

Stakeholders' Consultation on Farmers' Rights African Position Paper



27-29 June, 2016

HICC Hotel, Harare, Zimbabwe



Food and Agriculture
Organization of the
United Nations



The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE



Table of Contents

ACRONYMS	iii
ACKNOWLEDGEMENT	v
PREAMBLE	vi
Rationale for Holding the Consultation	1
Workshop Objectives	1
Submission and Presentation of Outcome	2
Methodology	2
Introduction	3
Summary of Proceedings	4
Understanding and Defining Farmers’ Rights - in the African Context	4
<i>What is Farmer’s Rights in Africa?</i>	4
Main component of Article 9 - Farmers’ Rights as articulated in the Treaty	5
<i>Farmer’s rights to save, use, exchange and sell farm saved seeds and other propagating material</i>	5
<i>Protection of traditional knowledge relevant to plant genetic resources for food and agriculture</i>	5
<i>The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture</i>	6
<i>The right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture</i>	6
Key Issues and Concerns of the African Farmer as they relate to PGRFA	6
<i>Farmer Crop Varieties and Seed Systems</i>	7
<i>Seed Laws</i>	9
<i>Intellectual Property Rights and Plant Breeders Rights</i>	10
Challenges and Opportunities in the implementation of Farmers’ Rights in Africa	11
<i>Awareness Raising</i>	13
<i>Financial Resources</i>	14
<i>Role of Community Seed Banks</i>	15
<i>Community Seed Fairs</i>	16
<i>Policies and legislation</i>	16
<i>Relevant structures for implementing Farmers’ Rights</i>	17
Conclusion	17
Annex 1	18

Official Opening Speech by the Honorable Minister of Agriculture, Mechanization and Irrigation Development.....	18
Annex 2	21
Programme Agenda	21
Annex 3	24
TERMS OF REFERENCES	24
Annex 4	28
List of Participants to the International Treaty on Plant Genetic Resources for Food and Agriculture Consultative Workshop on Farmers’ Rights.....	28

ACRONYMS

ABS	Access and benefit sharing
ARC	Agricultural Research Council
ARIPO	African Regional Intellectual Property Organisation
AU	African Union
CBD	Convention on Biological Diversity
CGIARs	Consultative Group for International Agriculture Research Centres
CGRFA	Commission on Genetic Resources for Food and Agriculture
CIMMYT	International Maize and Wheat Improvement Centre
CSO	Civil Society Organisation
CTDO	Community Technology Development Organisation
DUS	Distinctness Uniformity and Stability
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FR	Farmers' Rights
GB	Governing Body (of the ITPGRFA)
GDP	Gross Domestic Product
HICC	Harare International Conference Center
ICRISAT	International Crops Research Institute for the Semi-Arid Tropics
IKS	Indigenous Knowledge Systems
IP	Intellectual Property
IPR / IPRs	Intellectual Property Rights
ISSD	Integrated Seed Sector Development
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture

KARI	Kenyan Agricultural Research Institute
MLS	Multilateral System of Access and Benefit-Sharing (of the International Treaty on Plant Genetic Resources for Food and Agriculture)
NGO	Non-Governmental Organisation
OPV	Open Pollinated Variety
PBR	Plant Breeders' Right
PVP	Plant Variety Protection
RARCs	Regional Agricultural Research Centres
SADC	Southern Africa Development Community
SHF	Small Holder Farmers
SPGRC	SADC Plant Genetic Resources Centre
WTO (TRIPS)	World Trade Organisation -Trade Related Aspects of Intellectual Property Rights
UPOV	International Union for the Protection of New Varieties of Plants
WIPO	World Intellectual Property Organisation

ACKNOWLEDGEMENT

Community Technology Development Trust (CTDT) wishes to express its profound gratitude to the Ministry of Agriculture Mechanization and Irrigation, for co-hosting the Stakeholders Consultations on Farmers' Rights in Africa. CTDT expresses sincere gratitude to all participants: Contracting Parties (Angola, Cameroon, Kenya, Madagascar, Malawi, Namibia, Tanzania, Uganda, Zambia and Zimbabwe), Government Ministries' officials, farmers, Civil Society Organizations, research institutions and academia, for their active participation and invaluable contributions to this Consultation.

CTDT wishes to acknowledge the invaluable contribution made by CTDT staff who worked so tirelessly for the successful conduct of the Consultation. Special mention goes to the facilitator/moderator Dr. I. Mharapara for his excellent facilitation skills which made the three-day Consultative meeting more interesting and dynamic. Special thanks go to the rapporteurs, who patiently followed the discussions and prepared this report.

CTDT expresses its gratitude and appreciation to the Chair for Africa region, Dr Francis Azenaku Leku, for his valuable advice and guidance during the preparation and throughout the consultation process.

CTDT extends its gratitude to the ITPGRFA Secretary, Dr Shakeel Bhatti, and the Secretariat for supporting the successful holding of the Stakeholders' Consultation.

PREAMBLE

The Governing Body,

Recalling the recognition in the International Treaty of the enormous contribution that the local communities and farmers of all regions of the world have made, and will continue to make, for the conservation, development and use of plant genetic resources as the basis of food and agriculture production throughout the world;

Recalling in its resolutions 2/2007, 6/2009, 6/2011, and 8/2013,

Requests the Secretariat to engage Contracting Parties and relevant organisations to take initiatives to gather information at national, regional and global levels for exchanging knowledge, views, experiences and best practices on the implementation of Farmers' Rights;

Invites Contracting Parties and relevant organisations to take initiatives to convene regional workshops and other consultations including with farmers' organisations, for the exchange of knowledge, views and experiences to promote the realisation of Farmers' Rights as set out in Article 9 of the Treaty, and present results at the next session of the Governing Body;

NOW THEREFORE, as part of the fulfilment of resolution 5/2015¹ stated above,

The Africa Group held an Stakeholders Consultative workshop on Farmers' Rights under the FAO International Treaty on Plant Genetic Resources for Food and Agriculture in Harare, Zimbabwe, from 27 to 29 June 2016. The Consultative workshop aimed at gathering views, perceptions, options and possible approaches and strategies to advocate for the implementation and promotion of Farmers' Rights.

¹ Full text of Resolution 5/2015 is available at IT/GB-6/15/Report Appendix A, page 22 (<http://www.fao.org/3/a-mo938e.pdf>)

Rationale for Holding the Consultation

In Africa, traditional agriculture accounts for more than 375 million farmers, of which, 80 to 90% of this farming population are small holder farmers who depend and rely on and use their own farm-saved seeds. The farmers depend on diversity of cultivated plants to maintain their yields and quality crop production, adapting their farming activities to difficult conditions such as drought. The majority of African farmers get their seeds from informal channels through seed exchange among farmers or local grain seed market. These informal systems contribute 80-100% of seed supply to the African farmers.

However, the informal seed systems face many challenges today which include the policies and regulatory frameworks that are less supportive to farmers' customary seed management systems; the intellectual Property Rights (IPRs), and the seed laws and regulations. The implementation of the Treaty, particularly Article 9 becomes critical so as to enable farmers to continue to manage, develop and conserve crop genetic resources as they have done since time immemorial. Within this context, holding the Stakeholders' Consultation on Farmers' Rights in Africa is particularly important and timely for the region to discuss the various challenges and fundamental issues impeding the realization of Farmers' Rights, as they relate to plant genetic resources for food and agriculture. The Consultative workshop proved to be an excellent means to share and exchange knowledge, views and experiences that would promote the realization of Farmers' Rights within the context of Africa. Likewise, participants of the Consultative workshop had come up with a vision that can be shared at the Global Consultation on Farmers' Rights which will be held in Bali, Indonesia in September 2016.

Workshop Objectives

The overall objective of the Stakeholders' Consultation was to identify ways and means to facilitate practical and easy processes towards the realisation of Farmers' Rights, as set out in Article 9 of the Treaty and as they relate to PGRFA by the national governments, while acknowledging Farmers' Rights as vital for food and nutrition security, and the future of plant genetic resources conservation and sustainable use.

