



# The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



## Item 7 of the Draft Provisional Agenda

### FIRST MEETING OF THE *AD HOC* TECHNICAL COMMITTEE ON SUSTAINABLE USE OF PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Rome, Italy, 8-9 November 2012

### Compilation of Views and Experiences on the Implementation of Farmers' Rights Submitted by Contracting Parties and Relevant Organizations – Addendum 1

*Note by the Secretary*

#### EXECUTIVE SUMMARY

1. This document compiles the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty, submitted by Contracting Parties and other relevant Organizations, according to the request made by the Governing Body to the Secretary of the Treaty at its Fourth Session. All submissions contained in this document were received by the Secretary after 15 October 2012.
2. The submissions have been inserted in this compilation, in the form and language in which they were received. Minor editorial changes include the full rendering of acronyms and the correction of spelling.

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## I. RELEVANT ORGANIZATIONS

### 1.1 European Seed Association<sup>1</sup>

Brussels, 28 November 2008

*“Farmer’s Rights” have become an important subject on the international political agenda for farmers and the seed industry alike. Therefore, ESA, the representative organization of the European seed industry herewith makes its views known on this specific issue.*

ESA appreciates the historic and valuable contribution of farmers to the development and conservation of genetic resources of food and feed crops as mentioned in Article 9(1) of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

At the same time, ESA points out the important function of the European seed industry in contributing to better yields of food and feed crops by conservation and characterization of genetic resources in gene banks and further enhancing these genetic resources through breeding and development of improved varieties.

Therefore ESA, as a means of sustainable use, fully supports an open access to all genetic resources, including land races, gene bank accessions, wild relatives and protected varieties for breeding purposes by all breeders: farmers or companies alike. ESA is against any regulation which forbids or discourages farmers to breed or participate in plant breeding or to use other ways of improving the value of their crop.

For their continuous and substantial investment in the breeding work, breeders need a fair remuneration for the additional genetic value of their new varieties. Because plant varieties, especially the open pollinated types, can very easily be reproduced by anybody, breeders, whether companies or individuals, must have the opportunity to protect their new varieties through intellectual property rights. ESA is strongly in favour of Plant Breeder’s Rights based on the UPOV 1991 Convention as it provides an adequate protection of plant varieties against inappropriate exploitation by others. This protection is combined with free access and use for further breeding purposes<sup>2</sup> (breeder’s exemption) and the compulsory exception of acts done privately for non-commercial purposes<sup>1</sup> allowing subsistence farmers in developing countries to save and use seed from their own harvests.

Although the ITPGRFA - in general - recognizes the right of farmers to save, use, exchange and sell farm saved seed, its Article 9(3) clearly indicates that this right is subject to the national law in force in a given country, where such acts may be prohibited or subject to specific requirements and/or limitations. This paragraph thus does not give an unconditional right to farmers but merely states that Article 9 does not intend to limit any rights that farmers are granted at national level.

Under the UPOV 1991 Convention, national laws may allow farmers to replant on their own farm the seed produced on that same farm without the consent of the breeder of the protected variety. This exception however must remain within reasonable limits and is subject to the safeguarding of the legitimate interests of the breeder<sup>3</sup>. This optional exception to Plant Breeder’s Rights should be limited to food and feed crops where farm saved seed has been used traditionally and subject to the obligation that the farmer provides information concerning the use to the breeder and to the payment of an equitable remuneration. Free and unlimited use of farm saved seed undermines the

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<sup>1</sup> Note by the Secretariat: submitted in October 2012

<sup>2</sup> Article 15(1) of UPOV 1991 Convention

<sup>3</sup> Article 15(2) of UPOV 1991 Convention

financial return for breeders in important food and feed crops. Insufficient income for breeders will lead to less breeding efforts and eventually stop the release of new varieties to the detriment of farmers and society as a whole. However, farmers still have the opportunity to use seeds of varieties that are not or no longer protected, including landraces, independently of the consent of the breeder.

