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**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD
AND AGRICULTURE**

FIRST SESSION OF THE GOVERNING BODY

Madrid, Spain, 12–16 June 2006

The attached document, entitled *Implementation of Article 6 of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture: Swiss Input Paper*, has been circulated at the request of the Government of Switzerland, in the language in which it was received.

For reasons of economy, this document is produced in a limited number of copies. Delegates and observers are kindly requested to bring it to the meetings and to refrain from asking for additional copies, unless strictly indispensable. The documents for this meeting are available on Internet at <http://www.fao.org/ag/cgrfa/gb1.htm>

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Implementation of Article 6 of the FAO International Treaty on Plant
Genetic Resources for Food and Agriculture

SWISS INPUT PAPER
(May 2006)

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I. BACKGROUND AND OBJECTIVES OF THIS INPUT PAPER

Article 6 on Sustainable Use of Plant Genetic Resources is a key provision of the International Treaty, being closely linked to one of the Treaty's objectives. The article also has a close link with most of the substantive provisions of the Treaty. In the longer term, Article 6 could provide a basis for the elaboration of harmonized international standards for national measures to promote sustainable use of plant genetic resources for food and agriculture (PGRFA). The implementation of related commitments accepted by Parties under the provisions of the International Treaty would thus become measurable, which would in turn provide a basis for effective compliance monitoring. Article 6 also provides a basis for linking promotion of sustainable use of plant genetic resources to related efforts under other instruments, in line with the Millennium Development Goals and the Johannesburg Plan of Implementation. This would allow the International Treaty to assume a leading role in the overall developments in this field.

Against this background, the present Input Paper is intended as a practical contribution to the discussion of the first session of the Governing Body on the implementation of Article 6. As such, it has three objectives: first, to facilitate understanding of the issues by providing a summary overview of the key concepts underlying Article 6; second, to identify possible actions that could facilitate implementation of Article 6, and third, to outline the role the Governing Body of the Treaty and other bodies could play in assisting Parties in implementing Article 6. The objective of the Paper is not to propose specific options for the implementation of Article 6, but to provide a frame and starting point for the discussion of a possible work plan by the Governing Body. For the sake of brevity and readability, the Paper has been kept short. References to relevant literature and documents are contained in the Annex.

The elaboration of this Input Paper benefited greatly from an expert workshop convened by Switzerland at IPGRI in Rome from 10-11 December 2005, in which some 20 experts in the field of PGRFA from all parts of the world participated. A previous draft of this Input Paper was submitted to the experts in advance and discussed intensively during the workshop. The present draft was prepared in light of the outcome of the discussions. Nevertheless, the content of the Paper remains the sole responsibility of the Government of Switzerland.

II. THE CONCEPT OF SUSTAINABLE USE

1. Theoretical basis: sustainable development, sustainable use and related concepts

Sustainable development is the overarching concept from which related concepts such as sustainable use, sustainable management and the ecosystems approach are derived. In international policy discussions, the concept of sustainable development began to emerge in the 1970s, and it has been reflected in a wide range of legal and policy instruments since the 1990s. The best known attempt at a definition appears in the 1987 Report of the World Commission on Environment and Development (Brundtland Report): "Sustainable Development seeks to meet the needs and aspirations of the present without compromising the ability to meet those of the future." Despite near-universal support (including by UN bodies, non-UN organizations such as the OECD and the WTO, and the International Court of Justice), no universally recognized definition of sustainable development has as yet emerged beyond the notion that sustainable development is an overarching umbrella concept aiming to balance environmental, economic and social interests. In the legal academic discussion, sustainable development is seen as an overall concept composed of several interrelated elements. Sustainable use, the concept underlying Article 6, is one of these elements. It focuses on the adoption of standards governing the use of a specific natural resource, with the underlying notion that use should be such that it promotes development and conservation

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of the resource. Conversely, conservation is a prerequisite for sustainable use. There is thus a strong interlinkage between the concepts of conservation and sustainable use, which is also reflected in Article 1.1 of the International Treaty.