The specific objectives included taking stock of significant country experiences; best practices and lessons learned in the realization of farmers' rights; identify challenges for the realization of farmers' rights, as they relate to PGRFA and identifying practical options and strategies for national implementation of Farmers' Rights.

Submission and Presentation of Outcome

This report is a consolidated position paper of the stakeholders in Africa region which will be submitted to the IT Secretariat and to be presented to the Global Consultation on Farmers' Rights in Bali, Indonesia in September 2016.

Methodology

The three-day Stakeholders' Consultation meeting was structured in four different thematic sessions plus a final session devoted to synthesis and recommendations. Prior to thematic sessions, participants were requested to introduce themselves and their expectations on Farmers' Rights Consultation. This was followed by welcome address from the organizer, Mr Andrew Mushita; the Executive Director of Community Technology Development Organisation; a welcome remarks from the Chair of the Africa Group and Vice Chair to the Treaty Bureau, Dr. Francis Leku Azenaku; a brief talk on Farmers' Rights Consultation by the Treaty Secretariat, Dr Mary Jane dela Cruz; and finally, the Keynote address of the Zimbabwe Minister of Agriculture, Mechanisation and Irrigation Development that marked the opening of the meeting. The Minister's keynote address was read on his behalf by the Principal Director of the Agricultural Extension Services, Mr Joseph Gondo. The keynote address of the Minister is provided in Annex 1.

To set the tune of the meeting, a presentation on understanding Farmers' Rights, their substantial elements as they relate to PGRFA by national governments and the future of plant genetic conservation and sustainable use was discussed by Mrs. Elizabeth Matos (Angola). This was followed by thematic session's presentation, as follows:

Session 1: Lessons Learnt, Key issues and concerns of smallholder farmers and indigenous communities, and their challenges in the implementation of FRs as they relate to plant genetic resources for food and agriculture

Session 2: Assessment of Farmers' Rights, Fundamental issues, challenges and opportunities in the region and at national level

Session 3: Resources for Implementing (and protecting) Farmers Rights at the national level: challenges, opportunities and options to gain national support- overview

Session 4: Domestication of Article 9 – Farmers' Rights / Enforcing Farmers' Rights

Each session was followed by group discussions and group presentations highlighting the key issues which needed consideration for effective implementation of Article 9 of the Treaty, and then, the final session, synthesis and recommendation. The programme of the consultation is provided in Annex 2. The summary and analysis of presentations and discussions are provided in this report.

The Stakeholders' Consultation was well attended. Overall, there were 59 active participants representing 10 Contracting Parties (Angola, Cameroon, Kenya, Madagascar, Malawi, Namibia, Tanzania, Uganda, Zambia and Zimbabwe), CSOs (CTDO, BCI, APA), representative from the Treaty Secretariat, Vice Chair of the Bureau for the Treaty who is also the Chair of the African Group, research organisations (KALRO ARC,) Universities, Regional organisations (ARIPO, SPGRC), CGIAR, farmer organisations and Farmers. The list of participants is annexed to this report (Annex 3).

Introduction

Farmers' Rights originates from past, present and future contribution of farmers to conservation, development and availability of plant genetic resources particularly those from the centres of origin/diversity. As custodians and developers of crop genetic resources in the field, their rights are crucial for enabling them to maintain their role to conserve diversity for local and global food and nutrition security and poverty reduction. Realising Farmers' Rights means enabling farmers to manage, develop and conserve crop genetic resources as they have done since the dawn of agriculture, and recognizing them for their contribution to the global pool of genetic resources for food and agriculture.

Currently, the African farmers are facing many challenges in realizing his/her rights as articulated under Article 9 of the Treaty. Article 9 "Farmers' Rights" are not being implemented due to many factors which include: the weak and sometimes contradicting policies and legislations; the expansion of IPRs to farmer seed systems; the lack of financial resources for the development of support structures; the lack of common strategy or collaboration between and among various sectors and stakeholders; unwillingness of decision-makers to Farmers' Rights' implementation; and the lack of awareness and real understanding of what constitute Farmers' Rights.

This report summarises the outcome of the Stakeholders' Consultation and will be presented to the Global Consultation on Farmers' Right to be held in Bali Indonesia in September 2016.

Summary of Proceedings

Understanding and Defining Farmers' Rights - in the African Context

What is Farmer's Rights in Africa?

Defining Farmers' Rights in the African context was seen as first and foremost important in order to understand what the basic needs of African farmers are. In this context, the participants analyzed a number of international instruments relevant and related to Farmers' Rights in order to establish and understand on what constitute Farmers' Rights. They noted that international instruments such as UPOV 1961 refer to farmer's exemption, where farmers are allowed to save, use, exchange farm-saved seeds but not to sell on a commercial basis. An analysis of the Convention on Biological Diversity showed that the *Benefit Sharing* concept could apply to a definition of Farmers' Rights since benefit sharing relates to rights and rewards that farmers deserve for contributing to agriculture innovation. The Treaty describes Farmers' Rights as originating from past, present and future contributions of farmers to conservation, development and availability of plant genetic resources, particularly those from centres of origin of diversity. The rights are vested in the International Community as trustees for present and future generation of farmers.

The participants, after careful analysis and consideration of the various international instruments came up with a definition of farmers' rights which should be viewed as a form of benefit sharing between users of plant genetic resources for food and agriculture and the farmers. Thus, Farmers' Rights in the African context shall consists of the customary rights that farmers have had as stewards of agro-biodiversity to save, use, exchange, grow, share, develop and maintain plant varieties, of their legitimate right to be rewarded and supported for their contribution to the development of commercial varieties of plants, to participate in decision making on issues that may affect these rights. Farmers' Rights must be viewed as collective rights and not as an individual rights.

From the above definitions of Farmers' Rights, it is clear that although Farmers' Rights have been incorporated into many international instruments, there is no consensus on its definition; extend of its content and the efficient or adequate way to implement these rights. The African proposal is therefore to link the definition of Farmers' Rights with other international instruments such as the CBD and the Nagoya Protocol so as to include issues such as prior informed consent, fair and equitable sharing of benefits derived from the utilization of genetic resources, traditional knowledge, innovation and practices of local communities.

Main component of Article 9 - Farmers' Rights as articulated in the Treaty²

Farmer's rights to save, use, exchange and sell farm saved seeds and other propagating material

Participants to the meeting viewed Farmers' Rights *to save, use, exchange and sell farm saved seed and propagating material* as being a central issue to Farmer's Rights since it is the basis for food security, nutrition and livelihoods. The participants however, raised concerns relating to saving, using and exchanging of farm-saved seeds. These concerns relate to the current seed laws which do not regulate farmer seed varieties and do not permit saving and selling of farmer saved seed as commercial varieties. The participants have recommended the need for support from the Governing Body for the development of national policies and legislation for the realisation of Farmers' Rights particularly regarding seed laws and IPRs laws which tend to undermine such rights through the adoption of the 1991 UPOV instrument, and thereby restricting the implementation of Farmers' Rights. The issue is on the need to balance the IPRs and farmers' rights to save, use and exchange and sell farm-saved seeds of protected varieties. Participants have urged for the establishment of a system that will encourage the commercialisation of farmer's varieties and thus, to enter into the formal market system.

Protection of traditional knowledge relevant to plant genetic resources for food and agriculture

The participants have highlighted the increasing loss of Traditional Knowledge (TK) relevant to plant genetic resources for food and agriculture due to the current dilemma of wanting to secure the knowledge without predisposing to biopiracy. Emphasis was made on the need to protect TK through benefit sharing with farmers (for the knowledge and the genetic resources). Participants raised the need to provide incentives to farmers, to receive payment for royalties for their knowledge related to their plant varieties in the same way commercial breeders receive royalties for their protected varieties. Participants however, highlighted the challenges related to implementing such a sui generis system since granting IPRs means exclusion and monopolies over seed thereby denying the collective and cumulative character of innovations produced by farmers. Participants recommended for the use of ABS which require Prior Informed Consent, equitable sharing of benefits arising from the use of genetic resources in accordance with CBD and the Nagoya Protocol. Bilateral

² Main components of Farmers' Rights as stipulated in the Treaty is presented here based on its relevance and importance

contracts were also recommended to be concluded between providers and users of seeds and TK but this should take cognisance of the importance of public research.

