seen in the context of relevant developments and events, including the Commission's earlier activities and achievements in this area, international agreements, such as the Protocol, the International Treaty on Plant Genetic Resources for Food and Agriculture (Treaty) and the Convention on Biological Diversity (CBD), as well as on-going capacity-building activities related to ABS.

5. FAO and its Commission have a longstanding history of dealing with issues related to ABS for GRFA. In 1983, the FAO Conference adopted the International Undertaking on Plant Genetic Resources for Food and Agriculture, which provided a policy and planning framework for the Commission with respect to plant genetic resources. During the following years, the Commission negotiated further resolutions that interpreted the International Undertaking, and in 1994, started revising the International Undertaking. As a result of this process, the FAO Conference in 2001 adopted the Treaty, the first legally binding and operational international instrument for ABS for genetic resources. The Commission continued considering ABS for GRFA and, at its Eleventh Regular Session, decided that work in this field should be an early task within its Multi-Year Programme of Work.³ At its last session, the Commission, in adopting the terms of reference for the

¹ CGRFA/WG-ABS-1/12/3.

² CGRFA/WG-ABS-1/12/5.

³ CGRFA-11/07/Report, paragraph 71.

Working Group, identified a need to guide and assist countries, upon their request, in developing ABS measures for GRFA.⁴

6. It is particularly important to see the Working Group's task in the context of the Protocol. The task responds to, and reflects an important dimension of the Protocol, which explicitly acknowledges the special nature and role of GRFA, including in the development and implementation of ABS frameworks. The Protocol, in its preamble, explicitly recognizes the importance of genetic resources to food security⁵, the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions⁶, as well as the interdependence of all countries with regard to GRFA and the special nature and importance of these resources for achieving food security worldwide, and for sustainable development of agriculture in the context of poverty alleviation and climate change. In this regard, the Protocol acknowledges the fundamental role of the Treaty and the Commission.⁷ In addition, the Protocol requires Parties to consider, in the development and implementation of their ABS legislation or regulatory requirements, the importance of GRFA and their special role for food security.⁸

7. It is also important to see the Working Group's task in relation to the Treaty and the mandate of its Governing Body to govern all aspects of plant GRFA. The Treaty, which was developed by the Commission, is the first fully functional ABS framework for a subsector of GRFA. Currently, the Treaty is the only international legally binding ABS instrument which has been specifically developed for the food and agriculture sector. The Treaty is recognized as a complementary instrument of the International Regime which was adopted by the tenth meeting of the Parties to the CBD.⁹

8. The task given to the Working Group also reflects the fact that the Protocol does not translate the special nature of agricultural biodiversity and its distinctive features and problems, into substantive standards, guidance or "solutions". Instead, the Protocol encourages, *inter alia*, the development of model contractual clauses, codes of conducts and other instruments, and leaves room for other international agreements, provided they are supportive of and do not run counter to the objectives of the CBD and the Protocol.

- The Protocol requires Parties to encourage, as appropriate, the development, update and use of sectoral and cross-sectoral model contractual clauses for mutually agreed terms (MAT) and of voluntary codes of conduct, guidelines and best practices and/or standards in relation to ABS. The CBD COP serving as meeting of the Parties to the Protocol shall periodically take stock of the use of the model contractual clauses, codes of conduct, guidelines and best practices and/or standards.¹⁰ Sectoral approaches, including those in line with current commercial practices that allow for different treatment of sectors or subsectors of genetic resources may therefore form part of the International Regime, which is constituted of the CBD, the Protocol, as well as complementary instruments, including the Treaty.
- The Protocol leaves ample room for other international agreements in the field of ABS. The Protocol does not prevent its Parties from developing and implementing other relevant international agreements, including other specialized ABS agreements, provided that they are supportive of and do not run counter to the objectives of the CBD and the Protocol. Where a specialized international ABS instrument (that is consistent with and does not run counter to the objectives of the CBD and the Protocol) applies, the Protocol does not apply for the Party or Parties to the specialized instrument in respect of the specific genetic resource covered by and for the purpose of the specialized instrument. Beyond this openness to other international instruments, the Protocol also states that due regard should be paid to "useful and relevant

⁴ CGRFA-13/12/Report, Appendix D.1.

⁵ Protocol Preamble, paragraph 14.

⁶ Protocol Preamble, paragraph 15.

⁷ Protocol Preamble, paragraph 16.

⁸ Protocol, Article 8(c).