The term “sustainable management” does not appear to have one universally accepted meaning. It is sometimes used interchangeably with “sustainable use”. In other instances, “sustainable management” is understood as management of resources in a way that guarantees their “sustainable use”. The latter approach underlies the Ramsar Convention and the Convention on Biological Diversity (CBD), among others. Closely related to the concepts outlined above, the “ecosystem approach” aims to address ecosystems in a holistic manner, ensuring that the use of one ecosystem is not detrimental to another. The Conference of the Parties (COP) to the CBD has defined it as “a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way”, balancing the three objectives of the CBD, namely conservation, sustainable use, and fair and equitable sharing of the benefits of genetic resources.

2. Sustainable use in international instruments addressing plant genetic resources and sustainable agriculture

The concept of sustainable use has a key role in the management of PGRFA and sustainable agriculture, and indeed in the achievement of the UN Millennium Development Goals (MDGs) related to the eradication of extreme poverty and hunger (MDG No. 1) and to ensuring environmental sustainability (MDG No. 7). In order to achieve these goals, the role of agriculture must include food production as well as conservation and sustainable use of natural resources. This is in line with the objective of the Treaty, namely “the conservation and sustainable use of plant genetic resources for food and agriculture and equitable sharing of the benefits arising out of their use, in harmony with the CBD, for sustainable agriculture and food security”.

a. Sustainable use in legal and policy instruments on PGRFA preceding the FAO International Treaty

The application of the concept of sustainable use - as well as the concept of conservation -, to PGRFA has a broad basis in the key legal and policy instruments addressing the issue that preceded the FAO International Treaty. Resolution 3 of the Nairobi Conference adopting the CBD in 1992 set out a number of recommendations related to sustainable use of PGRFA, and Chapter 14 of Agenda 21 sets out objectives and activities for sustainable utilization of plant and animal genetic resources for sustainable agriculture, which are being concretised by FAO in programmes such as SARD. The COP to the CBD has adopted a number of decisions relating to agricultural biodiversity and the sustainable use of its components. The Report on the State of the World’s Plant Genetic Resources for Food and Agriculture (1987) and the Global Plan of Action for Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture (GPA, 1996) are particularly important in this context. Both are components of the Global System for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture, as is the Treaty itself. The Report constitutes the first comprehensive worldwide assessment of the state of conservation and use of PGRFA, describing the situation of the resources and identifying requirements for ensuring their conservation and sustainable use. The GPA is based on the analysis undertaken in the Report. Article 14 of the Treaty denotes it as a supporting component, which will contribute to the implementation of the Treaty. The aims of Chapters 9 to 14 of the GPA, referring to Utilization of Plant Genetic Resources, encompass the objectives of the FAO Treaty, namely conservation, sustainable use and equitable sharing of benefits of PGRFA. The relevant Chapters develop strategies for achieving these objectives, and contain a range of specific action proposals.

b. Sustainable use in the International Treaty Article 6 and related provisions

Under Article 6.1, Parties are required to adopt measures to promote the sustainable use of plant genetic resources for food and agriculture. Article 6.2 contains a list of measures that could serve this purpose.

Although constituting one of the Treaty's objectives, the concept of sustainable use of PGRFA and its implementation did not figure prominently in the early stages of the negotiation process, the emphasis being on the widely debated issues of *in situ* and *ex situ* conservation as well as access-benefit sharing and farmers' rights. In 1997, against the background of the importance of agriculture in developing countries, a group of African states proposed a provision similar to the current Article 6, which introduced the distinction between conservation and use of PGRFA in the Treaty. The proponents wanted to avoid limiting efforts under the Treaty to conservation of PGRFA, and give equal importance to their use, in particular by farmers. Although containing important new statements and political requirements, the proposed provision was not discussed in detail, since other issues were in the foreground of the negotiations. The proposed provision was however retained as Article 6, with slight adaptations.

In line with the double aim of sustainable use of PGRFA to produce food and to preserve variety, the scope of the measures to be adopted under Article 6 is a broad one. Such measures should address not only plant varieties that are commercially used, but also traditional varieties, and other varieties that cannot be commercialized.