In the EU Member States, like in many countries, governments have implemented regulations for variety registration, variety listing and seed certification, in order to guarantee a good seed quality combined with objective and adequate information for farmers about the quality and potential value of the best varieties. ESA draws the attention to the fact that these regulations have contributed extensively to the successful development of agriculture in Europe.

For this purpose, like for Plant Breeders' Rights, varieties need to be tested for distinctness, sufficient uniformity and stability (DUS). ESA emphasizes that these requirements must be applied to all varieties entering such systems, irrespective of their origin and purpose, in order to avoid confusion about varietal identity and to prevent the registration of too heterogeneous varieties hampering the introduction of new and better varieties. However existing varieties not meeting these requirements (e.g. landraces) may still be allowed on a case by case basis and under adapted DUS requirements. In the EU, this approach is being followed by the specific conditions set for the marketing of seed of conservation varieties.

*In conclusion, ESA fully supports farmer's rights as mentioned in Article 9 of the ITPGRFA, taking into account the contribution of farmers to the conservation of genetic resources and the mutual benefits of improved varieties for farmers and breeders by sustainable use of genetic resources for further breeding and safeguarding the legitimate interest of the breeder.*

## 1.2 Let's Liberate Diversity – Coordination of the European Forum\*

### *Declaration of Szeged*

On 24 February 2011, we, farmers and practitioners, from 17 European countries, who conserve and renew agricultural biodiversity met in Szeged, Hungary, which currently holds the Presidency of the European Union, and prepared this statement to be addressed to our governments, the European Union and the Governing Body of International Treaty on Plant Genetic Resources for Food and Agriculture.

On February 24, 2004, the European Union approved the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). In the 7 years that have elapsed, it has still not adapted its internal legislation to incorporate the commitments of the Treaty. This anniversary a few days before the next meeting of the Governing Body of the Treaty in Bali gives us the opportunity to highlight what is urgently needed.

We are farmers, gardeners, artisans, consumers and environmental groups organised in associations and networks of European civil society. We represent tens of thousands of people from varied cultural traditions.

In our fields and our gardens, we all contribute to the conservation of traditional varieties in their traditional ecosystems, the collective and local dynamic management of agricultural biodiversity for the purposes of our agricultural production, to its development by the constant creation of new varieties, their widespread use and their added value in local markets.

### **Assessment**

Whenever farmers in Europe resow a portion of their harvest, they create new seeds, adapting them to their local environment and climate change, while reducing their dependence on chemical inputs. These farmers' varieties are always 'new' varieties, hence they are rarely homogeneous or stable.

The local collective organisation of seed exchange, of the management of agricultural biodiversity and the transfer of local knowledge guarantee the conservation and sustainable use of PGRFA. Since its origin, agriculture has been shaped by the collective rights of farmers to conserve, use and exchange their seeds, which we wish to preserve. Only 'reproducible' seeds allow for the conservation, renewal and increase of agricultural biodiversity, while nonreproducible seeds, e.g. F1 hybrids or others, are an important cause of the erosion of crop biodiversity.

We wish to reiterate the particular responsibility of the European Union, as the dominant agro-industrial power in the world, which, furthermore, supports in its own region and disseminates to the rest of the world agricultural policies and regulations that destroy agricultural biodiversity by giving preference to agro-industry, facilitating market concentration in the hands of a few international actors, financial speculation on food and land grabbing for industrial monocultures.

We cannot accept that the European Union regulation, restricts Farmers' Rights only to the right for registration of varieties in common or "conservation" catalogues, and to paying royalties to breeders every time farmers multiply their own seeds, while at the same time it permits the widespread introduction of patents on plants and animals. It is for these reasons why we would like to bring to the attention of the Treaty's Governing Body our contributions to the ongoing debate on the revision of seed laws in Europe.

