



# RAFI *Translator*

*An Unauthorized Translation of Intergovernmental Documents*

## The Commission - Phase Three

**CGRFA '97 Has More Work To Do Than It Thinks!**

<b>Text</b>	Provisional Agenda for the FAO Commission on Genetic Resources for Food and Agriculture, Seventh Session
<b>Forum</b>	CGRFA, Rome, May 15-23, 1997
<b>Summary</b>	The Commission's menu is fat enough to feed a gene bank. What are the key items? Everyone knows that the real agenda is <b>item #8</b> - the renegotiation of the IU (International Undertaking) - scope, access, benefit-sharing. But, is it? What of <b>item #4</b> ? Now that there is a Leipzig Plan, is anybody doing it? Then, too, there's <b>item #3</b> addressing the expanding scope of the Commission and the shifting sands upon which FAO's genetic resources work rests. Institutionally, is the Commission "mature" enough for its third phase? Can it do justice to the urgent work needed on animal germplasm? Let's not ignore <b>item #5</b> on progress on the Global System: What of the outstanding issues from the Nairobi Final Act? It's time to close the <i>ex situ</i> loop-hole for banks and gardens. The IU must proceed, but delegations have IOUs from Leipzig and elsewhere that can't be postponed. Leipzig was endorsed by the Food Summit, what can the Commission do to support the Summit?
<b>Analysis</b>	Neither governments, FAO itself, nor Civil Society Organizations (CSOs) have followed-up on even the parts of the Leipzig Plan they fought so hard for last year. It's time for an accounting. Regarding the IU, the Latin American bilateralists seem to be adopting a much more multilateral posture but many fear that Brazil (now realizing that it would gain if 25 major food crops were widely-exchanged) will cut a private deal with the USA. Meanwhile, the Africans (who have the most to lose from bilateralism) seem bent on bilateral contracts... or are they? Then there are the Asians (arguably the most self-sufficient region) continuing to see the logic in multilateral approaches. In the North, the Americans continue to drag their heels (and their knuckles) while the Europeans are taking encouraging baby steps toward multilateral cooperation and practical action. Behind the scenes, there are real and constructive movements but there may not be much to advertise in the Commission's report. The success of this Commission will be judged by what it achieves with items #3, #4, and #5.

# The Commission - Phase Three

## *Life after Leipzig - The Next Meeting of the CGRFA*

### Background - Phase Three

The first phase of the FAO Commission - its formative phase - began with its first meeting in 1985 and concluded with the adoption of a number of agreed interpretations to the International Undertaking (including Farmers' Rights) in 1991. The second phase could best be described as the Leipzig Process. The process began with the initial proposal for the Technical Conference in 1991 and concluded with the Report of the Technical Conference last December. The May session of the Commission marks the launching of its third phase as it both moves toward the modernization of its Undertaking; the expansion of its horizons to include all genetic resources for food and agriculture; and the practical implementation of its already-negotiated technical and policy programmes.

Because the final negotiation of the revised International Undertaking (IU) clearly has some distance to go, it may be appropriate for governments to use the May session to ensure that the Commission is prepared for this more "mature" phase. While governments must obviously continue their negotiations, they could also review the institutional mechanisms for the Commission and review the Programme of Work with respect to a variety of agreements and codes. There is a genuine opportunity here to make real progress on several fronts.

- **Agenda Item #1**  
*Election of the Chair and Vice-Chair*

The Commission has never addressed the issue of its own leadership in a coherent and timely fashion. Good fortune and last minute inspiration have provided the CGRFA with excellent leadership. Nevertheless, it would be a real help to the efficient working of the Commission, politically and practically, if governments would discuss this matter informally among themselves in their regional meetings and collectively.

- **Agenda Item #2**  
*Adoption of the Agenda*

Does the current provisional agenda allow for an adequate discussion of the implementation of the Leipzig Global Plan of Action and for a proper evaluation of the FAO-CGIAR Accord?