The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture

Participants have recommended the need for ensuring the equitable sharing of benefits arising from access to genetic resources. Farmers should be recognized as innovators and they should benefit equitably with the providers of technology.

The right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture

Participants have highlighted that the right to participate in decision making process has a great impact on conservation and sustainable use of plant genetic resources for food and agriculture. The Africa group recommended that a national ABS legislation should include the participation of farmers' representatives in decision-makings regarding implementation of Farmers' Rights. Small holder farmers should allow to participate in participatory plant breeding programs, and also, to participate in the elaboration and application of seed laws and regulations, and finally, to participate in decision making process related to variety release and registration.

Key Issues and Concerns of the African Farmer as they relate to PGRFA

The key issues and concerns of the African farmers which relate to plant genetic resources for food and agriculture which were identified during the meeting include: (i) the lack of supportive policy and legislative frameworks which protect smallholder farmer seed systems; (ii) lack of guidelines on on-farm seed production; and (iii) absence of supportive mechanisms for saving, selling, exchanging and marketing of farmers seeds. The Consultative workshop, aside from these key issues and concerns, under the prevailing situation, described and noted that smallholder farmers are at a very disadvantage situation. They do not have legal status; their intellectual rights are not recognize; there is no protection on their own farmer's technologies, knowledge and innovations. Likewise, smallholder farmers does not have institutional support other than customary rights, limited frameworks for capacity building, and there are no mechanisms in place to support farmer's organizations.

The meeting recognized the essential role of smallholder farmers, especially in food production (80% in Africa), their fundamental role in the stewardship of agricultural biodiversity, and called for much higher investments in conservation and sustainable use of PGRFA, integrated farmer seed system, indigenous knowledge management, co-generation of knowledge, technology transfer, and the establishment of community seed banks.

It was noted that smallholder agriculture is multifunctional, as it accounts for the majority of rural employment in Africa, responsible for most of the food production, contributing to biodiversity conservation and sustainable use and promoting bio-cultural diversity in the rural setting. The other concern was that smallholder farmers in Africa are the key drivers of and are the backbone of agriculture and food security yet they lack the necessary support they require to sustain their food production activities. Smallholder agriculture not only feeds families, but also generates jobs and catalyzes the growth of rural economy and businesses, particularly in the sector of micro-and small enterprises.

Farmer Crop Varieties and Seed Systems

Seeds and seed diversity have played a great role in the development of human civilization from ancient times and they are still the basis for feeding the global population today. The smallholder farmer seed system is traditional and operates at local village level. The farmers manage their own seed production, exchange or barter seeds with neighbours, kin or other communities. As a result, some 80-100 percent of farmers in some countries in Africa depend on the harvest season to select seed for the subsequent cropping year.

The indigenous crops in Africa have been selected for centuries for their vigour, drought resistance, diseases resistance and low requirements for, fertilizer and pesticides. Although indigenous crops generally give lower yields than the improved hybrid varieties, they provide fundamental food and seed security among smallholder farmers in times of drought. Besides, these indigenous crops are strongly linked to a number of cultures in most African communities.

The farmers' crop varieties and seed systems are among the central issues of Article 9 but the challenges are that the farmer's varieties are not regulated. It was recognized that farmer's seed systems are characterized by seed production that is integrated in normal crop production managed solely by farmers who practice seed selection, re-production and variety maintenance. The current seed laws do not take farmer varieties into consideration, hence, there are no mechanisms in place to protect and to promote increased production of farmers' seeds. The other challenge confronting smallholder farmers is that most farmer's seed cannot conform to Distinctness, Uniformity and Stability (DUS) requirements.

Farmer's limited appreciation to seed selection issues for commercial varieties is driven by the cost of the technology, accessibility and reliability of the commercial seed system.

It was agreed that, traditional seed systems need to operate independent of the legislation of commercial crop varieties. The meeting recommended that smallholder farmers should be allowed to re-use and share seeds of their traditional varieties among themselves. It was noted that it is important for Africa to devise policies and legislation that would encourage commercializing farmer seed varieties to enter in the formal market. For such varieties whose ownership is multiple, then it should be taken as a public good.

The meeting noted with concern that limited benefits are being derived from sharing farmer's varieties and called for increased technology transfer to enhance farmer seed systems. The Africa continent called for information/technology transfer and capacity building related to quality seed production by smallholder farmers. The continent viewed these aspects as important and crucial, since facilitated access to PGR is only as valuable as the capacity to use these materials.

Article 6.2 of the Treaty calls for the strengthening of research which enhances conservation of biological diversity by maximizing intra and inter-specific variation for the benefit of farmers, especially those who generate and use their own varieties and apply ecological principles in maintaining soil fertility and combating diseases, weeds and pests. The continent calls for the promotion of Participatory Plant Breeding and Plant Variety Selection (PPB/PVS) efforts with the participation of farmers that strengthens the smallholder farmers capacity to develop crop varieties adapted to social, economic and climate change conditions, including marginal areas. This will result in the broadening of the genetic base of crops in Africa and increase the range of genetic diversity available to farmers. The other elements considered critical were the promotion of local and locally adapted crops and under-utilized/neglected crop species.

The Consultative workshop recognized the need to use a wider diversity of crop varieties given the ecological variation of the African continent that incorporates on-farm management of PGR, conservation and sustainable use of crops whilst creating strong links with PPB/PVS and agricultural development in order to reduce crop vulnerability and genetic erosion and promote increased food production that are compatible with sustainable development.

It was recommended that there is a need to support initiatives such as: (i) integrated farmer seed systems through the value chain which include aspects of quality seed production, (ii) farmer-led agricultural research, (iii) on-farm seed multiplication, (iv) seed processing, (v) seed marketing in local niche markets, and (vi) seed storage in community seed banks. In this context, smallholder farmers need to be capacitated in decision-making related to the specific crop varieties that they would like to multiply, as well as to establish farmer seed enterprises, to train seed producers and agro-dealers responsible for selling such seeds.

Seed Laws

Seed laws have played an important role in agriculture development in the formal seed systems especially since the Green Revolution of the 1960s, which was based on high yielding rice and wheat varieties. However, the high yield expectations set by the Green Revolution were unsuccessful because of the complexity of organizing seed supply in a way that meets farmer's needs at prices they can afford. In Africa, there was a renewed effort to improve seed accessibility with focus on supporting the private sector and also the establishment of business-friendly seed regulations such as harmonization of seed regulations across the sub-regional organizations e.g. East and Central Africa, Southern Africa and West Africa region. There are several initiatives in Africa focused on seed harmonization which include SADC Seed Harmonization Protocol and COMESA Seed Harmonization Regulations. Despite these efforts, the private sector tend to focus more on profitable crops/varieties rather than on crops which constitute the backbone of the poor resource smallholder farmer's food security.

The formal seed sector is characterized by off-farm (ex-situ) germplasm conservation in gene banks with well controlled temperatures, supported by academic research, public and private plant breeding, seed production and marketing. The formal sector seed system concentrates on hybrid crops and varieties and specialized horticulture crops. The system has uniform standards based on distinctness, uniformity and stability (DUS).

National governments support these seed systems through designing policy and regulatory frameworks that strengthen efficiency and effectiveness of variety release, seed control, phytosanitary measures and Plant Breeders Rights in order to stimulate innovation and recoup their investments. However, the formal sector seed system produces only 10-20% of the seed requirements in most of the countries in Africa.

