

**TECHNICAL COOPERATION ACTIVITIES: INFORMATION FROM
OTHER INTERGOVERNMENTAL ORGANIZATIONS**

FOOD AND AGRICULTURE ORGANIZATION

Addendum

The present document reproduces the updated information on technical and financial cooperation activities relevant to the implementation of the TRIPS Agreement, which has been received from the FAO by means of a communication, dated 21 October 1999.

Technical and Legal Assistance to FAO Member States

FAO provides technical advice and assistance to its member countries, particularly developing countries, on a wide range of food and agricultural topics. These include advice and assistance on food quality and safety, animal health and production, plant protection and quarantine activities and general advice on agricultural production and trade, including information on agricultural policy and incentives for production and trade. The agreements adopted in the context of the Uruguay Round require technical assistance to be provided to developing countries in many areas which fall within FAO's expertise, and in which the Organization has extensive experience.

FAO's technical expertise relevant to the TRIPS Agreement relates to intellectual property rights over plant varieties, animal breeds, related technologies and germplasm. FAO's observer status on the TRIPS Council of WTO reflects the importance of its role in helping member countries meet their obligations under the Agreement.

FAO advises its members in relation to their plant and animal breeding, and seed and reproductive material legislation, regulations and systems. Through cooperation between the appropriate technical departments and the FAO Legal Office, countries are provided with a broad range of advice on agriculture and renewable natural resources management, including reviewing and providing advice about the adequacy of national laws and regulations in the fields of food trade, and intellectual property rights related to plant and animal breeding.

FAO assists member countries in the definition of criteria for the formulation and implementation of regional and national seed policies and programmes, including cooperation between developed and developing countries. It covers variety evaluation, description, maintenance and replacement, and both technical and legal aspects of seed quality control and variety protection, as well as other seed technology matters. In the field of seeds, and in particular the development and release of new improved food crop varieties, many responsibilities which used to be vested in various Government institutions and agencies are now increasingly moving into the hands of the private sector. In many cases,

relevant national economic policy decisions have not yet been backed by the adoption of new and pertinent legal frameworks. Furthermore, as a consequence of their membership to the World Trade Organization, countries need to formulate legislation to protect plant varieties in line with Article 27.3(b) of the TRIPS Agreement.

FAO technical assistance to developing countries in relation to TRIPS is focused on assisting national authorities in analysing their needs and identifying appropriate policy options; strengthening the relevant capacities; formulating or revising national legislation; and advising on the structure and functions of the institutions involved.

The Plant Production and Protection Division and the Animal Production and Health Division of FAO have extensive experience in assisting member countries with those aspects of TRIPS associated with genetic resources conservation and utilization, seed policies and programmes and plant and animal breeding. The Development Law Service of the FAO Legal Office assists member countries with seed and propagating material legislation, plant variety protection legislation -including *sui generis* systems- and Farmers' Rights.

Specifically, in TRIPS-related matters FAO provides:

1. Technical assistance:

- advising Member Governments on their plant breeding and seed and planting material regulations and systems;
- defining criteria for the formulation and implementation of regional and national seed policies and programmes;
- assisting with plant variety maintenance and replacement;
- advising on technical aspects of seed testing, certification and plant variety protection; and
- advising on both technical and policy aspects of the conservation and sustainable use of farm animal genetic resources, animal breeding techniques and systems.
- participating -together with the WB, FMI, WTO, UNCTAD, ITC and UNDP- in an Integrated Framework Programme to provide technical assistance to the 48 least developed countries in trade-related matters, including the implementation of the TRIPS Agreement. The Director General of FAO has reiterated FAO's willingness to collaborate in the implementation of the programme, given the relevance of the Organization's technical expertise in agriculture, forestry and fisheries, as well as the mandate for this type of assistance arising from the World Food Summit Plan of Action.

The Programme is coordinated by an Inter-Departmental Task Force on Follow-up to the Uruguay Round, which is in the process of identifying the trade-related technical assistance needs of the said countries in order to incorporate them in the national assistance programmes which will be further discussed and finalised by the competent authorities and organizations.