### *In relation to the Treaty*

We wish to reiterate the importance, for food and farming and for future generations, of Articles 5, 6 and 9, which deal with the contribution of farmers to the conservation and renewal of biodiversity, and their associated rights.

We recall that in relation to Article 5, Contracting Parties (CP) committed themselves to promote and support farmers and local communities in managing and conserving their plant genetic resources and to eliminate the threats to these resources.

We recall that in terms of Article 6, Contracting Parties have undertaken to develop and maintain policy and legal measures with the aim of fostering “the development and maintenance of diverse farming systems” and “maximizing intra- and inter-specific variation” of varieties. In article 9 CPs have undertaken to protect and promote Farmers’ Rights. These articles cover all PGRFA and are legally binding for all CPs.

The concept of benefit-sharing has not proved able to mobilise the necessary financial resources for on-farm conservation even though industry’s seeds are all developed from seeds collected for free from the fields of farmers who selected and conserved them. Instead, most of the funds mobilised by donor countries go to the Global Crop Diversity Trust for ex situ conservation. This bias is also depriving the Treaty of operating resources.

We observe that our governments are imposing many obstacles to the implementation of articles 5, 6 and 9 linked to Farmers’ Rights and instead are focusing their efforts on the facilitated exchange of genetic resources within the multilateral system. Similar to the situation in many other countries worldwide, European legislation is only interested in securing privileges for industry and ignores Farmers’ Rights.

In relation to Article 9 of the Treaty, the respect of Farmers’ Rights, which are collective, to save, use, exchange, sell and protect their farm-saved seeds and their knowledge is the principal condition for making possible their essential contribution to the conservation and sustainable use of plant genetic resources for food and agriculture.

Thus we demand of the European Union and all of its Member States recognition that European farmers are also contributing to the conservation of plant genetic resources for food and agriculture and to include this positively in legislation on Farmers’ Rights:

- to choose freely, select, develop and grow their own seeds (except for GMOs) and then to sell the crop, without respect to whether these come from varieties listed in the catalogue ;
- to be granted free access to plant genetic resources in ex situ seed banks;
- to exchange and sell seeds for conservation purposes and for the dynamic management or selection on the farm used for agricultural production. In this respect, we demand explicit recognition of farmer’s rights to select and conserve their own seeds and for this reason to exchange plant genetic resources of varieties not listed in the catalogue, as breeders are doing.
- to reproduce their own seeds in order to adapt them to local conditions. An explicit recognition of the right to use freely, and without need for a license, is needed for all varieties, regardless whether or not the varieties are protected by an industrial property right, in order to be able to develop new varieties.
- to protect their seeds from genetic contamination and appropriation through contamination by patented genes.

We demand that for each newly registered variety it should be mandatory to disclose the breeding method used.

We demand a ban on disseminating in open environment genetically modified (GM) plants (i.e. plants modified in ways which do not occur naturally) whether through transgenesis or any other unregulated genetic transformation. Coexistence between GM and non-GM crops is impossible. All forms of patenting of life should be prohibited.

We demand that industrial property rights on plants such as plant breeders' rights should not affect Farmers' Rights to multiply and exchange farm-saved seed.

We demand that the obligation to disclose all information on the origin of plant genetic resources used for new plant breeders' rights be implemented concretely.

We demand from the European Union and each Member State, which is a Contracting Party participating in the Governing Body of the Treaty in Bali, to support the implementation of Articles 5 and 6 of the Treaty, introducing new agricultural and research policies that:

- Promote participatory breeding, the dissemination and the use of reproducible seeds, in situ on-farm conservation, local seed banks managed collectively by farmers and gardeners and through the transfer of local knowledge;
- Discourage the widespread use of non-reproducible seeds.

These policies must also take into account the right to food sovereignty and the right to preserve local cultural heritage and related activities, which guarantee the added value of plant genetic resources and products derived from agricultural biodiversity on local markets, thereby helping to conserve and renew these resources.