The meeting noted with concern that, the separation of production, multiplication and use of seed in the formal sector leads to loss of traditional knowledge and skills of smallholder farmers. Most of the activities in the formal seed sector are concentrated on a few numbers of crop species and varieties, leading to genetic diversity reduction. The formal seed sector is aligned to farming systems which are characterized by homogenous cropping resulting in reduced ecosystem services and the resilience of agro-ecological systems is at risk as well. In Africa, the formal seed sector is present only in a number of countries which include: Morocco, Nigeria, Egypt, Ethiopia, Kenya, Tanzania, Uganda, Malawi, Zambia, Zimbabwe and South Africa.

The seed laws are reinforced by Plant Breeders Rights which are regulated by a number of international, regional and national policy instruments. These policy frameworks include: WTO/TRIPS Agreements under Article 27.3(b), UPOV 1991, and SADC draft PVP and Seed

Harmonization Protocols, ARIPO PVP Protocol and the COMESA Seed Harmonization Guidelines. Most of the regional free trade blocks in Africa have developed common seed certification standards which do not support smallholder farmer's seed systems.

The meeting recommended that there is need to develop seed regulations which support smallholder farmer's seed systems as a balance between formal seed sector and farmer seed systems that supports food production for 80% of the food produced in Africa. The aspect of focusing on Quality Declared Seed (QDS) was highly supported as the preferred African position. Seed laws need to facilitate smallholder farmer's ability to acquire seeds of their choice through trade, barter or exchange. In Africa, seed laws should support and promote farmers ability to save, reuse and exchange farm saved seed. In addition, seed policies have to be formulated to enhance ability and capacity of farmers to be engaged in PPB/PVS initiatives that would then create capacity for farmers in breeding and/or selection of new farmer varieties.

Finally, the seed laws ought to create space for facilitating farmers to access breeding materials from the National Agricultural Research Institutes (NARIs) programs, Regional Agricultural Research Centres (RARCs) and the Consultative Group for International Agriculture Research Centres (CGIARs).

Intellectual Property Rights and Plant Breeders Rights

The Africa region deliberated on the implications of IPRs and PBR and noted the need to establish the legal space necessary for farmers to continue maintaining their traditional varieties and practices, in addition to the introduction of Plant Breeders Rights. It was agreed that the aspect of Farmers' Rights should not be undermined by the enactment of such laws but rather space should be created to enable farmers to continue exercising their rights to acquire/access seeds of their choice, the rights to register their varieties, the rights to receive recognition and reward and the right to benefit sharing.

There are real threats and challenges posed by IPRs and these need to be addressed so that they do not become barriers to the implementation of Farmer's Rights which include access to information, registration of farmer's varieties, protection of indigenous knowledge, innovations and technologies and participation in making decision at the national level on matters related to the conservation and sustainable use of PGRFA.

Most of the African countries have been advised to adopt UPOV 1991-compliant domestic legislation, without taking into account the needs of the countries concerned or, for instance, differentiating between crops. The region felt that countries need to understand the consequences and implications of such policies on farmer seed security which should be

considered as a national food security issue, economic, social and cultural rights of smallholder farmers.

It was noted that PBR and IPRs provide restrictions on the use, exchange and sale of farm-saved PVP seeds which will make it difficult for resource poor farmers to access improved seeds originating from the PVP system. The region agreed that imposing such limitations on farm-saved seeds and the practice of exchange by farmers could negatively impact on the functioning of the farmer seed system, as the beneficial linkages between the formal and farmer seed systems will be cut-off.

The limitations imposed by IPRs and PBR will lead towards the loss of local knowledge on seed selection, conservation and sustainable use of local varieties and the de-skilling of farmers in general.

Challenges and Opportunities in the implementation of Farmers' Rights in Africa

The implementation of Farmers' Rights, rests with the national governments. This provision makes the implementation of Farmers' Rights uncertain and not being realized. The participants have identified several challenges that impede or affect the implementation of Farmers' Rights. The challenges in the implementation of Farmer's Rights included policy, technical and operational matters, as follows:

- a) Un-alignment of Farmers' Rights to other international conventions i.e. UPOV, WTO/TRIPS, Regional Free Trade Agreements (RFTAs), and Nagoya Protocol on ABS;
- b) Lack of appropriate policies to domesticate Farmers' Rights as stipulated in the Treaty;
- c) Low level of awareness on the importance of PGR including Farmers' Rights both at the policy and technical levels;
- d) Lack or limited knowledge and understanding on Farmers' Rights (definition of Farmers' Rights/ interpretation of the Treaty);
- e) Lack of capacity to mainstream Farmers' Rights in policy development at national level;
- f) Fragmented institutional framework and poor institutional arrangements and disharmony among policies and legislations;
- g) Alignment of National Seed Laws requiring seed certification with Farmers' Rights;
- h) The need to have balance policies between Farmer's Rights and other enacted legislations with related Conventions;
- i) Dilemma of securing the knowledge and/or resources without predisposing to bio-piracy, losing it to commercial actors, and consequently losing the benefit sharing and control in the event of modification;

- j) Constraints in documentation and registration due to heterogeneity of traditional varieties; and
- k) Up-scaling and out-scaling projects and programmes that promote rewards and support systems to farmers.

Farmers' Rights as laid down in Article 9 are backed by other provisions of the International Treaty, including the Preamble and a number of measures proposed for the conservation and sustainable use of PGRFA. The implementation should include aspects related to MLS, conservation and sustainable use of PGRFA, the Funding Strategy, capacity building and access and benefit sharing (ABS) as a package. This is in recognition of the enormous contribution that local and indigenous communities and farmers make to conservation and sustainable use and development of PGRFA. Governments have the responsibility to secure Farmers' Rights in order to minimize the loss of crop genetic diversity, traditional knowledge and practices.

Participants to the Consultative workshop have observed that for the effective domestication of Article 9, there is a need for the Treaty Secretariat to provide guidelines for PGR policy formulation and development in addition to the Explanatory Guide to the ITPGRFA/IUCN Environmental Policy and Law Paper N° 57. Currently there is no comprehensive and clear policy on PGR. There is no clarity on scope or elements that make farmer variety a unique. The proposed guidelines would include modalities for national listing of the farmer varieties. The participants, likewise, identified some opportunities and possible strategies to implement Farmer's Rights. These opportunities and strategies include the following:

- a) Enacting and implementation of policies and legislation that include Farmers' Rights.
- b) Developing sound and effective policies on plant genetic resources management.
- c) Streamlining funding mechanisms for the Treaty implementation.
- d) Establishment of national digital libraries as in the case with the Indian experience
- e) Initiating improved documentation methodologies that work in collaboration with national programmes on PGR.
- f) Developing and registering of farmer's varieties which employ the quality declared seed standards (QDS).
- g) Embracing documentation of traditional knowledge and ensuring that its sustenance through intra-generation transfer of such knowledge.
- h) Designing incentive measures e.g. for farmers who embrace diversity would be rewarded for their continued contribution.
- i) Enhancing the BSF strategy of the MLS and reengineering projects to directly benefit farming communities whilst ensuring effective farmers' involvement and participation.

Awareness Raising

It was agreed that there is need to create awareness on all levels about the importance of implementing Farmer's Rights and interventions need to include all stakeholders such as: farmer's organizations, research institutions, government departments, parliamentarian committees responsible for the agricultural sector, seed related institutions, private sectors, cooperating partners, consumers, farmers, NGOs, CBOs and extension services.

It was agreed that each institution would need to assess and map their roles and contribution in terms of creating awareness relevant to the implementation of Farmer's Rights. Information and awareness raising/creation relevant to the role of community seed-banks, seed fairs, farmers field schools, participatory plant breeding and variety selection (PPB/PVS) including the value and importance of farmers' resources and the associated local knowledge are considered essential. Access to information e.g. ICT for development, advertisement on local radios and print media was regarded as a key communication strategy. The encouragement of the continuation and growth of farmer seed exchange, socio-economic benefits and bio-cultural importance need to be highlighted and information be shared.