⁹ Decision X.1

¹⁰ Articles 19 – 20.

ongoing work or practices under such international instruments and relevant international organizations,” provided that they are supportive of and do not run counter to the objectives of the CBD and this Protocol.”¹¹

9. The need for guidance and assistance in the development and implementation of ABS framework is also reflected by the Protocol which recognizes the need for building and developing capacity to develop, implement and enforce domestic legislative, administrative or policy measures on ABS.¹² In the same vein, the Treaty acknowledges the need for technical assistance facilitation the implementation of its provisions.¹³

10. Governments and other stakeholders have repeatedly stressed the need for capacity-building with regard to ABS at different levels. In response, a number of ABS capacity-building initiatives of different types and size and addressed at different regions, countries and target audiences have been developed and implemented.¹⁴ While most of these initiatives do not include, let alone focus on, ABS for GRFA, they demonstrate the need for capacity-building to develop legal, administrative and policy measures for ABS, including for GRFA.

11. The Commission’s earlier discussions and achievements on ABS for GRFA, global policy developments, in particular the Protocol with its strong emphasis on the special nature of agricultural biodiversity as well as the numerous initiatives aiming to assist countries in the development and implementation of ABS measures, form the background that the Working Group may wish to consider in carrying out its task.

III. OPTIONS TO GUIDE AND ASSIST COUNTRIES UPON THEIR REQUEST

12. There is a wide range of options to guide and assist countries in the development of ABS measures that accommodate the distinctive features of GRFA. This section presents typical options, which in many cases do not exclude, but may complement each other. In fact, a combination of the various options may form part of a strategy aiming at the development and implementation of ABS measures.

A. Awareness raising and exchange of information on ABS for GRFA

13. Proper information on, and full awareness of the distinctive features of GRFA, the interdependence of all countries with regard to GRFA and the special nature and importance of these resources for achieving food security and for sustainable development of agriculture, are fundamental to the development of ABS measures that accommodate the distinctive features of GRFA. Awareness-raising as a tool to support the implementation of international agreements has gained popularity in international law. The Protocol and the CBD devote provisions to awareness-raising.¹⁵

14. Awareness-raising can take many forms and can take place at different levels. The Protocol itself raises awareness among governments and policy-makers by explicitly acknowledging the important role of GRFA. Since 1983, the Commission through its intergovernmental work has been raising awareness of GRFA and related ABS issues. The Commission, at its Twelfth Regular Session, considered detailed studies on the use and exchange of GRFA, the impact of climate change on countries’ interdependence on GRFA and on the role GRFA play in ABS policies and arrangements.¹⁶

15. Awareness-raising activities and the exchange of information are also important with regard to stakeholders actually using and exchanging GRFA on a routine basis. In 2010, FAO initiated a global multi-stakeholder expert dialogue which included experts from different stakeholder and user

¹¹ Protocol, Article. 4

¹² See Protocol, Article 22.

¹³ See Treaty, Article 8.

¹⁴ For an overview, see <http://www.cbd.int/abs/projects.shtml>

¹⁵ Protocol, Article 21; CBD, Article 13. Other examples include the European Landscape Convention (Article 6.A) and the Convention for the Safeguarding of the Intangible Cultural Heritage (Article 1).

¹⁶ See Background Study Papers No. 42 – 48.

communities of the different subsectors of GRFA.¹⁷ The expert dialogue aimed to gather experience and expertise helped raising awareness of ABS-related issues among practitioners active in the different subsectors of GRFA. Awareness-raising and the exchange of information may also take place at regional and national levels and generate relevant knowledge on use and exchange practices, which may inform the development of ABS policies.

16. While awareness-raising and exchange of information are essential to guide and assist countries in the development of ABS measures, they might just be a first step. They will usually help to make the relevant audiences more familiar with the concept of ABS and with the special situation of GRFA; they will, on the other hand, only in rare cases immediately generate concepts and concrete regulatory solutions, tailored to the specific needs of GRFA.

17. Should the Working Group agree that awareness raising is an essential step in guiding and assisting countries in the development of legislative, administrative and policy measures for ABS for GRFA, it could recommend that the Commission request the Secretary to develop awareness-raising activities, including materials, with regard to ABS for GRFA and, in collaboration with the Treaty Secretariat and relevant FAO technical divisions, provide support to national, regional and international awareness-raising processes on ABS, including in the context of wider ABS initiatives implemented by other organizations and institutions.

B. Capacity building and technical assistance

18. Capacity-building and development as well as technical assistance are of pivotal importance to the development and implementation of ABS measures for GRFA. Capacity for developing and implementing ABS measures for GRFA can be built at an institutional (e.g. procedural) and human resources level, and at a normative level (e.g. policies, administrative measures, legislation). Capacity-building activities may therefore take place in different forms and formats.

