

WORLD TRADE ORGANIZATION

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**Council for Trade-Related Aspects
of Intellectual Property Rights**

Original: English¹/
French/
Spanish

TECHNICAL COOPERATION ACTIVITIES: INFORMATION FROM OTHER INTERGOVERNMENTAL ORGANIZATIONS

Addendum

FOOD AND AGRICULTURE ORGANIZATION

The present document reproduces the information on technical and financial cooperation activities relevant to the implementation of the TRIPS Agreement, which has been received from the Food and Agriculture Organization (FAO) by means of a communication dated 2 September 2002.

The present document reproduces the FAO's communication of 2 September 2002 and its attachment (FAO brochure on capacity-building for trade on agriculture, fisheries and forestry).

¹ Attachment provided in English, French and Spanish.

**Communication of Mr. Guiliano Pucci, Legal Counsel,
to the Chairman of the Council for TRIPS**

Rome, 2 September 2002

Dear Mr. Pérez Motta,

I refer to your letter dated 22 July 2002 to the Director of the FAO Liaison Office in Geneva requesting updated information on technical and financial cooperation programmes operated by the Organization in the area of intellectual property that are relevant to the implementation of the TRIPS Agreement.

As you are aware, on 3 November 2001, the Thirty-first Session of the Conference of the Organization adopted, by consensus and as a binding international agreement, the International Treaty on Plant Genetic Resources for Food and Agriculture. The Treaty is in harmony with the Convention on Biological Diversity (CBD) and has a number of provisions of direct relevance to the matters being addressed, under your chairmanship, by the Council for Trade-Related Aspects of Intellectual Property Rights. In particular, Article 9, for the first time in a binding international agreement, makes provision for **Farmers' Rights**, in recognition of the collective innovation on which agriculture is based. A further important and innovative part of the Treaty is contained in Articles 10 to 13 (Part IV), which establish a **Multilateral System of Access and Benefit-sharing** that applies to a list of crops that cover about 80 per cent of the world's food calories intake from plants.

Indeed, I note that document IP/C/W/347 "Review of the provisions of Article 27.3(b), relationship between the TRIPS Agreement and the Convention on Biological Diversity and protection of traditional knowledge and folklore" that is available on the website of the World Trade Organization, provides extended information on the subject.

In addition, I am pleased to send you the attached brochure (in English, French and Spanish) prepared by the Inter-departmental Task Force on WTO Agreements of the Organization, regrouping concerned technical divisions and my Office. It provides information on FAO's trade-related capacity-building programme for Members. The new programme, which is a successor to the Umbrella Training Programme on the Uruguay Round Follow-up, addresses the particular capacity-building concerns of individual countries, as well as regional and subregional groups in the context of the WTO Agreements, and in particular the Agreement on Trade-Related Aspects of Intellectual Property Rights. Governments will be able to choose from a menu of activities to create the trade-related capacity-building programme best suited to their own circumstances and needs. External donors have indicated their intention to fund the activities described.

You may wish to note that, through both the Regular and Field Programmes, the Organization (the Legal Office in cooperation with other responsible divisions) provide technical assistance to governments as well as at regional and/or subregional levels, in the formulation of policies, strategies and legislation in the field of plant genetic resources for food and agriculture and related matters. Our assistance to the Government of Syria continued in drafting new legislation to strengthen Plant Genetic Resources conservation and sustainable use. This legal instrument recognizes and gives force to farmer's rights and to rights of local communities, as well as to access and benefit-sharing. It is the first legislation to be drafted, under a project operated by the Organization, in line with the principles and requirements established by the International Treaty on Plant Genetic Resources for Food and Agriculture.

A draft legislation was also prepared for Oman in order to update the legislative and regulatory regime governing citrus plant material. Presently, a project funded by the Technical Cooperation Programme of FAO is being executed in the Democratic People's Republic of Korea with the objective of establishing a modern seed inspection system; the project also includes reviewing and updating of seed basic law, related regulations and standards.

In 2002, several studies on plant genetic resources have been prepared: "*A Global Instrument on Agro biodiversity: The International Treaty on Plant Genetic Resources*" was published as a FAO Legal Paper Online on the Web. A recent legal study on "*Intellectual Property Rights in Plant Varieties: an overview with options for national governments*" reviews and assesses existing international legal regimes relating to intellectual property rights in plant genetic resources, with a specific focus on agricultural plant varieties.

Another legal study "*Regulating Access to Germplasm: A Comparative Study of the Role and Implementation of Seed Laws and Plant Variety Protection*" will be ready for publication in the second half of 2002. Describing the role of seed and plant variety protection legislation, it provides for approaches on how to draft and implement seed laws and plant variety protection.