These rights must be complemented by the positive recognition in the law of the possibility of selling non-GM seeds of varieties not included in the catalogue.

The decision of the European Union (Directive 98/95 and following) to take into account the needs of organic farming, of "*in situ*" conservation of biodiversity and locally adapted variety mixtures must be realised by opening the Catalogue to the registration of populations varieties that are not homogeneous and are non-stable for the purposes of organic

farming, conservation of biodiversity or for other specific uses.

As our governments have not yet recognised the urgency for action, we reiterate to them today, 7 years after the signing of the Treaty, that the time has come to implement immediately and resolutely Farmers' Rights in Europe.

### ***In relation to the Fourth Session of the Governing Body***

We ask the European Union and other Contracting Parties attending the meeting of the Governing Body of the Treaty in Bali to put in place policies that support the implementation of Articles 5, 6 and 9 with new financial resources and appropriate measures at national level. Particularly in relation to the Treaty's funding status, either through its regular funds or other funds allocated to the support of conservation activities. We ask that members of the European Union make available regular funds for the Treaty's core administrative budget.

Even though we appreciate the effort of some countries to contribute to the Treaty's fund to support on-farm conservation, we reject the principle of funding only on a voluntary basis.

The money raised by the Global Crop Diversity Trust, which is dedicated exclusively to *ex situ* conservation, should also be made available, in equivalent amounts to the Treaty for on-farm conservation.

As already approved by the previous meetings of the Governing Body, we recall the importance of participation in Treaty negotiations of those farmers' organisations that actually participate in the conservation of agricultural biodiversity.

For this reason we request that a space for dialogue and debate be initiated with the Governing Body, with the participation of organisations that are defending biodiversity on-farm, and that this participation be organised in line with the principles that States have agreed during the reform of the Committee on World Food Security (CFS), i.e. autonomy and self-organisation of farmers' organisations and civil society.

We also remind national governments the importance of ensuring active and effective treatment of farmers, practitioners and consumers who actually participate in the conservation of agricultural biodiversity.

Concerning Article 6, we ask Contracting Parties to support the Secretariat's proposal to create an ad hoc working group on the sustainable use of plant genetic resources with the active and effective participation of civil society.

Regarding Article 9, we support, based on the document IT/GB-4/11/Circ.1, *Global Consultations on Farmers' Rights in 2010*, the proposal to have guidelines for the establishment of Farmers' Rights.

**\*List of signatories**

**-European Coordination on Farmers' Seeds:**

Réseau Semences Paysannes, France

Rete Semi Rurali, Italy

Red de Semillas "Resembrando e Intercambiando", Spain

Pro Specie Rara, Switzerland

Arche Noah, Austria

Védegylet/Protect the Future, Hungary

**Other organisations:**

Environmental Social Research Group, Hungary

Ormánság Foundation, Hungary

Centro Internazionale Crocevia, Italy

ACRA -Associazione di Cooperazione Africa America Latina, Italy

Associazione Italiana Agricoltura Biologica, Italy

Aegilops, Greece

Oikodiktio, Greece

Farmer's Unions Confederation in Turkey – Cifti-Sen, Turkey

Tohum Izi Association, Turkey

Verein zur Erhaltung der Nutzpflanzenvielfalt VEN, Germany  
Dachverband Kulturpflanzen- und Nutztiervielfalt, Germany  
Confédération Paysanne, France  
BEDE, France  
Practical Action, UK  
Scottish Crofting Federation, Scotland  
Berne Declaration, Switzerland  
Clubul Ecologic Transilvania, Romania  
ELKANA, Georgia  
Latvijas Zemes draugi/Friends of the Earth Latvia  
FOLL' AVOINE, France  
ÉTER KHE, Hungary  
Natúrháló, Hungary  
Kalocsakörnyéki Környezetvédelmi Egyesület, Hungary  
Central Trans-danubian Organic Society – Biokultúra, Hungary  
Camping Rural “Loma Taivilla” Casarabonela, Málaga – Spain  
La Unió de Llauradors i Ramaders, País Valencià- Spain  
Asociación de Consumidores/as Ecológicos/as de Castilla La Mancha ‘La Tierrallana’ – Spain  
Garden Organic, England, UK  
EcoRuralis, Romania