19. The Treaty requires promoting the provision of technical assistance to Contracting Parties, especially those that are developing countries or countries with economies in transition with the objective of facilitating the implementation of the Treaty.¹⁸ Similarly, Parties to the Protocol shall cooperate in capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement the Protocol in developing country Parties.¹⁹

20. The Commission, at its Thirteenth Regular Session, requested its Secretariat to engage in cooperation with the Secretariats of the CBD and the Treaty in on-going capacity building and development activities.²⁰ Such activities could take place in the form of national, regional or global seminars which could be organized back-to-back with meetings dealing with ABS issues, such as future meetings of the Parties to the Protocol, or future meetings of the Working Group, should the Commission decide to hold those.

21. Numerous capacity-building workshops on ABS have taken place.²¹ However most of these initiatives did not specifically address GRFA, with the notable exception of workshops and other capacity-building initiatives for the implementation of the Treaty, which, however, focussed on plant GRFA, rather than on all GRFA.²² Should the Working Group agree that capacity building and technical assistance are an essential step in guiding and assisting countries in the development of ABS frameworks for GRFA, it could recommend that the Commission request its Secretary to develop capacity-building and technical assistance activities with regard to ABS for GRFA, in cooperation

¹⁷ Background Study Paper No. 59.

¹⁸ Treaty, Article 8.

¹⁹ Protocol, Article 22.1.

²⁰ CGRFA-13/11/Report, para. 63.

²¹ <http://www.cbd.int/abs/projects.shtml>.

²² See, for example, the Joint Capacity Building Programme for Developing Countries on the Implementation of the Treaty and its Multilateral System of Access and Benefit-sharing (http://www.planttreaty.org/sites/default/files/jicbp_10.pdf).

with the CBD, the Protocol and the Treaty and with relevant stakeholders, including farmers and indigenous and local communities.

22. While capacity building and technical assistance would address a crucially important aspect of ABS for GRFA, they would also raise the question as to which policy principles and considerations they should be guided by. For plant GRFA, the Treaty provides clear guidance. No such instrument guidance is currently available for GRFA other than plant GRFA.

C. Model contractual clauses for mutually agreed terms

23. Another option to guide and assist countries is the development of model contractual clauses for MAT. Model contractual clauses for MAT would usually be addressed to, and developed by the actual providers, recipients, collectors or other users of genetic resources who choose to create and use them in ABS agreements. While governments and the Commission could encourage and offer support to the development of model clauses for MAT, the responsibility for the development, update and use of model clauses would usually lie with the stakeholders.

24. As mentioned above, Parties to the Protocol shall encourage, as appropriate the development, update and use of sectoral and cross-sectoral model contractual clauses for MAT.²³ Model contractual clauses are of particular value where providers and recipients exchange a high volume of genetic resources on a frequent or routine basis and wish to standardize the conditions of these exchanges through private law contracts. While model ABS agreements and contractual clauses have been developed in various areas and by different institutions,²⁴ existing model clauses and agreements, other than under the Treaty, do not specifically address ABS for GRFA. The situation is different under Treaty where the Governing Body of the Treaty has adopted, and providers and recipients are using, the Standard Material Transfer Agreement (SMTA) for the exchange and utilization of PGRFA. The successful use of the SMTA under the Treaty provides a useful model of how GRFA could be dealt with in a specific manner. The Commission, as an intergovernmental forum, could provide a platform for facilitating and overseeing the development of model contractual clauses for MAT on GRFA. Stakeholders could also be encouraged to monitor the use of the model contractual clauses and to update them on a regular basis.

25. Should the Working Group agree to recommend that model contractual clauses for GRFA or subsectors of GRFA be developed, it could recommend that the Commission promote the engagement of relevant stakeholders, including farmers and indigenous and local communities to identify the conditions under which specific GRFA are exchanged and utilized. Model contractual clauses for MAT could then be developed on the basis of existing practices and experience and presented to the Commission.

D. Stakeholder voluntary codes of conduct, guidelines and best practices and/or standards

26. Another option to guide and assist countries in the preparation of ABS measures for GRFA is the development of stakeholder voluntary codes of conduct, guidelines, and best practices and/or standards for specific types of users, uses or subsectors of GRFA. These voluntary codes of conduct, guidelines and best practices/ standards would typically be developed by, and addressed to the actual providers, recipients, collectors or other users of genetic resources. As such, they would typically reflect the special features and needs of the relevant stakeholder community. They would be different from instruments that primarily address and are implemented by governments although the latter may come with similar names, such as 'code of conduct' or 'guidelines' (see below, section E).

