



# COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

## Item 4.2 of the Provisional Agenda

### INTERGOVERNMENTAL TECHNICAL WORKING GROUP ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

#### Eleventh Session

Rome, 18–20 April 2023

#### DRAFT CONCEPT NOTE ON FURTHER RESEARCH ON THE IMPACT OF SEED POLICIES, LAWS AND REGULATIONS AFFECTING FARMERS' ABILITY TO ACCESS SEEDS

## TABLE OF CONTENTS

	Page
I. Introduction .....	2
II. Draft concept note on further research on the impact of seed policies, laws and regulations on farmers' ability to access seeds .....	3-5

## I. INTRODUCTION

1. The Commission on Genetic Resources for Food and Agriculture (Commission) has in the recent past sought to establish the impacts of seed policies, laws and regulations on farmers' ability to access seeds and planting materials, especially of farmers' varieties/landraces (FVLs). During its last two regular sessions, the Commission considered two studies on the possible impacts of seed policies, laws and regulations on farmers' ability to access seeds and planting materials, especially of FVLs.
2. In 2019, at the Commission's Seventeenth Regular Session, FAO presented a review of the status and trends of seed policies and seed laws of 94 countries, the Andean Community and the European Union.<sup>1</sup> In response to these findings, the Commission requested that, in coordination with the Treaty, and in consultation with the International Union for the Protection of New Varieties of Plants (UPOV), FAO undertake in-depth case studies to establish the impacts of the implementation of national regulatory provisions.<sup>2</sup> The follow-up study, *Effects of seed policies, laws and regulations*,<sup>3</sup> was considered by the Commission at its Eighteenth Regular Session in 2021.
3. In response to the findings of the follow up study, the Commission requested FAO, in collaboration with the Treaty, to undertake further research on the impact of seed policies, laws and regulations, taking into account the variety of factors that may affect, and possibly improve, farmers' ability to access sufficient and affordable seeds and planting materials of diverse, locally adapted varieties, including FVLs.<sup>4</sup>
4. In response to this request, this document presents a draft concept note to conceptualize possible further research. Further information on the context and the preparation of the concept note is provided in the document *Further research on the impact of seed policies, laws and regulations*,<sup>5</sup> which is being considered at this session.

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<sup>1</sup> CGRFA-17/19/9.3; CGRFA-17/19/9.3/Inf.1.

<sup>2</sup> CGRFA-17/19/Report, paragraph 67.

<sup>3</sup> CGRFA-18/21/12.3; CGRFA-18/21/12.3/Inf.1.

<sup>4</sup> CGRFA-18/21/Report, paragraph 105.

<sup>5</sup> CGRFA/WG-PGR-11/23/4.2.

## II. Draft concept note on further research on the impact of seed policies, laws and regulations on farmers' ability to access seeds

### Research topics

Many factors and their interactions may affect, positively or negatively, farmers' access to seeds and planting materials. Further research could therefore consider:

- **Choice: what do farmers need?**  
It is important to understand the preferences of different types of farmers in terms of crop varieties and quality of seeds/planting materials. Further research could explore how these preferences relate to what farmers are able to access and how national and international laws and public policies affect the range of choice available for farmers. It could further investigate if farmers or other stakeholders want to register and commercialize FVLs, and in what the registration and commercialisation is facilitated or constrained by seed legislations.
- **Objectives of regulatory instruments related to access or diversity**  
While the importance of conserving the diversity of PGRFA is widely recognized, further research could explore if, or to what extent, seed policy or related policy measures actually aim at facilitating breeding or seed production, in formal or informal settings, for diversity and expanding expand farmers' access to the resulting seed and planting materials.
- **Process of formulation of seed policies, laws and regulations**  
The objectives or sources of information that guided the development of seed legislations could also be explored by further research. It could also investigate how different stakeholders were included in policy formulation.
- **The actual implementation of seed policies, laws and regulations**  
Seed legislations may apply only to registered varieties or to particular crops, or may apply, in principle, to all seeds and planting materials in a country, including FVLs. Additionally, important areas of national seed legislation frameworks may be undefined or unclear, or subject to managerial decisions by national seed authorities.<sup>6</sup> Recognizing the co-existence of a multiplicity of seed systems, the scope of application of regulatory instruments is important to understand. Further research could therefore explore how legislative texts are interpreted and implemented by authorities at various levels, to what extent, and for which situations, seed policies, laws and regulations are actually enforced, and what measures have been applied to encourage or discourage specific activities.
- **Stakeholder response to seed policies, laws and regulations**  
Policies, laws and regulations may be interpreted and applied in different ways. They may also be perceived by different stakeholders groups in different ways, which may have an impact on how these stakeholder groups behave. Further research could therefore explore how different stakeholders, for instance smallholder farmers vs. commercial framers, or public plant breeding institutions vs private seed companies, understand seed policies, laws, and regulations and how different perceptions of regulatory measures encouraged, or deterred, specific activities. These impacts may be directly observable, for example, when a variety submitted to a varietal release committee is rejected for not conforming to the criteria stipulated for registering a new variety. However, impacts may also be indirect and cause a stakeholder to refrain from taking a particular action, for example deciding not to submit a FVL to a varietal release committee in the first place. To ascertain the impacts of regulations on practices and behaviour, information would have to be elicited directly from different stakeholders, e.g. farmers, plant breeders, seed producers, seed authorities, and traders.