Article 6 is closely linked with Article 5, which addresses issues related to the conservation of PGRFA. It also has close linkages with most other substantive provisions of the Treaty, as well as with Article 18 on the Funding Strategy. In devising measures to implement Article 6, some guidance can thus be derived from the relevant provisions. In addition, Article 6 should be seen in relation to the GPA, in particular the section on Utilization of Plant Genetic Resources (Chapters 9 to 14).

3. Sustainable use and related concepts in other international instruments relevant for pgrfa

A number of international legal instruments addressing natural resources contain a reference to sustainable use. Older instruments use terms such as "wise use", "rational utilization and management", and "proper utilization and management" to denote the same concept. The CBD in Article 2 contains a definition of the term "sustainable use" for its purposes. Considerable efforts have been made in the Convention's framework to further elaborate and clarify this concept. In accordance with Article 10, which addresses ways to achieve sustainable use of biological diversity, and based on a number of relevant COP decisions on the issue, the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity (2004) consist of a set of interdependent practical principles and operational guidelines for ensuring sustainable use of the components of biodiversity. A cross-cutting initiative on biodiversity for food and nutrition is currently being developed within the framework of the CBD, in close collaboration with FAO and IPGRI, with the aim of promoting enhanced sustainable use of biodiversity in programmes contributing to food security and improved human nutrition. As a part of this effort, a list of elements of the future initiative has been established by the competent body of the CBD, which could be relevant to the discussions on the implementation of Article 6. A number of principles related to sustainable use have also been elaborated under the auspices of IUCN; these are set out in the Policy Statement on Sustainable Use of Wild Living Resources (2000) and the White Oak Principles of Sustainable Use (2001).

The concept of "sustainable management" has also been further developed. Following the adoption of the UN Forest Principles in 1992, specific criteria and indicators for sustainable forest

management were developed with the support of FAO and others for nine regional and eco-regional forest initiatives with the aim of putting the concept of sustainable forest management into practice. This is an approach that might be of interest also in the context of PGRFA.

In the context of forest management, FAO examined the relationship between the concept of sustainable forest management and the ecosystem approach, concluding that they can complement each other in the planning processes at the national and international levels. The ecosystem approach, recognized by the Millennium Ecosystem Assessment in 2005 as an important framework, can be seen as a tool or reference frame for achieving both sustainable use and conservation, maintaining a balance between the two.

III. OPTIONS FOR THE IMPLEMENTATION OF ARTICLE 6 OF THE INTERNATIONAL TREATY

In considering the options, it is important to bear in mind that the implementation of Article 6 will take place at the national level. Capacity building as well as awareness raising and education should thus be the fundamentals on which to build any measures adopted within the framework of the Treaty. Relevant work should be undertaken at the national, regional and global levels. The academic discussion and the work of other international organizations, outlined above, could be taken into consideration and possibly serve as a basis and guidance for relevant efforts. Cooperation with the relevant organizations would therefore be fruitful.

1. Capacity building

a. Development of practice-oriented guidance instruments

(i) Form: The development of non-binding guidance instruments to help countries implement the provisions of a treaty is an approach used in a number of international fora, as the overview in Section II shows. This approach could be considered in the context of Article 6 of the International Treaty. In order to be useful, guidance instruments would need to be concrete and practice-oriented, and address the real needs of countries, taking into account that these needs vary considerably from country to country. For this reason, rather than developing an internationally agreed set of guidelines, the Governing Body could consider a “bottom-up” type of instrument that would allow for individual implementation. This would avoid the generalization inherent in the “one size fits all” approach that tends to be characteristic of international guidelines.

The following forms of guidance instruments could be considered by the Governing Body:

- Elaboration of a “toolbox” containing different options for the implementation of each element of Article 6, designed in such a way that countries can choose the options appropriate for them, and adapt these to their particular situation and needs;
- Promotion and support of the development of national and regional action plans for the implementation of Article 6, which should be concrete and focused, and respond to specific country needs;
- Development of technical indicators for sustainable use of PGRFA that can be applied by countries.