27. As mentioned above, Parties to the Protocol shall encourage, as appropriate, the development, update and use of voluntary codes of conduct, guidelines and best practices and/ or standards in relation to ABS.²⁵ The Parties to the Protocol shall periodically take stock of the use of voluntary

²³ Protocol, Article 19.1.

²⁴ <http://www.cbd.int/abs/resources/contracts.shtml>.

²⁵ Protocol, Article 19.1.

codes of conduct, guidelines, practices and standards. The Protocol even foresees for the possibility of having specific codes of conduct, guidelines, practices and standards adopted by the Conference of the Parties serving as the meeting of the Parties of the Protocol.²⁶ While numerous guidelines, codes of conduct and best practices have been developed by various stakeholders for ABS,²⁷ none of them specifically applies to GRFA.²⁸

28. Should the Working Group agree to recommend that the Commission promote the development of voluntary codes of conduct, guidelines and best practices and/or standards in relation to ABS for GRFA or subsectors of GRFA, the Commission could call upon relevant stakeholders, including farmers and indigenous and local communities, to identify how specific GRFA are exchanged and utilized, and how these practices are already reflected in existing arrangements. Based on the information generated, instruments could be developed on the basis of existing practices, taking into account the distinctive features of GRFA and the provisions of the Protocol and the Treaty, and be presented to the Commission which could offer to play a facilitating and supporting role.

29. The development of voluntary codes of conduct, guidelines and best practices and/or standards may be seen as a starting point in identifying and recording best practices through self-regulation. However, by definition, the responsibility for the development and implementation of, as well as compliance with, *self-regulatory* instruments lies with the stakeholders. Not all subsectors of GRFA may be in a position to develop such instruments at the appropriate levels or within an acceptable time frame. Self-regulatory schemes may also raise other questions, e.g. with regard to transparency and public accountability and the possibility to monitor their application, which in the case of ABS might be of particular importance.

E. Voluntary guidelines for addressing legislative, administrative and policy measures on ABS for GRFA

30. Another option for the Working Group to consider is the preparation of voluntary guidelines that guide and assist countries in the development and implementation of legislative, administrative or policy measures for ABS for GRFA, including for contractual arrangements for ABS for GRFA. The voluntary guidelines could embrace a whole range of elements for legislative, administrative and policy measures, including those described in the above options, accommodating the special nature of GRFA. The voluntary guidelines could present a variety of regulatory options for ABS for GRFA from which countries could pick and choose, depending on their national situation, priorities and needs. The guidelines could provide general principles for regulating ABS for GRFA and then provide guidance as to how the principles may be translated into options for policy and regulatory elements accommodating the distinctive features of GRFA.

31. The voluntary guidelines could include options for the roles and responsibilities of implementing authorities, and for the participation of ABS stakeholders, including indigenous and local communities, in the development and implementation of ABS arrangements for GRFA. They could identify, as appropriate, options for GRFA-specific steps or conditions in the ABS processes of prior informed consent and MAT. Like the *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization*, the guidelines could list optional elements for inclusion in material transfer agreements as well as model contractual clauses. The voluntary guidelines could also deal with other ABS elements such as incentives, monitoring and national reporting.

32. The voluntary guidelines could be informed by the actual practices and approaches of GRFA stakeholders, including commercial practices, and translate those practices and approaches into a spectrum of feasible options for ABS frameworks that accommodate the distinctive features of GRFA.

²⁶ Protocol, Article 20.2.

²⁷ See <http://www.cbd.int/abs/instruments/>

²⁸ The International Code of Conduct for Plant Germplasm Collecting and Transfer, adopted by the FAO Conference in 1993, is primarily addressed to governments, see <http://www.fao.org/nr/cgrfa/cgrfa-global/cgrfa-codes/en/>.

While being in harmony with the Protocol, the Treaty and other relevant international instruments, the voluntary guidelines could promote a coherent and consistent process of policy development across the whole GRFA sector and still leave sufficient flexibility for the specificities of the different subsectors.

33. The development of the voluntary guidelines could contribute to awareness-raising and capacity building, especially if they are seen as a rolling document that will be updated on a regular basis in the light of feedback received from governments and stakeholders. In addition, the voluntary guidelines could be used by governments and international organizations, including FAO, in their awareness-raising and capacity-building activities on ABS for GRFA.

