

AGREEMENT FOR THE ESTABLISHMENT OF THE GLOBAL CROP DIVERSITY TRUST

Preamble

WHEREAS one hundred and fifty countries meeting at the International Technical Conference on Plant Genetic Resources for Food and Agriculture in Leipzig in June 1996 adopted the Global Plan of Action for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Agriculture (hereinafter referred to as the “Global Plan of Action”), which provides an internationally agreed framework for the conservation, exploration, collection, characterization, evaluation and documentation of plant genetic resources for food and agriculture, one of the elements of which is the development and support of a rational, efficient and sustainable system of plant genetic resources collections around the world;

WHEREAS at its Thirty-first Session in November 2001, the Conference of the Food and Agriculture Organization of the United Nations (hereinafter referred to as “FAO”) adopted the International Treaty on Plant Genetic Resources for Food and Agriculture (hereinafter referred to as the “International Treaty”) which provides an agreed international framework for the conservation and sustainable use of plant genetic resources for food and agriculture, in harmony with the Convention on Biological Diversity, and, in its Article 5, provides for Contracting Parties to cooperate to promote the development of an efficient and sustainable system of *ex situ* conservation;

WHEREAS the International Treaty also provides that due attention be given to the need for adequate documentation, characterization, regeneration and evaluation, and for promoting the development and transfer of appropriate technologies for this purpose with a view to improving the sustainable use of plant genetic resources for food and agriculture, and further provides for the encouragement and development of international plant genetic resources networks and the development and strengthening of a global information system;

WHEREAS the Consultative Group on International Agricultural Research (hereinafter referred to as "the CGIAR") supports a system of International Agricultural Research Centres (hereinafter referred to as “Future Harvest Centres”), which have entered into agreements with FAO placing collections of plant germplasm in their genebanks under the auspices of FAO to be held in trust for the benefit of the international community;

WHEREAS FAO and the Future Harvest Centres of the CGIAR are promoting the establishment of a Global Crop Diversity Trust, in the form of an endowment with the objective of providing a permanent source of funds to support the long-term conservation of the *ex situ* germplasm, including characterization, documentation, evaluation and exchange of related information, knowledge and technologies, on which the world depends for food security, to operate as an essential element of the Funding Strategy of the International Treaty, with overall policy guidance from the Governing Body of the International Treaty, and within the framework of the International Treaty;

WHEREAS the FAO Commission on Genetic Resources for Food and Agriculture, at its Ninth Regular Session in October 2002, recorded that the initiative to establish a Global Crop Diversity Trust was universally appreciated and supported, and appealed to donors to assist in the establishment of the Trust;

WHEREAS FAO and the International Plant Genetic Resources Institute (hereinafter referred to as "IPGRI") acting on behalf of the Future Harvest Centres of the CGIAR have established an Interim Panel of Eminent Experts and have appointed an Interim Executive Secretary to oversee the establishment of the Global Crop Diversity Trust;

WHEREAS FAO and IPGRI acting on behalf of the Future Harvest Centres of the CGIAR have called upon the Parties to this Agreement to assist them in establishing the Global Crop Diversity Trust and in providing the Trust with international legal personality;

WHEREAS the Parties to this Agreement, acting on behalf of the international community, have agreed to establish the Global Crop Diversity Trust as an international fund with its own international legal personality, and with such other powers and authorities necessary to enable it to operate effectively and to attain its objectives;

WHEREAS it is the understanding of the Parties to this Agreement that the Governing Body of the International Treaty¹ and the Trust will enter into a separate agreement, recognizing the Trust as an essential element of the Funding Strategy of the International Treaty and providing that the Trust will operate under the overall policy guidance of the Governing Body of the International Treaty,

NOW THEREFORE the Parties hereto agree as follows:

¹ As the Governing Body does not possess its own international legal personality, the agreement will be concluded by FAO acting on behalf of, and with the approval of, the Governing Body

Article 1 - Establishment

- (1) There is hereby established an independent international fund to be known as “the Global Crop Diversity Trust” (hereinafter referred to as “the Trust”), which is to operate in accordance with the Constitution set out in the Annex to this Agreement, as such Constitution may be amended from time to time in accordance with Article 3 of this Agreement.
- (2) The Annex to this Agreement shall form an integral part of this Agreement.

Article 2 - Settlement of Disputes

- (1) Any dispute between the Parties concerning the interpretation or application of the present Agreement that cannot be settled amicably, shall be submitted, at the request of any party to the dispute, to an arbitration tribunal.
- (2) In disputes between two parties to the dispute, the arbitral tribunal shall consist of three members. Each party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairperson.
- (3) In disputes between two or more Parties, parties to the dispute with the same interest shall appoint one arbitrator jointly by agreement.
- (4) If one of the parties to the dispute fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other party to make such an appointment, the latter party may invite the President of the International Court of Justice to make the necessary appointment.
- (5) If the arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either party to the dispute may invite the President of the International Court of Justice to make the necessary appointment.
- (6) In the event of a vacancy in the presidency of the International Court of Justice or of the inability of the President to exercise the functions of the presidency, or in the event that the President should be a national of the party to the dispute, the appointment herein provided for may be made by the vice-president of the court or, failing her/him, by the senior judge.
- (7) Unless the parties to the dispute decide otherwise, the tribunal shall determine its own procedure.
- (8) The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute.

Article 3 - Amendments of the Agreement and Annex

- (1) Amendments to this Agreement other than to the Annex may be proposed by any Party to this Agreement.
- (2) Amendments to this Agreement other than to the Annex shall come into force for all Parties on the deposit of instruments of ratification, acceptance or approval by two-thirds of the Parties to this Agreement.
- (3) Amendments to the Annex may be made in accordance with the procedures set out in Article 19 of the Annex and shall be notified by the Depositary to all Parties to this Agreement. Amendments to the Annex shall come into force for all Parties on their approval by a majority of the Parties to this Agreement.

Article 4 – Signature and accession

- (1) This Agreement shall be open for signature at FAO from 1 April 2004 to 31 March 2006 by all Members of FAO and any States that are not Members of FAO but are Members of the United Nations or any of its specialized agencies or the International Atomic Energy Agency.
- (2) This Agreement shall be open for accession by all Members of FAO and any States that are not Members of FAO but are Members of the United Nations or any of its specialized agencies or the International Atomic Energy Agency from the date on which the Agreement is closed for signature. Instruments of accession shall be deposited with the Depositary.

Article 5 - Entry into Force

This Agreement shall come into force immediately upon signature or accession by seven States, provided that such States include at least four developing countries and include States from at least five of the seven FAO regions as referred to in the Basic Texts of FAO.

Article 6 - Termination

Any Party to this Agreement may, by written instrument to the Depositary, denounce this Agreement. Such termination of the consent to be bound shall become effective three months after the date on which such instrument is received.

Article 7 – Depositary

The Director-General of FAO shall be the depositary of this Agreement.

Article 8 - Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed this Agreement.

Done at (Place) on
For the Government of

Done at (Place) on
For the Government of