



**The International Treaty**  
**ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**



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**Views, Experiences and Best Practices on the Implementation of Farmers' Rights Submitted by Contracting Parties and Relevant Organizations**

*Note by the Secretary*

*This document presents the views, experiences and best practices on the implementation of Farmers' Rights, as set up in Article 9 of the International Treaty submitted by Practical Action on 21 October 2012.*

*The submission is presented in the form and language in which it was received. Minor editorial changes include the full rendering of acronyms and the correction of spelling.*

## RELEVANT ORGANIZATIONS

### Practical Action

#### 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>1</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>1</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.

**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 organizations, 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 (up scaling)
- 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.