- **Agenda Item #3**  
*Revision of the Terms of the Reference of the Working Group and Election of its Officers*

This item could be dismissed as "housekeeping" but, in fact, could significantly affect the future effectiveness of the Commission. We urge governments to give this item their serious attention. The issues involved here include...

- **Sustainable [Secretariat] Development - Part Two**

It is encouraging that the agenda includes a discussion of the structural changes possible for FAO's work related to genetic resources. At present, not only is the Commission secretariat separate from the individual species/sectoral secretariats covering plants, animals, fish, and forestry - but each of these is also distinct from those charged with Leipzig follow-through. Were this to continue, governments would be denied a coordinated FAO response to genetic resources for food and agriculture. The Leipzig follow-through secretariat for example, is currently a sub-set of a service within a division within a department - never to be seen or heard from again.

Discussion documents suggest three alternative structures ranging from a kind of technical advisory board (or CG-style "TAC") to a variation on the theme being played out for the IPM (Integrated Pest Management) Facility (wherein FAO works in partnership with the World Bank and others). Governments might agree to a few basic principles...

**Commission/Sectors:**

- FAO should have an integrated and coherent approach to genetic resources for food and agriculture;
- The Commission should be working toward GPAs for each species sector and, ultimately, an IU (or IUs) that incorporates all agricultural species;
- Secretariat coordination should facilitate the capacity of the Commission to exercise policy oversight over all of the work related to genetic resources for food and agriculture;

**Leipzig Follow-through:**

- Follow-through (and the enabling secretariat) should be highly-visible and accessible;
- The secretariat should have the institutional weight necessary to implement the GPA;
- The structure of follow-through arrangements should be open to - and encourage - inter-institutional cooperation and collaboration.

It is a breath of fresh air and an indication of the spirit arising from the Food Summit as well as Leipzig that FAO has sought the Commission's views on what are sometimes seen to be "internal" matters. The Commission could respond by describing its long-range vision for FAO's work in this field, as well as by outlining interim steps building toward this long-term vision.

• **Working [*Together?*] Groups**

Proposals on the table call for the creation of specific working groups for each of plants, animals, and (ultimately?) fish and forest genetic resources for food and agriculture. There is no proposal that would allow a Working Group for the entire work of the Commission. Until now, the Working Group has functioned as an executive committee or preview forum to enable the smooth functioning of the Commission in advance of each session, and on occasion for interim meetings in years when the Commission is not meeting. As important as it is to create sub-working groups in such areas as animals and fish, it remains vital for the Commission to have a *de facto* "executive committee" capable of dealing holistically with the programme of work.

• **DAD needs *Mom***

FAO has undertaken important pioneering work with respect to animal genetic resources and this work must be given the high profile it deserves within the FAO Commission. It is even more urgent that it receive strong financial support so that its programme of work can be activated. Not only should there be a sub-working group, but the Commission should make time available for a full and creative discussion of the ways the profile of animal genetic resources can be enhanced around the world.

Delegates may wish to invite the DAD secretariat to conduct a lunch-time seminar, including an informal question/answer period, during the Commission.

• **Agenda Item #4**  
*Report of the Fourth International Technical Conference*

• **Leipzig *Lapsed?***

Eleven months ago, the draft Leipzig Plan of Action was at the centre of the Commission's agenda and thinking. Seven months ago, world leaders incorporated the Leipzig Plan into the

World Food Summit Plan of Action. Where is the GPA now? There is an impression that the world has moved on to debate the International Undertaking without pausing to implement the accepted Plan of Action. The Commission needs to assign all the time that is necessary to review progress since Leipzig, and to consider ways to accelerate the implementation of the Plan. If no action is taken now, it may be two years before the Commission can meet again to discuss follow-through. This would be irresponsible. Among the specific issues that could be addressed...

- **What Have You [Governments] Done Lately?**

A number of reports will be submitted to the Commission. Of all that will be said, what is new? What are governments doing now that they were not doing before Leipzig? What policies and practices have changed?