### 1.3 Practical Action<sup>4</sup>

#### *Context*

Since the adoption of Resolution 5/89, the realisation of Farmers' Rights has been a hotly contested space in the international governance of plant genetic resources for food and agriculture (PGRFA). Practical Action (formerly ITDG) has been an active member of the Civil Society Organisations (CSO) lobby on this issue in FAO forums and latterly the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). It has also engaged with many local, national, regional and international organisations and processes in terms of related policy and practice – from Seed Fairs to debates on the inclusion of Farmers Rights in national legislation to the relevance of the Farmers' Rights discourse to the governance of genetic resources for food and agriculture for other sectors e.g. livestock keepers.

We recall that the Treaty was the result of a renegotiation of the International Undertaking to bring in harmony with the Convention on Biological Diversity (CBD). The Treaty shares the CBD's three overarching goals<sup>5</sup> and commits Contracting Parties to link the implementation of the Treaty with other normative processes facilitated by FAO, as well as with the CBD.

It is in this context that Article 9 needs to be interpreted, linking it closely with Article 5 (Conservation) and Article 6 (Sustainable Use) and Article 18 (Financial Resources).

We also recall and support an early description of Farmers' inalienable Rights, which was presented by La Via Campesina, the International Peasant Movement, to the CGRFA in December 1996 (see Annex 1). In this they called for “...a permanent and flexible consultation process that will permit [full] participation and adequate representation...” consistent with the outcomes of the 1996 fourth International Technical conference on PGRFA, held in Leipzig, as elaborated in the parallel CSO “In Safe Hands” meeting.

*They insist that “Farmers' Rights have a deep historic character, have existed since humans created agriculture to serve their necessities, have remained vital through our conservation of biodiversity, and we endorse them with our constant generation of new resources and their improvement. We are the guardians of these genetic resources, which support the evolution of species[/varieties]. We are the inheritors of the skills and knowledge of the generations that have created this biological wealth, and for this we only ask that you recognize our Rights”.*

Furthermore, they recognise that “Farmers' Rights are of an eminently collective nature and for this reason should be recognized in a different framework from that of private property.”

Unfortunately, Farmers' Rights were developed in a farmer-free environment in Rome, Spoleto, Neuchatel... and agreed in 1999 without small-scale farmer involvement. Hence, the Treaty contains an Article that does not provide sufficient mandatory provisions to ensure that the inalienable rights, which small-scale, biodiversity-enhancing farmers have hitherto enjoyed, are protected and strengthened.

This perspective has been repeatedly presented to Contracting Parties, Members of the CGRFA and Parties to the CBD by La Via Campesina as well as support NGOs, including Practical Action/ITDG.

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<sup>4</sup> <http://practicalaction.org>. Submission received on 22 October 2012.

<sup>5</sup> Note by the Secretariat. The objectives of the International Treaty are reflected in Article 1.

It is our observation that, as presented by us in the Farmers' Rights workshop in Addis Ababa in 23 November 2010, there has been little, if any, substantive and effective implementation of Farmers' Rights, as explicitly described in the Treaty Article 9, by governments at national level.

In the paper by Regine Andersen and Tone Winge, presented at the Addis workshop, summarising the electronic consultation about the implementation of Farmers Rights, on pages 52 to 63 is the section that deals with participation in decision making at national level. About a third of respondents said there was some kind of legal right to participation in their countries Africa (4), Asia (7) Latin America (2) Europe (7). There was no evidence presented that there has been any 'effective' participation in decision making by biodiversity-conserving farmers who develop, save and use a wide range of PGRFA – effective participation by them in changing laws, policies and programmes that destroy biodiversity and agreeing laws, policies and programmes that would enable, especially small-scale, farmers to be able to continue doing their vital work.