The continent recommended that the Treaty Secretariat in collaboration with the AU, national governments and regional organizations, organize regional workshops designed to create awareness on the importance of implementing Farmers' Rights focusing on policy and legislation development, ABS mechanisms, documentation of IKS, promoting guidelines on quality declared seeds functionaries, and sharing information on best practices.

This should also include elements of scaling out some of the best examples from other regions of the world. The meeting suggested that farmers' roles could include: active participation at all levels of the value chain, maintaining PGR materials, practicing their IKS and innovations.

The government role was defined as including elements of putting adequate policies to guide and support the implementation of Farmer's Rights, capacity building and developing the requisite support structures, creating awareness to farmers and other stakeholders on FRs, community mobilization for implementation, provision of resources, playing the advisory role, research and development, coordination between and among stakeholders, and establishing inter-ministerial committees on ABS.

On the other hand, civil society organizations roles are characterized as community mobilization, technical and financial support, assisting in running and maintaining community initiatives, infrastructure development, policy and advocacy and awareness creation.

The private sector can make contributions in the aspects of recognising and appreciating the farmer's inputs and giving appropriate remuneration, corporate social and environmental responsibility, and product development, value addition, marketing and sharing the research results.

The cooperating partner's role would be for funding and streamlining priorities on issues that deal with Farmer's Rights, capacity building and policy engagement at high level institutions.

The consumer's responsibility has to include elements that would help determine the standards and quality of the farmers' produce, promoting and appreciating the local products derived from the utilization of local PGR.

Financial Resources

It was agreed that Africa need to mobilize financial and non-financial resources to ensure effective implementation of the Treaty. The position of the continent is that it needs to mobilize both forms of resources that are complimentary for efficient and effective implementation of the Treaty. The resources should include non-monetary benefits which would be for: participatory crop improvement, transfer of technology for the benefit of the farmers, management of PGR, information sharing inclusive of obtaining geographical information on PGR from DivSeek, discovering gene sequences of what is needed to breed with, capacity building in various forms of PGR management. Also, there is need to commit resources for promoting national and regional meetings on PGRFA conservation and use as an essential component of national/international food security and contributions to the country's economy.

The aspects of co-generation of technologies and innovations, capacity building, establishment of community seed banks, collaborating with NPGRCs, organizing national conferences on Farmers' Rights, protection of traditional knowledge and preparation of materials to raise awareness such as pamphlets, also require financial support. Support can also be directed towards on-farm seed production for farmer's seed varieties, farmer participation in restoration and enhancement of farmer varieties, multi-location variety testing schemes which facilitate linkages between breeders, farmers and researchers.

The other aspects for monetary benefits include the following:

- Payments/levies for access to PGR.
- Commercialization of farmers' varieties.
- Exportation of seeds in areas with similar climatic conditions.
- Provide seed technology (quality, germination, technology transfer).

- Non-governmental funding (GEF, AU, FAO, UNDP, IFAD and International Treaty BSF).
- Protection of rights e.g. traditional knowledge (permit fees, royalties, research funding, joint ownership of research products, employment opportunities and contracts to supply raw materials).

The resources are necessary to raise awareness of Farmers' Rights within the various stakeholders (NGO circles, Governments, Farmers organisations, Researchers, Civil Society Organizations etc.). The resources are also important to strengthen the capacities of farmers in the conservation and sustainable use of plant genetic resources for food and agriculture through promotion of on-farm management and conservation of important PGRFA as well as crop wild relatives. It is the duty of each Contracting Party to develop its own National Funding Strategy.

The participants have recommended the creation of synergies between and among various funding institutions and partners to avoid duplication and unnecessary waste of resources.

Role of Community Seed Banks

Community seed banking approach is considered essential for Africa for purposes of seed saving, accessibility and affordability to many smallholder farmers. Each harvest, between 60 to 80% of the seed grown by smallholder farmers is saved on-farm with the remainder being sourced from off-farm. The African farmers have over the years developed vast knowledge bases and skills of growing, selecting and storing these crop varieties which are adapted to the marginalized environments of the continent. However, these genetic resources are under threat from the continued erosion and loss from environmental, social, economic and scientific factors such as the introduction and vigorous promotion of hybrids, climate change related droughts, crop failures, floods, conflict situations, pests and diseases and the introduction of genetically modified crops. The continued loss of farmers' PGR poses a danger to smallholder farmer's sustenance, food and nutrition security and livelihoods.

The Consultative Workshop noted the importance of establishing community seed banks. The seed banks provides several advantages and supports smallholder farmers, as follows:

- It provide smallholder farmers with easy access to quality locally adaptable seeds.
- It promote preservation of local knowledge, bio-cultural heritage of adaptable seeds of choice by farmers.
- It promote on-farm seed saving, exchange and selling of local seeds thereby fulfilling one of the requirements of the Treaty.

- It contribute to documentation of local knowledge, social history, technical skills in seed conservation and sustainable use, seed preservation technologies and customary practices.

The community seed banks are considered as an important means to farmers' decision making processes in terms of: (i) determining crop and crops cultivars to be multiplied, (ii) identifying farmers who will be responsible for seed multiplication, (iii) estimating seed demand locally by crop and variety, (iv) coordinating seed distribution and supply, and (v) determining the quantity of local seed reserves that would ensure local seed security. The facility is responsible for seed treatment, packaging, and storage using local knowledge and practices.

Community Seed Fairs

Seed fairs are used as a medium for enabling farmers to exchange, sell and share seeds between and among farmers in Africa. The practice is very important for creating market linkages through the value chain to improve the availability of locally produced seeds. The approach encourages local farmers to access seed of their choice within the community at affordable prices, employing bartering system, evaluating local diversity and levels of adaptability.

The practice is important for assessing crop diversity availability by applying the crop diversity wheel analysis. The continent regards this approach important for enhancing restoration and enhancement of lost crop diversity in both high and low agriculture potential areas. Women are the prime participants of this practice and there is need for capacity building and strengthening of the approach across the continent.

Policies and legislation

Participants to the meeting proposed, as a strategy for the implementation of Farmers' Rights, the development of standalone Farmer's Rights policy and legislation. Another option proposed was to develop regulations under existing national laws or to create an omnibus comprehensive Agricultural biodiversity statutory instrument. A proposal was made also that there may be need to amend the existing national seed laws to incorporate farmer seed systems. Where legislative framework is established, there is need to pilot test it in a number of countries and compile experiences of the best practices related to the implementation of Article 9 and to share information with other Contracting Parties.

Relevant structures for implementing Farmers' Rights

Participant to the Consultative workshop highlighted the need for the creation of appropriate and competent national institutions which would be responsible for the management and implementation of Farmers' Rights. The suggested relevant structures would include the following:

- Village /community based agro-biodiversity management committees
- District agro-biodiversity management committees
- National Biodiversity Authorities
- National registry of Farmers' Rights and related officers
- Creation of Farmer Rights information management systems and data base

Conclusion

Participants have all agreed that for the effective implementation of Farmers' Rights, farmers should have the right to save, use, exchange and sell farm saved seeds and other propagating material without hindrance or limitations from IPR or PBR regimes. There is need to put in place the mechanisms for fair and equitable sharing of benefits due from commercialisation of products derived from the utilization of farmer's innovations, knowledge and crop diversity. Participants requested also the Treaty Secretariat to provide guidelines for PGR policy development including on how Farmers' Rights' can be effectively implemented.