- **Early Warning ... or Early Mourning?**

Of all the action proposals adopted at Leipzig, the one crying out for immediate implementation is that for an Early Warning System for emergency germplasm conservation and, in the event of disasters, multiplication of local varieties for the urgent use of farmers. What has been done? How can the Commission speed to finalization of this System? A "Seeds" Early Warning System is an integral part of food security and of the Right to Food. Work here could and should be seen as part of the Commission's contribution to the realization of the Summit Plan of Action.

- **Catching Cash - Commitments and Conservation**

The time has arrived for the Commission to give serious attention - and for governments to make serious commitments to - the funding of the Global Plan of Action. What has been done since Leipzig? Could governments consider creative ways to convert the much-disputed "debt" of some countries into a trust fund for the conservation of genetic resources for food and agriculture? Could the Common Fund for Commodities be amended to provide a facility for conservation?

- **Agenda Item #5**

*Progress Report for the Global System on the Conservation and Sustainable Use of Genetic Resources for Food and Agriculture and Follow-up to the Fourth International Technical Conference*

The momentum from Leipzig and from the World Food Summit should encourage the Commission to move ahead briskly on a number of fronts. One possible issue has appeared on the agenda for unknown reasons. At least one other is urgent for this session of the Commission...

- **Catching a Thief - Loopholes in the Network**

Between this Commission and its next scheduled meeting, the FAO-CGIAR Accord covering policy over CG genebank materials will come under review and will either be renewed, dropped, or amended. The Commission needs to address the whole range of outstanding issues related to *ex situ* germplasm collections, including those of the CGIAR, that are largely outside of the Biodiversity Convention. If that discussion does not take place in this Commission, it could be too late to influence the renegotiation of the CGIAR arrangement. Among the outstanding concerns:

**CGIAR -**

- Duplicate samples of CG genebank material, wherever they are located outside of the country of origin, should be considered part of the Accord and subject to policy

oversight by the Commission. CGIAR, FAO, and governments must work together to ensure that these collections are clearly identified and brought under the agreement when it is reviewed.

- It should be clearly understood that the existing FAO-CGIAR Accord covers all the genetic material appended to the agreement - no matter how it is recombined - or by whom. The Commission's policy oversight responsibility extends to any actions related to the recombination of germplasm or its distribution to public or private institutions. For this reason, the Commission should expect a report from CGIAR on how it is managing the exchange of this germplasm through its genebank, nursery, or breeding programmes.
- Since the adoption of the FAO-CGIAR Accord in 1994, a number of cases have arisen in which CG Centres have made germplasm available to companies, public institutes, or private individuals who have since obtained intellectual property protection for "inventions" involving CG germplasm. It may be appropriate for the Commission to review Centre policies and work at this time to ensure that the interests of Farmers and governments are protected.

#### **Botanical Gardens -**

- A small but significant share of the materials held by botanical gardens also relate to genetic resources for food and agriculture. Most of these collections remain outside of the Biodiversity Convention. In keeping with the resolution of the Nairobi Final Act, it may be time for the Commission to explore ways to bring this material into the Global System and under the auspices of the Commission.

<b>CGIAR and Intellectual Property</b> <i>Some Examples</i>		
IRRI (CB-801 - an IR8 rice derivative)	USA - The Farms of Texas Co. U.S. Plant Breeders' Rights	A USAID study by Dana Dalrymple reports that a variety essentially derived from IR-8 was accorded Plant Variety Protection in the United States.
CIMMYT ( <i>Mizar</i> triticale)	Italy - ENEA PBR registration #412 (1987)	Italian PBR office confirms that this variety, essentially derived from a CIMMYT-INIA variety, has been "protected" in Italy. The variety is also grown in other European countries.
CIMMYT ( <i>Manigero</i> triticale)	Spain - Semillas Fito PBR registration #759 (1989)	Spain's PBR office confirms that this variety is grown in Spain under PBR "protection". The variety is also grown under another name in France.
CIMMYT ( <i>Inbar</i> durum wheat)	Israel - ARO /Volcani Center PBR terminated in 1995	This variety is said to be identical to, or essentially derived from, a CIMMYT release.
IITA (Cowpea Trypsin-inhibitor gene)	UK -Agricultural Genetics Co. U.S. Patent #5,218,104 (1993)	IITA researcher discovered valuable gene. Original patent went to Durham University and thence to Agricultural Genetics Co. from where it has been licensed to seed companies.
IITA ( <i>Kunde Zula</i> cowpea)	USA - Jeffrey Ehlers licensed to Inland Empire Foods PBR registration #9500268 (1997)	The PBR certificate holder reports that he made the essential cross as an employee of IITA, and then took it back with him along with several hundred other lines to the USA.
IRRI (rice resistance gene)	USA - Univ. Of California Utility patent pending	"Inventor" claims initial work was done at IRRI. At her request, UC Davis has agreed to a Gene Recognition Fund of U.S.\$50,000 for scholarships for West African or Filipino scientists. So-called "wild" rice from which gene was extracted is well-known in markets throughout much of Africa.