2. Legal assistance:

- providing developing countries with a broad range of legal advice on the drafting of legislation. This involves close collaboration with the national authorities and normally includes the following steps:
 - (i) analysing national needs and identifying appropriate policy options;
 - (ii) reviewing and analysing the legislation in force (or drafts) and the institutional framework governing intellectual property protection -with specific reference to plant varieties- and seed production -including quality control, marketing, export and import;
 - (iii) identifying the specific objectives to be attained by legislation in the light of the government's priorities and needs;
 - (iv) formulating a draft act and regulations, or amendments to the existing legislation;
 - (v) advising on the structure and functions of implementing agencies;
 - (vi) submitting recommendations and discussing them with the relevant national authorities.

FAO's experience over many years has shown that justice cannot be done to the particular needs and circumstances of individual countries by theoretical studies or model laws. *Sui generis* systems are to be developed to suit the need and reality of individual countries.

In an annex to this document, relevant examples are given of projects under which FAO provides technical assistance related to Article 27.3(b) of the TRIPS Agreement to developing countries.

3. Capacity building:

- supporting workshops and meetings on both technical and legal matters relevant to the TRIPS Agreement. FAO has supported and participated at a number of workshops and meetings on matters relevant to plant variety protection organized by various governmental and non governmental organizations. In May 1996, for example, FAO provided assistance to the Swaminathan Research Foundation in India, for a Technical Workshop on an Implementation Framework for Farmers' Rights. (The Swedish International Development Authority (SIDA) also supported this consultation). The Workshop was attended by international experts, including representatives from the WTO and UPOV Secretariats. The proceedings have now been published, under the title, "Agrobiodiversity and Farmers' Rights". In September 1998 FAO and the Agency for International Trade, Information and Cooperation (AITIC) sponsored the Workshop "Uruguay Round Agreements - Implications for Agriculture, Forestry and Fisheries in the Less Advantaged Developing Countries" of which session 8 was devoted to the relationship between the FAO International Undertaking on Plant Genetic Resources, the Convention on Biological Diversity, and TRIPS. In November 1998 the FAO Legal Office

participated in Geneva at the Workshop on the Review of Article 27.3(b) of the TRIPS Agreement, organized by the South Centre Pilot Project on WTO and the Institute for Agriculture and Trade Policy (IATP). In April 1999 the FAO Legal Office participated at the Seminar "Choosing *Sui Generis* Systems: Options and Processes", organized by the Quaker United Nations Office in Geneva (QUNO);

- organising and implementing a special **"Umbrella Programme for Training on Uruguay Round and Future Multilateral Trade Negotiations on Agriculture"** which includes a strong component dealing with the TRIPS Agreement. The programme aims at enhancing national capacity on WTO issues so that countries are in a stronger position to meet their obligations and gain the benefits under the existing WTO Agreements and are better prepared to participate in the next round of Multilateral Trade Negotiations. Countries will, thus, be able to benefit from the process, minimize possible adverse effects, develop their own negotiating position and evaluate proposals made by others. The specific objectives of the training programme are:
 - (i) improving understanding of the existing WTO Agreements so that countries are well prepared and knowledgeable about their existing obligations as well as able to discuss future negotiations;
 - (ii) preparing participants to analyse new issues that are likely to arise in the negotiating process and the consequences for them of alternative positions; and
 - (iii) taking up and debating special issues of regional/sub-regional concern.

The training programme also provides information and guidance on electronic access to sources of information (including the FAO web-site) covering interpretation, impact, transition measures and debate on the UR Agreements.

The implementation of the entire Umbrella Programme entails the organization and execution of 14 sub-regional training courses distributed by Regions as follows: Africa (4 courses); Asia (3 courses); Near East (2 courses); Europe (2 courses); and Latin America (3 courses), comprising all developing countries and countries in transition regardless their membership status before WTO.

The estimated cost of the entire programme is in the range of US\$ 2.5 million including the preparation of the necessary training modules in three languages (English, Spanish and French). The endeavour is supported jointly by FAO and bilateral and multilateral donors.

The target audience of the training programme comprises the policy analysts as well as the technical specialists in the relevant Ministries (but also in the private sector and academic institutions) who have the responsibility of advising the governments on their negotiations in the WTO for the agricultural sector. Emphasis is given to strengthening the countries' analytical capacity on trade-related issues in areas where FAO has competence and comparative advantage *vis-a-vis* other agencies.

The training programme is articulated into a number of modules which are combined to provide a package of training corresponding to a group of countries' specific needs. These modules are organized under the following headings: (i) General Topics; and (ii) Specific Topics. The latter comprises the Agreement on Agriculture, the

Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade, and the TRIPS Agreement.