Annex 1

Official Opening Speech by the Honorable Minister of Agriculture, Mechanization and Irrigation Development

Stakeholders' Consultation on Farmers' Rights in Africa

HICC Hotel, Harare, Zimbabwe

27-29 June, 2016

The Master of Ceremony

The Representative from the Office of the Secretary General of the International Treaty on Plant Genetic Resources for Food and Agriculture,

Distinguished workshop participants from various regions of the Continent,

Senior Zimbabwe Government Officials here present,

The Chairperson of Community Technology Development Organization,

Civil Society organizations, NGOs here present,

Ladies and Gentleman

It gives me great pleasure to welcome you all to this very important stakeholders' consultation workshop on Farmers' Rights in Africa which is being held in Zimbabwe as part of the fulfilment of the Governing Body of the ITPGRFA adopted Resolution 5/2015, where the Governing Body requested the Secretariat to engage Contracting Parties and relevant organizations to gather information at national, regional and Global levels for exchanging knowledge , views experience and best practices on the implementation of Article 9, Farmers' Rights.

I hope you have acclimatized yourselves well to our weather particularly now when we experience our winter period.

Mr Chairman, Zimbabwe, being a Contracting Party to the Treaty expresses its profound gratitude in hosting the Secretariat, other Regional Contracting Party participants, and other relevant organizations.

Mr Chairman, Agriculture is the principal source of livelihood for 80%of Zimbabwe's population and also it is a source of raw materials for the larger number of industries. Small holder farmers produce the bulk of food for the country and they depend on diversity of cultivated plants adaptable to the adverse climatic conditions. Our smallholder farmers have

managed to grow a diversity of crops at their own farms through seed selection, saving and exchanging amongst themselves

Seed selection, saving and exchange are at the heart of traditional agricultural systems for millions of small holder farmers across Africa and the world at large. This contribute significantly to livelihoods and the conservation of agricultural diversity. Enabling farmers to maintain and develop this diversity, along with their rich knowledge of and practices in traditional agriculture and agro-ecology, is vital in ensuring present and future food security and sovereignty. Farmers' varieties and landraces are vital for livelihoods; they enhance food security, strengthen social cohesion, maintain cultural integrity, and build climate resilience.

Mr Chairman, it is however sad to note that, the development of seed varieties by farmers is not appreciated or recognised. This has resulted in a significant proportion of crop diversity being lost and susceptible to continued erosion.

Mr Chairman, Agricultural innovations were not subjected to Intellectual property protection before the coming into force of the current international instruments such as UPOV and the TRIPS Agreement which require members to provide Intellectual Protection for Plant Varieties by Patents, or by an effective sui generis system, or by a combination there of.

These international instruments and their regulatory frameworks on seed laws and IPRs are less supportive to farmers' customary seed management systems leading to farmers not being able to equitably participate in the benefit sharing , participate in decision making and be able to save, use , exchange and even sell their farm -saved seeds.

Zimbabwe supports fully all efforts being undertaken by the Treaty Secretariat towards full domestication and implementation of Farmers' Rights since the implementation of Farmers' Rights is a precondition for the maintenance of crop genetic diversity which is the basis of all food and agricultural production.

Zimbabwe has made effort with regard to domestication and realization of Farmers' Rights at national level through enactment of various pieces of legislation which include the Plant Breeders Rights Act [Chapter 18:16] and the Seed Act [Chapter 19:13]. These pieces of legislation however are being reviewed so that they reflect on the country's interest through inclusion of provisions related to the realization of Farmers' Rights at national level and in particular the needs of our local small holder farmers .

This workshop provides an opportunity for open and effective discussions, sharing of country experiences, best practices and lessons learnt in relation to Farmers' Rights from Contracting Parties and relevant stakeholders here present which should lead the region to identify ways and means to facilitate practical and easy process towards the realization of Farmers' Rights as they relate to PGRFA at national level so as address food security and nutrition for present and future generation.

This workshop could not have come at a better time than now, when we as a region is preparing for the Global Consultation on Farmers' Rights to be held in September, 2016, in Bali, Indonesia. Africa need to speak with one voice. It is pertinent that the outcome of this Stakeholders' Consultation on Farmers' Rights in Africa will lead to the drafting of a report of the Africa region which will be presented to the Global consultation on Farmers' Rights.

I would like to take this opportunity to thank first and foremost the Treaty Secretariat for gracing this important occasion and also for the provision of material support through the Benefit Sharing Fund of the Treaty, which enabled the Zimbabwe Government to host this very important stakeholders' consultation.

I also want to thank the organisers of this stakeholders' consultation in particular, Community Technology Development Organization (CTDO) for a job well done. With these remarks, I declare this Stakeholders' consultation workshop officially opened.

I wish you very fruitful deliberations.

I thank you

Hon. J. Made

Annex 2

Programme Agenda

Time	Topic	Responsibility
08:00-08:30	<i>Registration of Participants</i>	Mrs Jackie Ngundu
08:30-09:00	Introduction of Participants	Facilitator
09:00-09:15	<i>Welcome address</i>	1. Mr A Mushita 2. Mr. R. Chitsiko, Permanent Secretary, Ministry of Agriculture, mechanization and irrigation Development
09:15-09:30	Remarks by the African Group Chair /Deputy Chair of the Bureau of the International Treaty on Plant Genetic resources for food and Agriculture	Dr. Francis Leku Azenaku,
09:30-09:45	Introduction of the Africa Stakeholders Consultation on Farmers Rights in Africa , in preparation for the Global Consultation on Farmers Right to be held in Bali , Indonesia, September , 2016 as part of the preparation for the 7 th Session of the Governing Body	Mary Jane Ramos Dela Cruz, FAO Treaty Secretariat
09:45-09:50	Introduction of the Guest Speaker	Mr. R. Chitsiko, Permanent Secretary, Ministry of Agriculture, mechanization and irrigation Development
09:50-10:20	Address by the Guest Speaker	Hon J. Made, Minister of Agriculture, mechanization and Irrigation development
10:20-10:30	Discussions after Guest Speaker's Address	All
10:30-11:00	Tea Break	All
11:00-11:20: Setting the scene: Understanding Farmers Rights , their substantial elements as they relate to PGRFA by national Governments and the future of Plant Genetic Conservation and Sustainable use- Ms. Liz Matos- Angola		
Session 1: Lessons Learnt , Key issues and concerns of smallholder farmers and indigenous communities, and their challenges in the implementation of FRs as they relate to plant genetic resources for food and agriculture		
11:20-11:40	Overview of the lessons learnt, key issues and concerns of farmers and their challenges in the implementation of FRs as they relate to : (1) the protection of farmers' traditional knowledge (2) regarding farmers' participation in	Dr. Desterio Nyamongo- Kenya

	benefit sharing (3) regarding farmers' participation in decision making and the rights that farmers have to save, use, exchange and sell seeds and propagating material	
11:40-12:00	Lessons learnt regarding Farmers' organization, civil society perspectives	Mr. Andrew Mushita
12:00-13:00	Group Discussions (4 Groups)	Facilitator
13:00-14:00	Lunch	All
14:00-15:00	Continuation group discussion	All
15:00-15:30	TEA BREAK	ALL
15:30- 17:00	Presentations of Group Discussions	All
17:00	End of Day	End of Day
DAY 2- 28 June , 2016 Assessment of Farmers' Rights , Fundamental issues , challenges and opportunities in the region and at national level		
Seession 2: How can Farmers Rights be defined and enforced: assessment of key elements and issues , trends affecting the realization of of these Farmers Rights		
08:30-8:50	How can Farmers' Rights be defined and enforced: assessment of key elements and issues, and trends affecting the realization of these Farmers' Rights	Dr. Eleni Shiferaw-Ethiopia
08:50- 09:10	Seed Systems in Africa and the role of the different sectors	Prof Godwin Mkamanga-Malawi
09:10-09:30	Seed laws, registration, certification and marketing	Dr. Claid Mujaju-Zimbabwe
09:30-09:50	Intellectual property Rights and Farmers Rights	Mr Regis Mafuratidze-Zimbabwe
Session 3 :Resources for Implementing (and protecting) Farmers Rights at the national level: challenges, opportunities and options to gain national support- overview: Dr. Francis Leku Azenaku-Cameroon		
10:00-10:30	Role of different stakeholders in implementing and protecting farmers' Rights at national levels (Government institutions, NGOs, CSOs, breeders, researchers (national and international)	Ms. Thandie Lupupa SADC Plant Genetic Resources Centre-Zambia
10:30- 11:00	TEA BREAK	ALL
11:00-11:20	Development programmes/initiatives particularly the requirements and conditions for having a pro-smallholders, pro-poor seed policies/programmes/activities	Ms T. Lupupa
11:20-11:40	- Networking and pooling resources and capacity building	FAO International Treaty Secretariat
11:40-13:00	Group Discussions (4 groups)	Facilitator
13:00-14:00	LUNCH	ALL
14:00 15:00	Continuation of group discussions	

