

**COMMISSION ON GENETIC RESOURCES FOR FOOD AND  
AGRICULTURE**

Fifth Extraordinary Session

Rome, 8 - 12 June 1998

**ANTHOLOGY OF DEFINITIONS THAT MIGHT BE PERTINENT FOR  
THE REVISION OF THE INTERNATIONAL UNDERTAKING ON  
PLANT GENETIC RESOURCES**

At its Fourth Extraordinary Session, held in Rome in December 1997, when considering the negotiating text for the revision of the International Undertaking on Plant Genetic Resources, the Commission on Genetic Resources for Food and Agriculture requested the FAO Legal Office “to assemble an anthology of definitions used in relevant international agreements that might be pertinent to the revision of the Undertaking” (*cf.* paragraph 9 of the *Report*). The present document was prepared in response to that request.

In this document, words in square brackets have been added by the secretariat, as linking text, or as references and explanation.

**ANTHOLOGY OF DEFINITIONS THAT MIGHT BE PERTINENT  
FOR THE REVISION OF THE INTERNATIONAL UNDERTAKING  
ON PLANT GENETIC RESOURCES**

**BIOLOGICAL DIVERSITY**

**Convention on Biological Diversity, Article 2:**

“*Biological diversity*” means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

**BIOTECHNOLOGY**

**Convention on Biological Diversity, Article 2:**

“*Biotechnology*” means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

**[BREEDER’S EXEMPTION]**

**International Convention for the Protection of New Varieties of Plants (UPOV), Article 15:**

The *breeder’s right* shall not extend to:

- (i) acts done privately and for non-commercial purposes,
- (ii) acts done for experimental purposes, and
- (iii) acts done for the purpose of breeding other varieties [as provided for in the Convention].

**COUNTRY OF ORIGIN OF GENETIC RESOURCES**

**Convention on Biological Diversity, Article 2:**

“*Country of origin of genetic resources*” means the country which possesses those genetic resources in *in situ* conditions.

## ***EX SITU* CONSERVATION**

### **Convention on Biological Diversity, Article 2:**

“*Ex situ conservation*” means the conservation of components of biological diversity outside their natural habitats.

## **[FARMER’S PRIVILEGE]**

### **International Convention for the Protection of New Varieties of Plants (UPOV), Article 15:**

[The right for a Contracting Party to the International Convention for the Protection of New Varieties of Plants], “within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder,[to] restrict the breeder’s right in relation to any variety in order to permit farmers to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety covered by Article 14(5)(a)(i) or (ii)” [*Essentially derived and certain other varieties*”].

## **FARMERS’ RIGHTS**

### **International Undertaking on Plant Genetic Resources, Annex II (Resolution 5/89):**

*Farmers’ Rights* mean rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity. These rights are vested in the International Community, as trustee for present and future generations of farmers, for the purpose of ensuring full benefits to farmers and supporting the continuation of their contributions, as well as the attainment of the overall purposes of the International Undertaking.

## **FOOD SECURITY**

### **World Food Summit Plan of Action, Paragraph 1:**

“*Food security*” exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.

**GENETIC MATERIAL****GENETIC RESOURCES****Convention on Biological Diversity, Article 2:**

“*Genetic material*” means any material of plant, animal, microbial or other origin containing functional units of heredity.

“*Genetic resources*” means genetic material of actual or potential value.

***IN SITU* CONDITIONS****Convention on Biological Diversity, Article 2:**

“*In situ conditions*” means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

***IN SITU* CONSERVATION****Convention on Biological Diversity, Article 2:**

“*In situ conservation*” means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

**INTELLECTUAL PROPERTY****Agreement on Trade-Related Aspects of Intellectual Property Rights, Article 1:**

“For the purposes of this Agreement, the term “*intellectual property*” refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II”. [These are, respectively, Section 1: Copyright and Related Rights; Section 2: Trademarks; Section 3: Geographical Indications; Section 4: Industrial Designs; Section 5, Patents; Section 6: Layout-designs (Topographies) of Integrated Circuits; and Section 7: Protection of Undisclosed Information. Under Section 5, Patents, Article 27.3(b) provides that “Members may exclude from patentability ... plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or an effective *sui generis* system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the entry into force of the WTO Agreement”.]

**[PLANT] BREEDER**

**International Convention for the Protection of New Varieties of Plants (UPOV), Article 1:**<sup>1</sup>

“*Breeder*” means

- the person who bred, or discovered and developed, a variety,
- the person who is the employer of the aforementioned person or who has commissioned the latter’s work, where the laws of the relevant Contracting Party so provide, or
- the successor in title of the first or second aforementioned person, as the case may be.

**[PLANT] BREEDER’S RIGHT**

**International Convention for the Protection of New Varieties of Plants (UPOV), Article 1:**

“*Breeder’s right*” means the right of the breeder provided for in this Convention. [Chapter V – Articles 14 to 19 – of the Convention is entitled “*The Right of the Breeder*”].

**PLANT GENETIC RESOURCES**

**International Undertaking on Plant Genetic Resources, Article 2:**

“*Plant genetic resources*” means the reproductive or vegetative propagative material of the following categories of plants:

- i. cultivated varieties (cultivars) in current use and newly developed varieties;
- ii. obsolete cultivars;
- iii. primitive cultivars (land races);
- iv. wild and weed species, near relatives of cultivated varieties;
- v. special genetic stocks (including elite and current breeders’ lines and mutants).

**SUSTAINABLE USE**

**Convention on Biological Diversity, Article 2:**

“*Sustainable use*” means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

**VARIETY**

**International Convention for the Protection of New Varieties of Plants (UPOV),  
Article 1:**

“*Variety*” means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder’s right are fully met, can be:

- defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
- distinguished from any other plant grouping by the expression of at least one of the said characteristics and
- considered as a unit with regard to its suitability for being propagated unchanged.