(ii) Contents: There is a vast array of work and experience both within and outside of FAO that could provide guidance on the possible contents of future guidance instruments for the implementation of Article 6, as is evident from the overview in Section II. Guidance could be derived from the following:

Article 6.2: The provisions of Article 6.2 are likely to constitute the key elements and basis of prospective guidance instruments. As part of the process of elaborating the guidance instruments, it would be useful to further analyze the fields of action set out in Article 6.2, and identify gaps, as well as areas that could be further elaborated and couched in more concrete terms. Relevant areas could include the following:

- The challenge of intensifying food production while preserving diversity (where it still exists), and a distinction between the related tasks;
- The need to take into account market forces, and to create and “educate” markets so that there is a demand for biodiverse agricultural products
- The need to share the responsibility for sustainable use of PGRFA between breeders, seed companies, and farmers
- The special situation of subsistence farmers, for whom use and conservation are intertwined
- The need to distinguish different conditions of farming in different countries and regions, and to define the kinds of interventions that are needed for each

Other articles of the Treaty: As stated above, Article 6 is linked to almost every substantive provision of the Treaty. An analysis of the linkage between Article 6 and other key provisions (e.g. Articles 5, 7 and 9) can provide further input on the content of the future guidance instruments.

The Global Plan of Action: The GPA, in particular Chapters 9 to 14, can provide an important basis for the development of guidance instruments. It contains assessments, objectives, suggested activities and means of implementation that could be further elaborated. Its provisions could be used as a starting point, and developed to fit concrete national requirements.

Other relevant international instruments: A number of organizations have carried out work that could be relevant for the implementation of the concept of sustainable use, and capacity building for that purpose. As a complement to the GPA, Chapter 14 of Agenda 21 and the implementation of SARD in the framework of FAO (COAG), could be of particular interest, as could the conceptual work of IUCN, IPGRI, UNEP, GEF and the CBD, including in particular the recent CBD initiative on biodiversity for food and nutrition. As concerns the elaboration of agricultural strategies in general, the work carried out in the framework of the Pan-European Biological and Landscape Diversity Strategy and the European Landscape Convention could provide a useful model. The Millennium Ecosystem Assessment concerning biodiversity contains practical responses with respect to policies and incentive measures that could be taken into account. The criteria for sustainable forest management developed under the UN Forest Principles could provide an interesting precedent for the relevant approach.

b. Needs assessment and prioritisation

In order to be concrete and practice-oriented, the future guidance instruments will have to correspond to the needs related to the implementation of Article 6. What do developers and users of PGRFA in each individual country need in order to practice sustainable use of the resources? This could be ascertained by conducting needs assessments at country level, possibly as part of an updated GPA. Although the needs of each country are different, there are regional similarities. A practical approach could therefore be to synthesize the needs assessments at the regional level. Following are examples of needs of farmers that might be identified through such a process:

- Incentives (e.g. to continue to cultivate traditional varieties even where they cannot be commercialised, and to invest in biodiverse production)
- Financial sustainability (a reliable production system that is profitable for farmers)
- A market for biodiverse products
- Better capacity for processing and marketing biodiverse products

- A broad range of species and varieties to choose from (i.e. broadening the genetic base – this could include genetic engineering where appropriate)
- Education and awareness raising (e.g. on alternative varieties that can be used; and on existing and emerging markets for biodiverse products)

Needs would have to be prioritized in order to attract funding. In this context, it would be important to link the discussion on sustainable use of PGRFA to the development of the Funding Strategy for the Treaty (see below). At the same time, it should be borne in mind that the implementation of Article 6 is a challenge for all categories of countries, and that activities developed in this context should therefore address developed as well as developing countries if resource mobilization from the former is to be successful.