15:00- 15:30	TEA BREAK	ALL
15:30-17:00	Group Presentations	
17:00	END OF DAY	ALL
DAY 3 Designing/developing strategies and practical options for national implementation of Farmers' Rights		
Session 3:Domestication of Article 9 – Farmers' Rights / Enforcing Farmers' Rights-FAO International Treaty Secretariat		
08:30-8:50	Access and benefit sharing and traditional knowledge	Andrew Mushita – Zimbabwe
08:50-09:10	Strategy and options to emphasize the role of smallholder farmers in the conservation and sustainable use of PGRFA and how to channel support to them.	Barnabas Kampange SADC Plant Genetic Resources Centre-Zambia
09:10-09:30	- Practical measures and options for national governments supportive of Farmers' Rights	Dr Dickson Ngu'ni – Zambia
09:30-10:00	Local level/farming communities' alternative actions and activities	Mr. Patrick Kasasa-Zimbabwe
10:00-10:30	TEA	ALL
10:30-11:30	Group discussion (4) and Recommendations	Facilitator
11:30-13:00	Presentations	ALL
13:00:14:00	LUNCH	ALL
Session 4 : Recommendations		
14:00-15:00	Summarized Recommendations for the Africa Group for submission to the Global Consultations on Farmers Rights	
15:00- 15:30	Closing Remarks	Dr Dickson Ngu'ni – Zambia

Annex 3

TERMS OF REFERENCES

Stakeholders' Consultation on Farmers' Rights in Africa

27-29 June 2016, Zimbabwe

Concept Note and Provisional Agenda

1. Rationale

Today, 75 % of the world's 1.2 billion poorest people live in rural areas and depend largely on traditional agriculture. In Africa, traditional agriculture accounts for more than 375 million farmers, of which, 80 to 90 percent of these smallholder farmers rely and use their own farm-saved seeds. For these farmers, access to commercial varieties and the required production input such as fertilizers and pesticides are mostly unaffordable. They depend on diversity of cultivated plants to maintain the yields and quality crop production, adapting their farming system to often marginal environments and difficult conditions. Diversity between and among crops is a means of spreading the risk of crop failure due to pests and diseases or adverse climatic conditions like drought. The diversity of crops is also dependent on the way by which farmers managed and conserved their seeds. Historically, the majority of farmers in Africa mainly get their seeds from the informal channels which include farm saved seeds, seed exchanges among farmers and/or local grain/seed market. These informal systems contribute to about 80-100% of seed supply depending on the crop and the country.

However, this informal management mechanism farmers is becomingly more and more limited, and is being challenged by rather recent regulations such as seed laws, Intellectual Property Rights, policies and regulatory frameworks that are less or not supportive to farmers' customary management system.

2. Farmers' Rights under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

As farmers are custodians and developers of crop genetic resources in the field, their rights are crucial for enabling them to maintain their vital role to conserve diversity for local and

global food security, nutrition and poverty eradication. Realizing Farmers' Rights means enabling farmers to manage, develop and dynamically conserve crop genetic resources as they have done since the dawn of agriculture, and recognizing them for this indispensable contribution to the global pool of genetic resources for food and agriculture. The International Treaty calls for the promotion of Farmers' Rights at the international and national levels and specifically recognizes in Article 9:

Article 9 - Farmers' Rights

9.1 The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.

9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:(a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;(b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and (c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.

3. The Implementation of Farmers' Rights, Perceptions, Challenges and Opportunities

"Farmers' Rights is viewed as a cornerstone of the International Treaty, as a precondition for the maintenance of crop genetic diversity, which is the basis of all food and agriculture production in the world. The concept of Farmers' Rights³ (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 Treaty, 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. Realizing farmers' rights is seen as a vital means to halt genetic erosion and ensure food security. It is also viewed as central in attempts to counterbalance current inequities in the world. As such, it represents a crucial concept in the fight against poverty and food insecurity.

In the previous international consultations on Farmers' Rights held in (i) Zambia⁴ (2007), and (ii) Ethiopia⁵(2010), it was reported that despite many challenges, there are efforts started

³FAO, 1991: *Report of the Conference of FAO, Twenty-sixth Session, Rome, 9–27 November 1991*, C 1991/REP.

⁴ The informal consultation was held from 18-20 September 2007 in Lusaka, Zambia. Organized by the Ministry of Agriculture and Food and the Fridtjof Nansen Institute of Norway, Zambia Agriculture Research Institute of the Ministry of Agriculture, Food and Fisheries.

already with regard to the measures highlighted in the provisions on Farmers' Rights under the International Treaty on Plant Genetic Resources for Food and Agriculture, such as: rights with regard to the protection of traditional knowledge; right to equitably participate in benefit sharing; right to participate in decision making; and the right of farmers to save, use, exchange and sell farm-saved seed. The right of farmers to save, use, exchange and sell farm-saved seed – is perceived as the most important and crucial rights. Because this right relates to the management of farm saved seeds and propagating materials, it formalizes law of the land that encompasses farmers' management of their seed systems.

While there are efforts started already, there are also substantial barriers preventing the realization of these Farmers' Rights, particularly with regard to legislation and incentive structures, of which, would require further analysis in order to find practical and easy process to realize Farmers' Rights. Some of these barriers that were identified in the previous consultations are, as follows:

- The lack of awareness among farmers and policy makers or authorities. The problem is rooted in the difficulties related to defining Farmers' Rights and the varying interpretations and lack of understanding of "Farmers' Rights" concept and the generic human rights concept. For farmers, their way of life is intrinsically linked to access to land, water, and other input factors such as labour, knowledge, and technology, in addition to seeds and other propagating material. This might be one of the reasons why it has been difficult to reach a common definition of Farmers' Rights. While it is important to recognize the broader context of rights, however, it is important to focus on Farmers' Rights as set out in the International Treaty, as well as to embed the realization of these rights in the local realities and needs of farmers.
- Poor, weak or contradictory legislation is also perceived as another barrier in the region. The importance of developing adequate legislation and/or mainstreaming Farmers' Rights in existing legislation is seen crucial.
- The lack of implementation capacity in many developing countries

4. Stakeholders' Consultation

At its Sixth Session, in October 2015, the Governing Body of the ITPGRFA adopted Resolution 5/2015⁶ on the Implementation of Article 9, Farmers' Rights. The Governing Body has requested the Secretariat to engage Contracting Parties and relevant organizations to gather information at national, regional and global levels for exchanging knowledge, views, experiences and best practices on the implementation of Farmers' Rights, as set out in Article 9 of the International Treaty. The Governing Body has invited Contracting Parties and relevant organizations to take initiatives to convene regional workshops and other consultations including with farmers' organizations, for the exchange of knowledge, views and experiences to promote the realization of Farmers' Rights as set out in Article 9 of the Treaty, and present results at the next session of the Governing Body.

⁵ The global consultation was held in Addis Ababa from 23-25 November 2010 with Institute of Biodiversity Conservation of Ethiopia, supported by the Swedish International Biodiversity Programme (SwedBio), the Norwegian Agency for Development Cooperation (NORAD), the Norwegian Ministry of Agriculture and Food, the Development Fund, Norway, and the Spanish Agency for International Development Cooperation (AECID).