About half the respondents in the survey, said that farmers could participate in committees, hearings and so on but there was no evidence that these farmers were legitimate representatives of those who conserve and generate a diversity of PGRFA for the future. Few states enable farmers to engage effectively in processes necessary to defend, or change policy and practice towards, the biodiverse production systems, which conserve and sustainably use PGRFA.

The report does note, however, that there are some efforts to train decision makers in the importance of implementing Farmers' Rights at national level but clearly more needs to be done.

A possible example is the Kingdom of Bhutan in which there are a set of traditional and benign customs and practices by the state in concert with local organisations, which permit most actions set forth in the Treaty's Article 9, and which also protect farmers from many threats posed by the dissemination of industrial seeds and practices. Yet, most farmers and government officials are unlikely to see this as an innovation resulting from the coming into force of the Treaty.

### *On-farm and on-range conservation and sustainable use*

In the United Kingdom (UK) there is:

- A rich diversity of organic seed breeders who struggle to keep their activities within prescribed regulations
- Increasing numbers of organic gardeners and farmers who conserve and develop local varieties
- The Heritage Seed Library (HSL), run by Garden Organic, that has a collection of 800 de-listed varieties of vegetables kept alive by 400 seed guardians. These seeds are lent to HSL members.
- An exciting network of more than 60 'Seedy Sundays' (introduced to the UK from Canada). The original one in Brighton is now in its 12th year and attracts 2000 people on the first Sunday in February each year to swap seeds, exchange information and learn about related issues.
- Let's Liberate Diversity – 7th edition – was held in Scotland this year, hosted by the Scottish Crofters. It brought together people from across Europe concerned to keep diversity of seeds (and livestock breeds) regenerating on-farm. The realisation of Farmers' Rights would assist their endeavours.

These activities take place seemingly despite, not because of, the ratification of the Treaty by the UK.

In Europe, there are developments in seed legislation which will affect all Member States. At present, it seems the Commission proposals are not in line with the spirit of the Treaty's provisions with regard to Farmers' Rights. The legislation may further constrain the development and use of farm-saved seeds rather than enhance this.

### ***Benefits***

In the Treaty, it is clear *“that priority will be given to the implementation of agreed plans and programmes for farmers in developing countries, especially in least developed countries, and in countries with economies in transition, who conserve and sustainably utilize plant genetic resources for food and agriculture.”* (Art. 18.5)

This deprioritises UK and European farmers, regrettably. There is merit in specific resources being made available from MS, European and Treaty funds, in harmony with the provisions of the Treaty's Articles 9 and 6, to farmers in this region who conserve, develop and use a wide range of PGRFA.

Non-monetary benefits are also of importance in realising Farmers' Rights. These can include the broadest interpretation of benefits such as the existence and implementation of the Treaty itself. This should be a benefit for humankind and especially for the farmers if their capacity to conserve, use sustainably and develop agricultural biodiversity on-farm were to be enhanced by the implementation of the Treaty, and also, of course, for those who eat the more biodiverse and healthier foods produced.

In order to realise improvements in non-monetary benefits a number of issues were discussed and summarised in the report of a working group at a workshop in Bogor in 2010 – see Annex 2. Among several proposals of the working group it was concluded that there was a need to:

- ‘Push’ and ‘promote’ the implementation of the provisions of the Treaty at national level in ways that support biodiverse agriculture
- Transform seed laws and other restrictive regulations that impact on the availability of seeds, especially farmers’ varieties– more use of self-certification of farmers’ varieties
- Promote appropriate transfer of technology (including knowledge and skills) between actors within and between different communities, countries and regions– South-South, South-North and North-South.
- Protect communities from inappropriate technologies offered by more powerful actors, respecting the Precautionary Principle, using mechanisms of prior informed consent, prior impact assessments etc.
- Increase skills of facilitators (government workers, researchers, NGOs) who interact with smallholder farming communities
- Reframe research priorities and protocols in order to help scientists and others to work better with smallholder communities.
- Improve information provision

Implementing these proposals alone would contribute significantly to realising Farmers' Rights.