34. Should the Working Group agree that voluntary guidelines should be prepared to guide and assist countries in developing legislative, administrative and policy measures for ABS for GRFA, it could recommend that the Commission request the Secretary to prepare, based on submissions by governments and international organizations, including farmers and indigenous and local communities, draft elements of the voluntary guidelines, for review by the Working Group. In addition, the Working Group could recommend, that the Commission request the Secretary to conduct a survey with the aim of gathering information on existing ABS practices for GRFA the results of which could inform the draft manual.

F. Specialized international ABS agreements for GRFA

35. Another option to guide and assist countries is the development of a specialized international agreement. As mentioned above, the Protocol does not prevent its Parties from developing and implementing other relevant international agreements, including other specialized ABS agreements, provided that they are supportive of and do not run counter to the objectives of the CBD and the Protocol. Where a specialized international ABS instrument (that is consistent with and does not run counter to the objectives of the CBD and the Protocol) applies, the Protocol does not apply for the Party or Parties to the specialized instrument in respect of the specific genetic resource covered by and for the purpose of the specialized instrument.²⁹

36. Beyond this openness to other international instruments, the Protocol also states that due regard should be paid to useful and relevant ongoing work or practices under such international instruments and relevant international organizations, provided that they are supportive of and do not run counter to the objectives of the CBD and the Protocol.³⁰ Thus, the Protocol provides flexibility for the Commission to explore various instruments, including international agreements, that guide and assist countries in the development of ABS measures for GRFA.

37. An international legally binding agreement addressing specific aspects of ABS for GRFA, as the Treaty does for plant GRFA, could strengthen the GRFA policy agenda, and draw the attention of policy-makers to the relevance of GRFA and their distinctive features. However, it might be premature to consider this option at the present stage. It should be recalled that the Protocol as it stands, provides quite some flexibility to address ABS for GRFA. The challenge might therefore be to implement the Protocol in a way that is consistent with the special nature of GRFA, rather than to change existing or create new international agreements applying to GRFA. Should the Working Group nonetheless favour the development of an international agreement, it could recommend that the Commission request this matter be reported to the Conference, for its consideration.

IV. GUIDANCE SOUGHT

38. There is a wide range of options to guide and assist countries in developing ABS frameworks that accommodate the distinctive features of GRFA, as the Treaty does for plant GRFA. It is important to note that most of the options presented in this document do not exclude and, in fact, may complement each other. In advising the Commission on preferred options the Working Group may wish to take into account the modalities for addressing ABS for GRFA, as presented in the document,

²⁹ Protocol, Article 4.2; 4.4.

³⁰ Protocol, Article 4.3.

Possible modalities for addressing access and benefit-sharing for genetic resources for food and agriculture.

39. The Working Group may wish to recommend that the Commission, taking into account the Treaty, the CBD, the Protocol and other relevant international agreements:

- a) Encourage countries that have not done so, to ratify or accede to the Treaty as soon as possible and promote its full implementation in regard to plant GRFA;
- b) Invite the Governing Body of the Treaty, in its continued governance of plant GRFA, to closely coordinate with the Commission in order to ensure that the distinctive features of GRFA are taken into account in the development of ABS measures at both national and international level;
- c) Request the Secretary to develop awareness-raising activities, including materials, with regard to ABS for GRFA and, in collaboration with relevant FAO technical divisions and the Secretariat of the Treaty, provide support to national, regional and international awareness-raising processes on ABS, including in the context of wider ABS initiatives implemented by other organizations and institutions;
- d) Request the Secretary to develop capacity-building and technical assistance activities with regard to ABS for GRFA, in cooperation with the CBD, the Protocol and the Treaty and with relevant stakeholders, including farmers and indigenous and local communities;
- e) Promote the engagement of relevant stakeholders, including farmers and indigenous and local communities, to identify the conditions under which specific GRFA are exchanged and utilized and to develop model contractual clauses for MAT on the basis of existing practices and experiences, to be presented to the Commission;
- f) Promote the development of voluntary codes of conduct, guidelines and best practices and/or standards in relation to ABS for GRFA or subsectors of GRFA, to be presented to the Commission;
- g) Request the Secretary to prepare, based on submissions by governments and international organizations, including farmers and indigenous and local communities, draft elements for voluntary guidelines for legislative, administrative and policy measures for ABS for GRFA, for review by the Working Group at a future meeting;
- h) Recommend to the Conference that the Director-General be requested:
 - o to provide a forum for negotiations among governments for consideration of an international agreement on ABS for GRFA, in harmony with the Treaty, the CBD, the Protocol and other relevant international agreements;
 - o to convene extra-ordinary sessions of the Commission as necessary for the completion of the negotiations of the international agreement, subject to the approval of the Council.