During the preparatory phase of the programme an Orientation Workshop for the regional and sub-regional FAO outposted policy staff, designated as focal officers of the Umbrella Programme was held in FAO headquarters from 30 November to 4 December 1998. The said staff is responsible for the organization and running of the specific regional/sub-regional courses and have designed and implemented region-specific training programmes.

So far four sub-regional training courses have been implemented: the course for the Central American countries, including the Spanish speaking Caribbean (Costa Rica, El Salvador, Guatemala, Cuba, Dominican Republic, Honduras, Nicaragua and Panama), was held in Tegucigalpa, Honduras from 7 to 11 June 1999. The first course for the Near East countries (Afghanistan, Egypt, Iran, Iraq, Jordan, Libya, Syria, Yemen, Algeria, Lebanon, Morocco and Tunisia) was held in Cairo, Egypt between 26 and 30 September 1999. Two courses were held from 4 to 8 October 1999, one in Prague, the Czech Republic, for the EU associated countries (Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey) and one in Dakar, Senegal, for the French speaking ECOWAS countries (Benin, Burkina Faso, Cape Verde, Djibouti, Guinea, Guinea Bissau, Ivory Coast, Mali, Mauritania, Niger, Senegal and Togo).

ANNEX

Examples of FAO Technical Assistance Projects

Belize

Under the Technical Cooperation Programme, TCP/BZE/6611: “Mandatory Health Certification Scheme for Citrus”, the government was assisted in the drafting of legislation to regulate the citrus certification scheme.

Caribbean Region

FAO Trust Fund project GCP/RLA/108/ITA, “Improved Seed Production, CARICOM Countries and Suriname”, contributed to the drafting of a model Seed Act for the region and of a draft Plant Breeders’ Rights Act, which the Governments are now considering.

CEPGL

Assistance was furnished to the countries of the *Communauté Economique des Grands Lacs (CEPGL)* under a regional project, RAF/89/049: “*Controle des échanges semenciers*”, with the objective of analysing the legal and administrative national frameworks related to seeds and formulating the necessary legal instruments. A Draft Convention on Seed and Planting Material Exchanges was drafted as a result of the project.

China

In 1994, the FAO/World Bank Cooperative Programme prepared a project for World Bank Funding, based on the commercialization of a number of provincial seed companies, and the introduction of a supporting policy environment, including the establishment of a system of plant variety protection that conforms to the requirements of the Uruguay Round. The US\$ 185.5 million project was approved by the World Bank in June 1996, and includes a technical assistance component for advising on variety protection systems.

Democratic Republic of the Congo

Under a previous phase of the FAO/UNDP project, ZAI/92/002, “*Assistance à la production semencière*”, a Seed Law was drafted, which is currently being considered by the government.

Dominican Republic

Under its Technical Cooperation Programme, TCP/DOM/2352, FAO assisted the government, *inter alia*, in the reorganization of the seed certification services and the drafting of a Seed Law and Regulations. The relevant authorities received also advice on matters related to plant variety protection.

Ecuador

In 1998 within the framework of the Technical Cooperation Programme, TCP/ECU/6712: “*Apoyo a la Reestructuración del Sistema Nacional de Semillas*”, FAO assisted the government in the formulation of a Draft Seed Law, which is now before Parliament, aimed at developing the national seed

industry and meeting the standards for seed movement in national and international trade. In addition, national authorities received comments and advice on plant variety protection in relation to a comprehensive governmental [Draft] Law on Intellectual Property Rights.

El Salvador

A project under the FAO's Technical Cooperation Programme, TCP/ELS/4452, "*Apoyo a la Reestructuración del Organismo Certificador de Semillas*", assisted the Government, *inter alia*, in drafting a Seed Law and Regulations. In addition, national authorities were advised on plant variety protection matters.

Georgia

Under the FAO Technical Cooperation Programme project, TCP/GEO/6711, an interdisciplinary mission assisted the authorities to build up a national seed industry development programme, including the relevant law and regulations.

India

In 1991 under its Technical Cooperation Programme FAO provided technical assistance to India on plant variety protection, which was an input to the development of draft national legislation on the matter.