**Conclusions**

In conclusion, farmers in all regions are looking for protection from the industrial production model that is capturing and destroying biodiversity, markets and livelihoods of small-scale food producers. They are also calling for protection from patents and IPRs and diversity-reducing seed laws. The protection from the industrial food system is not only to sustain agricultural biodiversity but also improve the local provision of healthy food produced sustainably.

And what is it that these small-scale biodiverse farmers are calling for the Treaty to do? They are looking for the promotion of a more biodiverse and ecological food system; for recognition of their collective rights to seed, land, water; looking for protection of their resilient production systems that can adapt to climate change and other threats. [These are all aspects of changes in agricultural production that have been found necessary by the international agricultural assessment IAASTD]. They are looking for laws that will prohibit the contamination and integrity of their seeds by GMOs. They are looking for a system that will defend their farmers' rights and the rights of PachaMama – the defence of Mother Earth.

Farmers' Rights will be better implemented if, in decision making, the Governing Body were to include legitimate representatives of the social movements of these biodiverse small-scale farmers, including in the allocation of the Benefit Sharing fund. They would be well advised to adopt similar procedures to those of the UN FAO Committee on World Food Security (CFS) that, now renewed, has a more open, transparent and effective mechanism for the inclusion of civil society, who self-organise their participation in the processes and debates in the Committee.

Annex 1 (Practical Action)

**1996 Intervention to the FAO/CGRFA by Via Campesina  
VÍA CAMPESINA'S PLEA FOR RECOGNITION OF FARMERS' RIGHTS**

Intervention of Vía Campesina to the FAO Commission on Genetic Resources for Food and Agriculture, on the Revision of the International Undertaking on Plant Genetic Resources.

Last June, in Leipzig, Vía Campesina had the opportunity to present the proposal that *Farmers' Rights*, the Global Plan of Action, and the terms of the International Undertaking should be implemented through a broad-based consultation process with producer's organisations, peasants, indigenous people, and farmers. The fact that our declaration was incorporated in the Leipzig conference report in paragraph 30, recording our request for a permanent and flexible consultation process that will permit the participation and adequate representation of all stakeholders, is very important to us.

Now, we wish to ask you to bring about this consultation, and we restate our position that this Commission and the FAO, as representatives of the international community, should support a consultation process at national, regional and international levels that guarantees the integral participation of farmers, as the best mechanism that governments have to develop policies for implementing the Rights of their peoples.

It is appropriate now to describe the principles on which the international community should recognize *Farmers' Rights*, among which should be included:

1. Farmers' Rights have a deep historic character, have existed since humans created agriculture to serve their necessities, have remained vital through our conservation of biodiversity, and we endorse them with our constant generation of new resources and their improvement. We are the guardians of these genetic resources, which support the evolution of species. We are the inheritors of the skills and knowledge of the generations that have created this biological wealth, and for this we only ask that you recognize our Rights.
2. *Farmers' Rights* include the right over resources and associated knowledge, united indivisibly, and mean the acceptance of traditional knowledge, respect for cultures and recognition that these are the basis of the creation of knowledge.
3. The right to control, the right to decide the future of genetic resources, the rights to define the legal framework of property rights of these resources.
4. *Farmers' Rights* are of an eminently collective nature and for this reason should be recognized in a different framework from that of private property.
5. These rights should have a national application, and the Undertaking should promote legislation to this effect, respecting the sovereignty of each country, to establish local laws based on these principles.
6. Rights to the means to conserve biodiversity and achieve food security, such as territorial rights, right to land, right to water and air.
7. The right to participate in the definition, elaboration, and execution of policies and programmes linked to genetic resources.
8. The right to appropriate technology as well as participation in the design and management of research programmes.
9. The right to define the control and handling of benefits derived from the use, conservation and management of these resources.
10. The right to use, choose, store and freely exchange genetic resources.
11. The right to develop models of sustainable agriculture that protect biodiversity and to influence the policies that support it.