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<sup>6</sup> CGRFA-17/19/9.3; CGRFA-17/19/9.3/Inf.1.

- **Factors beyond seed policies that may also impact farmers' ability to access seeds and planting materials of diverse, locally adapted varieties, including farmers' varieties/landraces**

Other factors may impact farmers' ability to access seeds at many different levels:

- One factor is that farmers use **different seed systems** to access seeds and planting materials (e.g. formal, informal, intermediate), depending on crop or context<sup>7</sup>. Are there incentives for these systems of production and distribution (e.g. from government, non-governmental organizations, or civil society) or are they part of emergency seed assistance in response to crises?
- **Crop varietal development** may occur in various settings (e.g. public sector, private sector, farmer-managed), use a range of possible breeding methods, and may be oriented towards specific traits or to achieve wider outcomes (e.g. nutrition).
- Another factor is the **extent of participation by farmers or other stakeholders** in the process of crop varietal development, and at what stages. How does the structure and organization of crop breeding affect farmers' ability to access seed and planting materials of diverse, locally-adapted varieties, including FVLs?
- **Policies not directly related to seeds**, which have a significant influence on crop production or on agricultural livelihoods should also be considered. For instance, agricultural policies, subsidies, or commodity trade regulations, may influence variety preferences.
- What **infrastructure** (e.g. roads or communications) or agricultural extension services (from public, private or other sources) are available to facilitate farmers' access to seeds and planting materials, or to relevant information about them?
- **Nature of value chains** for a given crop (e.g. local consumption, widely-traded commodity, or specialist markets), which may also influence how its seed or planting material is marketed or otherwise exchanged.
- The **characteristics of individual farmers**, such as gender, their access to assets (e.g. natural resources, financial capital), and their livelihoods strategies, may significantly affect their needs, capabilities and constraints.

### Methodology

A number of research studies have been conducted in recent years, while more are currently ongoing, to investigate the impacts of seed policies. A wide range of methodologies, including both qualitative (e.g. methods such as text analysis, descriptive case studies, policy process analysis, legal analysis) and quantitative (e.g. policy measurement and indexing, policy benchmarking, quasi-experimental impact evaluations, randomized field experiments), have been adopted for the studies. Quantitative methods are typically used for hypothesis-testing, while qualitative methods explore concepts and questions that may be subject to multiple possible interpretations.

The selection of methods will depend on the research questions and nature of the data to be generated. A combination of different methods, both qualitative and quantitative, is likely to produce more rigorous and reliable findings. The articulation of a definitive methodology for the conduct of the study would depend on: how many identified research topics would be studied at the same time; whether there would be a phased series of studies; and the scale of human and budgetary resources that would be dedicated to the endeavour.

Where possible, the methodology should seek to compare the situations before and after the implementation of specific seed legislations to strengthen attribution of causality. Ideally, the study

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<sup>7</sup> CGRFA-18/21/12/3/Inf.1.

subjects will reflect the widest possible sources of variation, in terms of regions, countries, and stakeholders along the seed value chain, i.e. researchers, regulators, farmers, seed producers, and civil society. Diverse crop types (e.g. cereals, pulses, vegetative crops, vegetables) and seed systems (e.g. formal, informal, integrated)<sup>8</sup>, should also be reflected. To enhance the comparability of the data, uniform methods for data collection and analysis will be used. All studies will also be conducted within the same timeframe. However, such provisions may be impractical, in which case, the following options will be considered:

- a phased study, expanding the number of subjects studied over time;
- limit sample sizes – e.g. in terms of geographic coverage;
- targeting specific contexts for study, e.g. to focus on vulnerable farmers affected by crises, or on the contexts which appear to be supportive of increased access to seeds and planting materials of diverse and adapted varieties, including FVLs; or
- sample from different economies – low-, middle- and high-income countries.

A study of above non-exhaustive list of factors will engender nuanced perspectives on the possible impacts of seed policies, laws, and regulations on access to seeds and planting materials.

### **Process**

Developing a methodology to address the impact of the wide range of factors described above and their interaction will indeed be challenging. In this regard, an entity or entities experienced in the organization and conduct of this type of research should be involved with the aim to produce a series of costed proposals for the conduct of the research depending on scenarios, detailing in each case the specific questions, methodologies, experimental designs, samples sizes and analytical approaches that would enable valid cause and effect relationships to be inferred.

The development of proposals and the conduct of the research should be aided by a continued multi-stakeholder engagement to ensure that the research meets the stated purpose and a mechanism for evaluating the progress of the research, for example an expert committee.

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<sup>8</sup> CGRFA-17/19/9.3; CGRFA-17/19/9.3/Inf.1.