Jamaica

Under its Technical Cooperation Programme: TCP/JAM/6611: "Citrus Production and Certification Strategy", FAO assisted the government in the formulation of draft legislation necessary for carrying out citrus certification.

Kyrgyz Republic

Under its Technical Cooperation Programme, TCP/KYR/6611: "Seed Legislation and Quality Control", FAO assisted the government in the preparation of quality control schemes and assessed the seed related legislative framework in the Kyrgyz Republic. A Draft Seed Law was formulated as well as a Plant Variety Protection Law. Both drafts, with slight modifications were passed by Parliament.

Lithuania

Under FAO's Technical Cooperation Programme, project TCP/LIT/4553, an FAO mission assisted the authorities to prepare a seed master plan. On the basis of a Draft Seed Law prepared by the Government, FAO has submitted a revised version which is now being reviewed by the authorities.

Madagascar

The FAO Technical Cooperation Programme approved TCP/MAG/8924: "*Renforcement des capacités techniques du Service officiel de contrôle des semences (MPL)*" with the objectives of strengthening the organizational and technical capacities of the National Seed Control Service and drafting the regulations necessary for the implementation of the Seed Law drafted with FAO assistance in 1994. The project is currently being implemented. The relevant legislation will be revised and updated as necessary in order to improve the seed certification and quality control schemes so as to allow the seed industry to compete on the regional and international markets.

Malaysia

At the request of the Economic Planning Unit of Malaysia, FAO approved project TCP/MAL/4553, under its Technical Cooperation Programme. The aim of the project was to strengthen seed and planting material production, and to develop a certification and marketing programme. FAO advised the Government on appropriate programme and policy measures for upgrading the national capability in variety registration, release and protection, and quality control and seed and planting material certification, by defining the respective role of various official agencies and the private sector. In addition, the project prepared a study analysing the implications of TRIPS Article 27.3(b), as well as the various options before the Government to give effect to this provision.

Mauritania

Under the FAO/UNDP project, MAU/92/007, "*Appui à la vulgarisation de semences traditionnelles de qualité*", a Draft Seed Law was prepared, which is currently awaiting submission to Parliament.

Namibia

In 1997 a legal component was added to the Technical Cooperation Programme project TCP/NAM/4555: "Building Assistance to Improved Seed Production" with the objective of assisting the country in the formulation of a Draft Seed Act in order to enable it to implement the positive results of the project as far as the production of improved seed was concerned. In addition, national authorities were advised on plant variety protection matter.

Pakistan

Project TCP/PAK/4557, under FAO's Technical Cooperation Programme, assisted the government in the preparation of a seed sector development programme. Aware of the need to increase the involvement of the private sector, the Government intends to formulate a new comprehensive programme, including the adoption of specific legislation recognizing plant variety protection.

Slovakia

Under its Technical Cooperation Programme, project TCP/SLO/6711: "Planning of Strategy for Animal Breeding Development", FAO is assisting Slovakia develop the relevant legislative instruments.

Suriname

The Government of Suriname is now considering the model Seed Act and draft Plant Breeders' Rights Act, which project GCP/RLA/108/ITA: "Improved Seed Production, CARICOM Countries and Suriname" (described above) contributed to drafting. Under project TCP/SUR/6711, FAO will now provide the national authorities with the necessary draft implementing regulations.

Tajikistan

The FAO Technical Cooperation Programme approved project TCP/TAJ/8921: "Emergency Provisions of Agricultural Inputs and Assistance for a Seed Sector Review" which is currently being implemented with the objective to review the seed sector and provide assistance with the development

of the national seed industry. A draft Seed Law is being formulated regulating, *inter alia*, seed production and certification and the establishment of private and/or public bodies necessary for the implementation of the relevant legislation. It is also foreseen that the Law address plant variety protection.

Tanzania

Tanzania was assisted through the FAO/UNDP project: URT/93/003, in the enhancement of the capacity to coordinate the national seed programme. The project assisted in the preparation of suitable draft legislation for a plant variety protection system.

There are projects in the pipeline for support by FAO's Technical Cooperation Programme to Chile and Guatemala, with the objective of strengthening the national programmes for the conservation and sustainable use of plant genetic resources for food and agriculture. One specific objective covers the preparation of draft instruments to regulate collection, conservation, exchange and utilization of plant genetic resources for food and agriculture, including plant variety protection in the case of Guatemala.