Vía Campesina rejects intellectual property rights and the patenting of any form of life or of knowledge associated with these genetic resources because it is a threat to biodiversity and results in the legalization of the expropriation of knowledge and resources by industrial companies and transnational corporations. The fact that 95% of food-related patents are concentrated in only 7 countries and a few companies serves as sufficient example. We want to alert our governments to the danger that the monopolization of knowledge by a few transnationals threatens the future of humanity.

Food security is now one of the great concerns of humanity. Eliminating the hunger of 800 million poor people in the world is a task intimately linked to the work of this Commission. Food security is only possible if there is sufficient support for agricultural biodiversity, whose conservation and sustainable use we farmers have achieved through generations of implementing *Farmers' Rights*. Now, ladies and gentlemen, all that remains is to recognize them.

Annex 2 (Practical Action)

**MINISTRY OF AGRICULTURE  
INDONESIAN AGENCY FOR AGRICULTURAL RESEARCH AND DEVELOPMENT  
with the government of Norway  
International Workshop**

**International Treaty: Benefit-sharing in the Multilateral System  
Hotel Santika, Bogor, Indonesia, 9-11 March 2010.**

**11 March afternoon  
WORKING GROUP 3**

The WG reinforced the view that the existence and implementation of the Treaty itself should be a benefit for humankind and especially for the farmers that conserve, use sustainably and develop agricultural biodiversity on-farm and for those who eat the food produced.

**1. Priority Gaps / Barriers**

- Provision of relevant information in appropriate formats
- Replication of local level initiatives (upscaling)
- Need to ‘push’ and ‘promote’ the implementation of the provisions of the Treaty at national level in ways that support biodiverse agriculture
- Transform seed laws and other restrictive regulations that impact on the availability of seeds, especially farmers’ varieties– more use of self-certification of farmers’ varieties
- Poor understanding and internalization by the Treaty’s competent bodies of the priorities, values and ways of working of the organizations of small-scale farmers.

**2. Priority needs**

**a) Information:**

- More agronomic data associated with accessions
- Easier access to required data (on demand, meta data searches; learn from services provided for similar types of datasets e.g. the Clearing House Mechanism of the CBD)
- Provision of more ‘popular’ information on the Treaty, its purposes, mechanisms and implementation for different audiences.

**b) Technology Transfer:**

- Promote appropriate transfer of technology (including knowledge and skills) between actors within and between different communities, countries and regions– South-South, South-North and North-South.
- Protect communities from inappropriate technologies offered by more powerful actors, respecting the Precautionary Principle, using mechanisms of

prior informed consent, prior impact assessments etc.

**c) Capacity Building**

- Increase skills of facilitators (government workers, researchers, NGOs) who interact with smallholder farming communities
- Reframe research priorities and protocols in order to help scientists and others to work better with smallholder communities.

**3. Priority mechanisms for implementation by the Governing Body**

- Propose ways to increase support for Focal Points in country – through:
  - FAO, including FAO country and regional representatives;
  - increased priority to the work of the Treaty at national level;
  - improved linkages with other bodies, programmes and institutions that provide similar or complementary services
- Decide to organize an intersessional *ad hoc*, inclusive working group, including Contracting Parties and representatives of international small-scale farmers organizations with support NGOs on an equal footing, that will define a framework for, and will propose ways to increase the relative priority of work on, the implementation of on-farm / *in situ* conservation and sustainable use and development of PGRFA and that protects and develops farmer-led innovation systems, including PPB.