I am also pleased to announce that, during the last months, my Office has considerably improved its comprehensive up-to-date computerized legislative database, FAOLEX. Selected texts of major significance pertaining to FAO's mandate, including Plant Genetic Resources, seeds and plant variety protection, have been included or summarized.

I hope that such information will enable the Council for Trade-Related Aspects of Intellectual Property Rights, under your chairmanship, to have a picture as complete as possible of FAO's technical assistance in this field.

ATTACHMENT

**FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS -
BROCHURE ON "CAPACITY-BUILDING FOR TRADE ON
AGRICULTURE, FISHERIES AND FORESTRY"***

This brochure provides information on FAO's trade-related capacity-building programme for Member Countries. This new programme, which is a successor to the Umbrella Training Programme on Uruguay Round Follow-up, addresses the particular capacity-building concerns of individual countries, as well as regional and subregional groups in the context of the WTO Agreements relating to food, agriculture, fisheries and forestry. Countries will be able to choose from a menu of activities to create the trade-related capacity-building programme best suited to their own circumstances and needs.

FAO has a long history of providing trade-related capacity-building to its Member Countries (see back page). The most frequent trade-related problems and weaknesses confronted by developing countries include the following:

- *administrative/legal/technical capacity* to meet the requirements of WTO membership and negotiations, including preparing notifications and complying with commitments;
- *national policy formulation capacity* in the agricultural, forestry, and fisheries sectors and inadequate analytical capacity to assess the impact of alternative policy proposals being negotiated at WTO;
- *scientific, administrative and infrastructure capability* to deal with food standards, plant and animal health inspection services and quality assurance requirements in major markets;
- *lack of plant variety protection* and the necessity to rapidly develop such protection through patents or *sui generis* legislation, by all WTO Members, including developing countries with no prior experience in this area; and
- *supply-side constraints* which limit the ability of developing countries to compete effectively in the global marketplace.

The following grid gives an overall review of the different disciplines covered by the various WTO Agreements and the corresponding FAO areas of technical expertise. Each cell illustrates some of the specific issues that fall in each area. Countries can choose from among these areas those most relevant to their concerns. They can request FAO assistance on a specific issue within a single cell of this grid, or on a complete set of issues in a row or column, or comprehensive assistance on all areas of FAO competence.

* The following pages reproduce the printed version of the brochure.

		WTO agreements relating to food, agriculture, fisheries and forestry				
		AoA ²	SPS ³		TBT ⁴	TRIPS ⁵
FAO areas of technical expertise	Food	Implementation issues relating to the AoA and issues in the context of the multilateral trade negotiations, including impact assessments on trade, food security and rural development.	Risk analysis	Food safety (Codex)	Food quality and Labelling (Codex)	Trademarks Geographical indications Patents GMOs
	Agriculture – Crops			Plant health Environment, etc.	Ecolabelling Organic farming	Breeders' rights Farmers' rights Access to genetic resources Patent protection for agricultural chemical products
	Agriculture – Animals			Animal health	Animal welfare, Traceability	
	Fisheries			Fish safety Codex	Fish quality and Ecolabelling Codex	
	Forestry			IPPC	Ecolabelling	
	National Legislation and International Instruments	Trade and environment law	Sanitary and phytosanitary law		Import and export legislation Customs law	" <i>Sui generis</i> " Patents Geographical indications Breeders' rights Farmers' rights Access to GRFA; GMOs

Flexible programme delivery

FAO also offers a range of programme delivery options, so countries or groups of countries may choose the capacity-building format that is most appropriate and cost effective for their needs and most suitable for the development and strengthening of national and subregional institutions. These options are designed to encourage synergy, networking and collaboration. Programme types include:

- **National dialogue workshops**
- **Country-based capacity-building**
- **Regional and subregional training and networking**
- **Global seminars**
- **Distance learning activities**

² Agreement on Agriculture.

³ Agreement on the Application of Sanitary and Phytosanitary Measures.

⁴ Agreement on Technical Barriers to Trade.

⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights.

National dialogue workshops are designed to promote dialogue amongst the various stakeholders in a given country regarding a particular sector or Agreement in order to build national consensus.

For example, FAO organized a national dialogue workshop in cooperation with a Member. This workshop brought together more than 100 stakeholders in the WTO negotiations on agriculture. Officials of the Ministries of Agriculture and Foreign Affairs and representatives of the private sector (farmers, processors and traders) and civil society spent two days with a panel of internationally recognized experts on the WTO to debate the challenges and opportunities for the country.