- **Agenda Item #6**

*Reports from International Organizations on Their Programmes, Policies, and Activities on Plant Genetic Resources for Food and Agriculture*

The issue here is why there are no reports from either the World Bank or the World Trade Organization. The Commission may wish to consider steps to increase the effective liaison between the Commission and these two important organizations.

- **Agenda Item #7**

*Consideration of FAO's Programme on Genetic Resources for Food and Agriculture*

This matter is covered in other sections of this document.

- **Agenda Item #8**

*Continuation of Negotiations for the Revision of the International Undertaking on Plant Genetic Resources*

The central issues of access, scope, and compensation still require extensive study and negotiation. Progress was made in December and more progress, at least greater clarification and understanding, can be expected now. Some initial points...

- **Staple food crops** - There is growing recognition that the essential role these crops play in the food security of many countries - and the wide distribution of crop germplasm over centuries or millennia - call for a multilateral exchange system with as few constraints as possible. Such an open exchange system however, still requires formal commitments for a financial mechanism and for policies ensuring that the donors of germplasm have unimpeded access to innovations arising from their donations.
- **High-value crops** - There is an equally broad acceptance of the idea that high-value crops or unique germplasm may require a more restrictive system of exchange that could include a combination of multilateral and bilateral agreements that are crop-specific.
- **Intellectual Property** - There is clearly an urgent need for a fresh examination of the impact of rapidly-changing intellectual property law and practices on the exchange and utilization of genetic resources for food and agriculture. This analysis must be completed and debated prior to the WTO review of the TRIPS chapter in 1998-99.

- **Agenda Item #9**

*Future Work of the Commission*

In keeping with the spirit of the World Food Summit, the Commission may wish to consider means by which it can make a genuine contribution to the follow-through to the Summit. Among the areas that could be considered are ...

- **FIVMS (Food Insecurity and Vulnerability Information and Mapping System)** - The Summit acknowledged the important role of genetic resources and diversity in overcoming hunger and explicitly endorsed the Leipzig Plan. The Commission could make a very constructive contribution to the FIVMS strategy adopted during the recent Committee on World Food Security (CFS) by providing data on genetic resource collection, conservation, and vulnerability as additional elements for the mapping work underway.
- **Right to Food** - It is equally evident from the intensity of the debate at Leipzig that Farmers' Rights must be implemented at global and national levels and appropriately incorporated into the revised Undertaking. In addition, Farmers' Rights could be forwarded to the UN High Commissioner on Human Rights so that its elements can be considered as part of the evolution of the Right to Food as currently being studied by the Commissioner and by FAO. Certain elements of Farmers' Rights might be most appropriately realized within this wider framework.
- **Food for All Campaign** - In the same way, the importance of the conservation and utilization of genetic resources for food and agriculture could be a highly-educational

and practical element of national and regional work now underway to develop the Food for All Campaign welcomed by the Summit. The Commission could work with national programmes to encourage school-based and other education/conservation initiatives that would support the Summit's call to diversify food sources and to promote indigenous peoples (especially womens') knowledge.

- **Agenda Item #10**  
*Other Business*

How will the intergovernmental negotiations regarding the revision of the Undertaking proceed?  
Will the Commission or the Working Group(s) meet later this year or next?