c. Link to the Funding Strategy for the Treaty

Significant funding will be needed to enable developing and transition countries to implement Article 6. Since access to financial resources is a central element of capacity building, guidance instruments should be designed in such a way that they promote national-level projects for implementation that can attract funding. In the discussion on the Funding Strategy pursuant to Article 18, the Governing Body is likely to establish priorities for the important fields of action. Relevant preliminary work has been done during the preparatory meeting in December 2005. Possible priorities under the Funding Strategy for sustainable utilization of plant genetic resources have been identified on the basis of the GPA. It would be important to link this discussion with the prioritisation of needs for the implementation of Article 6 in order to ascertain that the priorities of the Funding Strategy correspond to the needs of users and developers of PGRFA at country level.

d. Technical assistance based on priority needs

Technical assistance to individual countries should be provided in the priority areas identified through the relevant needs assessment. Assistance in carrying out the needs assessments could also be considered. Depending on the availability of financial resources, further prioritisation may be necessary; in this respect, a close link with the development of the Funding Strategy should be envisaged (see above). Technical assistance for country-level implementation is being provided in the framework of most modern international agreements addressing the management of natural resources (including the CBD). It could be useful to consider the methods employed in these fora (e.g. the role of development cooperation agencies and international funding institutions in these efforts) so as to benefit from relevant experiences.

2. Awareness raising and education

In conjunction with the development of guidance instruments for the implementation of Article 6, there should be enhanced efforts in the area of education and awareness raising, with the aim of promoting biodiverse food products and diverse agriculture, and informing consumers about the public goods produced by farmers and others to the benefit of the world community. This could help expand constituencies, create incentives for producers and users to practice sustainable use of PGRFA, and create linkages to other processes. Relevant activities could

- Target the general public (consumers), but also institutions as well as the private sector and politicians, with the aim of convincing them of the interest of diverse agriculture and biodiverse products for them;
- Target all actors in the production chain (breeders, seed companies, farmers etc.);
- Harness NGOs, which are geared to awareness raising, and use the PR methods of the private sector;

- Attract the attention of the media (ideally on the basis of a crisis related to food security or similar);
- Raise awareness of the Treaty within the CBD.

3. Cooperation and streamlining

a. Cooperation within FAO

Coordination and streamlining with related work undertaken within FAO could produce mutual benefits and contribute to economy of resources. Close cooperation should be sought with the Commission on Plant Genetic Resources for Food and Agriculture in the context of its work on monitoring, reviewing and updating the GPA and the Report. A possible option to be considered would be for the Commission to undertake the work on implementation of Article 6, at the request of the Governing Body, in order to ensure streamlining between the two areas of work. Cooperation should also be intensified with the Committee on Agriculture, especially in the context of SARD, which has the same fundamental objectives as Article 6. The Adelboden Group established as an outcome of the International Conference on Sustainable Agriculture in Mountain Regions (SARD-Mountains), convened in Adelboden in 2002 by FAO and the Swiss Government, could be an interesting precedent in this context.

b. Cooperation with other organizations

In the development of possible guidance instruments, cooperation could be sought with organizations engaged in work that is relevant to the implementation of Article 6, as outlined above, including the CSD, UNEP, and the GEF, as well as with the private sector. Such cooperation could promote the exchange of information and streamlining of relevant efforts. It could also assert and consolidate the role of the Treaty as the principal international legal instrument addressing sustainable agriculture and the management of PGRFA. Cooperation could be carried out informally by the Secretariat of the Treaty rather than through the establishment of a coordinating body at the policy level.

In particular, a link should be established with the initiative launched in the framework of the CBD on biodiversity for food and nutrition, to be carried out in cooperation with FAO and IPGRI. The 8th COP to the CBD in March 2006 adopted the framework for this initiative and decided to integrate it in the work plan of its next meeting. The COP also invited the Governing Body of the FAO International Treaty to take note of the initiative and to participate in its implementation. Efforts at the national level, such as national action plans for sustainable use of PGRFA, could be linked with the National Biodiversity Strategies and Action Plans (NBSAPs) developed and implemented under the CBD. Cooperation could also be envisaged with CGIAR, an important actor in this field, and with the International Federation of Agricultural Producers (IFAP).