⁶ Resolution 5/2015 IT/GB-5/15/Report

Taking note of the guidance received from the Governing Body as contained in Resolution 5/2015, in preparation for the Global Consultation on Farmers' Rights, an stakeholders' consultation for Africa will be organized.

5. Objectives of the Stakeholders' Consultation

Overall Objective:

To identify ways and means to facilitate practical and easy process towards the realization of Farmer' Rights, as they relate to PGRFA, by the national governments, while acknowledging Farmers' Rights as vital for present food security and health nutrition, and the future of plant genetic resource conservation and sustainable use.

Specific Objectives:

- To take stock of significant country experiences, best practices and lessons learned in realization of Farmers' Rights.
- To identify challenges for the realization of Farmers' Rights, as they relate to PGRFA
- To identify practical options and strategies for national implementation of Farmers' Rights

The outcome of the Stakeholders' Consultation will be consolidated as a report of Africa Region to be presented to the Global Consultation on Farmers' Rights in September 2016, in Bali, Indonesia.

6. Date and Venue

The Stakeholders' Consultation on Farmers' Rights will be held from 27-29 June 2016.

Annex 4

List of Participants to the International Treaty on Plant Genetic Resources for Food and Agriculture Consultative Workshop on Farmers' Rights

Participant Name	Organisation/Country	Contacts
1. Ms. Remie HILUKWA	Senior Forester: NPGRC, National Botanical Research Institute Ministry of Agriculture, Water and Forestry (MAWE) Private Bag 13184 Windhoek Namibia	HilukwaR@mawf.gov.na
2. Dr. Desterio Ondieki Nyamongo	Senior Principal Research Officer and Ag. Director Genetic Resources Research Institute Kenya Agricultural and Livestock Research Organization (KALRO) P.O. Box 30148 00100 Nairobi Kenya	dnyamongo@yahoo.co.uk
3. Dr Francis LEKU AZENAKU	Directeur Réglementation et du Contrôle de Qualité des Intrants et des Produits Agricoles 2082 Yaounde Cameroon	francislekuazenaku@ymail.com
4. Ms Michelle ANDRIAMAHAZO	Chef de Service de l'Environnement Ministère de l'Agriculture (MinAgri) B.P. 301 Anosy-Antananarivo Madagascar	michelle.andriamahazo@gmail.com
5. Charles N Nkhoma	Country Director, Community Technology Development Trust (CTDT) PO Box 310234, Lusaka, Zambia	cnnkhoma@yahoo.com
6. Prof Godwin Mkamanga	Biodiversity Conservation Initiative Lilongwe Malawi	gymkamanga@yahoo.co.uk

7. Mr. Barnabas Kapange	SADC Plant Genetic Resources Center Lusaka Zambia	bkapange@spgrc.org.zm
8. Thandie Jessie. Lupupa	Senior Programme Officer-in situ/on-farm Conservation SADC Plant Genetic Resources Centre Great East Road. Farm # 6300 Lusaka. Zambia	tlupupa@spgrc.org.zm
9. Elizabeth Matos	Centro Nacional de Recursos Genéticos (CNRF) Universidade Agostinho Neto Prédio do Centro Nacional de Investigação Científica (CINIC) Avenida Ho Chi Min, n 201 P.O. Box 10043 Luanda Angola	lizmatos@netcabo.co.ao
10. Modester Kachapila-Millinyu	Malawi Plant Genetic Resources Centre Chitedze Research Station Address Chitedze Research Station, P.O. Box 158 Lilongwe Malawi	mauldyka83@gmail.com
11. Dr. Dickson Ng'uni	Chief Agricultural Research Officer with Zambia Agriculture Institute, Ministry of Agriculture Zambia	dickson.nguni@gmail.com
12. Dr. Mary Jane Dela Cruz	Technical Officer, ITPGRFA Secretariat, FAO, Rome, Italy	MaryJane.RamosdelaCruz@fao.org
13. Gloria Otieno	Associate Expert Biodiversity Conservation Bioversity International	G.otieno@cgiar.org
14. The Chief Executive Officer	Dr. J Mufandaedza National Biotechnology Authority of Zimbabwe Harare, Zimbabwe	jmufandaedza@gmail.com
15. Mr. Sifelani Tsiko	Senior Reporter Herald Harare	
16. Dr. Isaiah Mharapara	Chief executive officer Research Council of Zimbabwe Harare	mharapara@mango.zw

17. Prof. Upenyu Mazarura	University of Zimbabwe Crop Science Department Mount Pleasant P O Box MP167	
18. Mrs Rudo Musango	<i>Ex-situ</i> Conservation Officer Genetic Resources and Biotechnology Institute Ministry of Agriculture Mechanization and Irrigation Harare, Zimbabwe	rudomusango@gmail.com
19. Mr Onismus Chipfunde	<i>In situ</i> Conservation Officer Genetic Resources and Biotechnology Institute Ministry of Agriculture Mechanization and Irrigation Harare, Zimbabwe	ochipfunde@gmail.com ochipfunde@drss.gov.zw
20. Dr Claid Mujaju	Head and Registrar of Plant Breeders Rights Seed Services Institute	mujajuclaid@gmail.com
21. Mr Andrew Mushita	Director, Community Technology Development Organisation	andrew@cdt.co.zw
22. Mr Patrick Kasasa	Program Officer, Biodiversity Community Technology Development Organisation	
23. Mr Regis Mafuratidze	Program Officer Policy Community Technology Development Organisation	
24. Dr. J. N. Mushonga	Community Technology Development Organization	
25. Mr Hilton Mbozi	Project Officer, Biodiversity Community Technology Development Organisation	
26. Mrs Jackie Ngundu	Community Technology Development Organisation	
27. Mrs Stella Mtungwazi	Community Technology Development Organisation	
28. Mr Tinashe Sithole	Community Technology Development Organisation	
29. Mrs C. Jeke	Farmer Representative Murehwa District	

30. Mrs Dorothy Chiota	Farmer Representative Uzumba Maramba Pfungwe District	
31. Mrs L Danga	Farmer Representative Uzumba Maramba Pfungwe District	
32. Mr Marcus Hakutangwi	Phiri Award	
33. Mr. Norest Ndawana	Research Services Division	
34. Ms. Rachel Kachecha	Research Services Division	
35. Dr Godfrey Chikwenhere	Deputy Director, Research Services Division	
36. Mr. R. J. Muzamhindo	Principal Director, Irrigation Development	
37. Mr J Gondo	Principal Director, Department of Agricultural Technical and Extension Services (AGRITEX)	
38. Dr C Mguni	Director Research Services Division	
39. Mr JLN Sikhosana	Director, Livestock Research	
40. MrTshuma	Director Legal Services	
41. Clayman Mguquka	Ministry of Home Affairs	SSO (Projects)
42. Tafadzwa Bekiwa	Ministry of Home Affairs	Coordinator Project
43. Melody Makumbe	Practical Action	Project Manager
44. Mr E Chamboko	Economic Research	SIO
45. Patience Mashiri	Ministry of Agriculture	Gender
46. Dr D Kutwayo	DR&SS	Director
47. B Neurashe	DR&SS	Head
48. Dr U Ushewokunze-Obatolu	Principal Director, Department of Livestock and Veterinary Services	

49. Maxwell Teedzai	Africa We want trust	President
50. Delmah Ndhlovu	Zimsoff	Vice Chairman
51. E Mupanehama	National Biotechnology Association	Manager
52. S Muchena	Zimbabwe Farmers' Union	Crops Officer
53. Cleopatra Mangombe	Ministry of Environment	Environmental Officer
54. Nyaradzai Chisango	Fachig	Project Officer
55. Fiora Mpanju	Aripo	Head Search
56. Wisdom Mumera	NOTS	Senior Breeder
57. R Mlambo	ARIPO	Examiner
58. I Shayamano	Agritex	Agric Extension Specialist
59. L Chazingwa	ARDTZ	National Coordinator