Country-based capacity-building activities are in-depth programmes organised through national projects in cooperation with national institutions in order to address complex agricultural trade issues of direct and specific concern to a country.

These programmes are intended to build institutional capacity and to address supply-side constraints. Examples of such programmes include: (i) Training for farmers and processors on ensuring the quality of agricultural products by addressing microbiological and chemical hazards, and focusing on good agricultural practices and hygienic practices along the food chain; (ii) Strengthening Member Countries' role in the Codex process; (iii) Training on HACCP for fish inspectors and industry quality controllers, including audit and verification; (iv) Strengthening national food control regulatory frameworks; (v) Building institutional capacity to comply with WTO reporting requirements, to analyse the impact of alternative trade policy options and to assess the competitiveness of agriculture.

Regional and subregional training and networking activities are designed in collaboration with regional and subregional institutions for groups of countries sharing similar concerns or interests (e.g., management of risks associated with pests, animal diseases or food safety in agricultural trade, regulation of trade-related intellectual property rights, or coordination of negotiating options and positions in WTO fora).

Examples include: (i) Seminars on the application of risk analysis or risk management for food safety regulators, fishery industry personnel, inspectors, processors, distributors, and academia; (ii) On-the-job training on risk management of selected veterinarians (epidemiologists and biostatisticians) through work in Risk Analysis units in other countries.

Global seminars are designed to reach concerned officials of all interested Member Countries on trade issues of global relevance.

For example, FAO has conducted a series of Roundtables on topics of concern in the negotiations on agriculture such as food security, trade preferences, and safeguards. These Roundtables drew on contributions from internationally recognized experts and were held in conjunction with the Special Sessions of the WTO Committee on Agriculture for the benefit of the agricultural trade negotiators based in Geneva. Other subjects that might lend themselves to this global format include: (i) Legislation and legal instruments on access to genetic resources; (ii) Implementation of SPS and TBT in fisheries and aquaculture or in forestry.

Distance learning activities can be used to inform and involve wider audiences than government officials, in order to build support through coalitions of different actors, to build or strengthen informed constituencies, such as higher education institutions, representatives from the private sector and civil society at large.

Development of information, teaching and learning resources in electronic and interactive forms and delivery including dissemination of existing packages (e.g., the web-based document on livestock trade-specific information relating to the SPS Agreement with three scenarios – countries wishing to import, countries wishing to export and countries wishing to not import livestock products at this time).

FAO's Record of Trade-Related Technical Cooperation with Member Nations

The *Plan of Action* of the World Food Summit commits FAO to assist developing countries on trade issues and, in particular, "in preparing for multilateral trade negotiations including in agriculture, fisheries and forestry *inter alia* through studies, analysis and training". This commitment has been reaffirmed by the 31st FAO Conference and it is embodied in the FAO Strategic Framework.

FAO's activities in this area culminated in the "Umbrella Training Programme on Uruguay Round Follow-up" which was launched in 1999 with the generous support of many FAO Members. The Programme, completed in July 2001, consisted of 14 subregional workshops that reached a total of 850 officials from 151 countries. This comprehensive Programme covered all WTO Agreements of relevance to agriculture, fisheries and forestry. It contributed to strengthening the participation of developing and transition countries in the negotiations through a better understanding of the WTO Agreements. A concrete outcome of the Programme includes the many proposals and information documents tabled by developing and transition countries in the ongoing negotiations on agriculture, many of which make explicit reference to FAO normative and operational activities.

The review of the Programme indicates the need to sustain this initial capacity-building effort and keep developing countries abreast of developments related to WTO issues. Countries are still facing difficulties in implementing the current Agreements and coping with the impact on their economies of strengthening and upgrading domestic SPS/TBT measures to comply with international requirements and hence optimise their trading opportunities; and in drafting or adapting their legislation in order to comply with the TRIPS Agreement. The new negotiations, of course, present new challenges and new opportunities.

For more information about the range of FAO normative and operational activities related to trade, please consult our website: <http://www.fao.org/trade>. For more information on FAO's new capacity-building programme:

Contact: Mr. Hartwig de Haen
Assistant Director-General
and

Chairman, Inter-Departmental Task Force on Multilateral Trade Negotiations
Food and Agriculture Organization of the United Nations
Via delle Terme di Caracalla, 00100 Rome, Italy
Tel. (+39) 06 570 535561; Fax. (+39) 06 570 54110
E-mail: Hartwig.deHaen@fao.org
Webpage: <http://www.fao.org/trade>