IV. SUGGESTED ACTIONS TO BE UNDERTAKEN BY THE GOVERNING BODY

On the basis of the above, the following principal elements of a possible work plan on the implementation of Article 6 are proposed. The Governing Body may wish to consider this proposal within the context of the elaboration of its overall work plan and budget for the next few years, and in conjunction with the development of the Funding Strategy under Article 18. Within this overall context, it may be appropriate to adopt an order of priority, and a time frame for each possible action. The following suggestions are intended as a basis for discussion by the Governing Body.

1. Capacity building

a. *Options study and needs assessments*

The Governing Body at its first meeting may wish to consider the following:

- To commission an analysis of Article 6.2 that would identify gaps and areas requiring further elaboration, and on this basis would identify options for implementation. This “options study” should include research on relevant country experiences in areas of sustainable use of natural resources, and on related work on sustainable use of PGRFA carried out in other fora. This work could be carried out in close cooperation with the Commission on PGRFA and/or IPGRI.
- To initiate national or regional needs assessments for the practice of sustainable use of PGRFA, which should include prioritisation of the needs. The Governing Body could invite a limited number of Parties from different geographic regions to be pilot countries for the needs assessments.

b. *Development of guidance instruments*

The Governing Body at its second meeting may wish to consider the following:

- To take note of the outcome of the options study and the needs assessments in the pilot countries.
- On this basis, to establish a Working Group on Guidance Instruments for the Implementation of Article 6 to recommend to the Governing Body the elaboration of guidance instruments for national or regional implementation of Article 6. Such guidance instruments could include a “toolbox” and / or technical indicators; the Group could be asked to consider also other options.

The Governing Body at its third meeting may wish to consider the following:

- On the basis of the recommendations of the Working Group, to mandate the Group to elaborate the relevant guidance instruments.
- To require that the Working Group collaborate closely with the body developing the Funding Strategy under Article 18. One option would be to establish the Working Group as a sub-group of that body.
- To recommend that each Party develop a national action plan for the implementation of Article 6, taking into account the options study and the individual needs assessment at country level. Such action plans could be linked to action plans in other areas (e.g. the GPA or CBD). Action plans could also be envisaged for the regional level.

2. Awareness raising and education

The Governing Body at its second meeting may wish to consider the following:

- To develop a strategy for awareness raising and education about the Treaty, and more specifically about the value of biodiverse agricultural products. This strategy should target breeders, seed companies and farmers as well as the general public.

3. Cooperation and streamlining

In the context of the activities outlined under points 1 and 2 above, the Governing Body may wish to consider the following:

- To request the Secretariat to initiate active cooperation within FAO, in particular with the Commission on PGRFA (in the context of the review and further development of the GPA), the Committee on Agriculture and the Adelboden Group (in the context of SARD / SARD-Mountains), and the Committee on Food Security.

- To emphasize that the implementation of Article 6 should contribute to the achievement of the Millennium Goals related to poverty and environment, and to request cooperation with actors engaged in the relevant areas.
- To ensure that the work on the implementation of Article 6 is linked to the work on the Funding Strategy, in particular as it concerns the priority area of sustainable utilization of plant genetic resources; this could be done by institutionally linking the bodies entrusted with the relevant work.
- To consider entrusting some of the operational work on the guidance instruments, the national or regional action plans and the strategy on awareness and education to competent institutions such as the Commission on PGRFA and/or IPGRI.
- To request the Secretariat to initiate cooperation with other relevant organizations, including in particular international policy making bodies (such as UNEP, the CSD, the GEF, UNEP, and the CBD); private sector entities; and research-focused institutions (such as CGIAR, IPGRI, and IUCN).

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ANNEX: SOURCES AND REFERENCES

Section II.1

Theoretical basis: sustainable development, sustainable use and related concepts

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Section II. 2

Sustainable use in international instruments addressing plant genetic resources and sustainable agriculture

Selected literature

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- Adelboden Declaration on Sustainable Agriculture and Rural Development in Mountain Regions (2002)

Section II. 3**Sustainable use and related concepts in other international treaties relevant for PGRFA****Selected literature**

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