



Food and Agriculture
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The International Treaty
ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE

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**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD
AND AGRICULTURE**

**FIRST MEETING OF THE AD HOC TECHNICAL EXPERT GROUP ON
FARMERS' RIGHTS**

Rome, Italy, 11-14 September 2018

**The Global Consultation on Farmers' Rights: summary of presentations and
discussions**

Note by the Secretary

At its Seventh Session, the Governing Body decided to establish an Ad Hoc Technical Expert Group (AHTEG) on Farmers' Rights, to produce an inventory of national measures that may be adopted, best practices and lessons learned from the realization of Farmers' Rights, and based on the inventory, to develop options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty.

This document contains the previously published *Proceedings of the Global Consultation on Farmers' Rights 2016: Summary of Presentations and Discussions*. The Consultation was organized by the Governments of Indonesia and Norway, from 27-30 September 2016 in Bali, Indonesia, with the support of the Government of Italy and Switzerland and facilitated by the Secretariat.

The objectives of the Consultation, by bringing together a broad range of stakeholders, were to seek common grounds for the understanding of Farmers' Rights, to share experiences through the exchange of best practices on their realization, and to gather ideas on how to strengthen their implementation.

This document is being made available for the information of the AHTEG and to further assist its discussions, as appropriate.

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The Global Consultation on Farmers' Rights 2016

Summary of presentations and discussions

27-30 September 2016, Bali, Indonesia



Norwegian Ministry
of Agriculture and Food

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Acronyms and Abbreviations

ACB	African Centre for Biodiversity (South Africa)
ACSU	Ad Hoc Committee on Sustainable Use
ARIPO	African Regional Intellectual Property Organization
ASOCUCH	Association of Organization from the Cuchumatanes (Guatemala)
BSF	Benefit-sharing Fund
CBD	Convention on Biological Diversity
COASP	Comite Quest Africain des Semences Paysannes (Benin)
CSO	Civil Society Organization
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FIFAH	Foundation for Participatory Research with Honduran Farmers (Honduras)
GB	Governing Body (of ITPGRFA)
GFAR	Global Forum on Agricultural Research
IAARD	Indonesian Agency for Agricultural Research and Development
IGO	Intergovernmental organization
ILO	International Labour Organization
IPRs	Intellectual Property Rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
LI-BIRD	Local Initiatives for Biodiversity, Research and Development (Nepal)
MLS	Multilateral System
NGO	Non-governmental organization
PGRFA	Plant Genetic Resources for Food and Agriculture
PLANAPO	National Plan of Action for Agroecology and Organic Production (Brazil)
PVP	Plant Variety Protection
SDG	Sustainable Development Goals
SEARICE	Southeast Asian Regional Initiatives for Community Empowerment (the Philippines)
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TWN	Third World Network
UNIGS	International University of Gastronomic Sciences (Spain)
UPOV	International Union for the Protection of New Varieties of Plants

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We are grateful to the Governments of Italy, Switzerland and other organizations who provided financial support for the participants, and to cover other costs of organizing this event.

We also appreciated the collaboration with the International Treaty Secretariat, for their facilitation of the consultation.

Oslo and Bogor, 20 April 2017

Muhamad Sabran, Researcher, Indonesian Center for Agricultural Biotechnology and Genetic Resources Research and Development (ICABIOGRAD)-Indonesian Agency for Agricultural Research and Development, Ministry of Agriculture

Svanhild-Isabelle Batta Torheim, Senior Advisor, Ministry of Agriculture and Food, Norway



The consultation was co-chaired by Carlos Correa, Argentina, and Regine Andersen, Norway



The global consultation was attended by 97 participants from 37 countries from Africa, Asia, the Near East, Latin America and the Caribbean, North America and Europe



Background and objectives of the consultation

Farmers' Rights are recognized in the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) due to "...the enormous contribution that 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 agricultural production throughout the world." (Article 9). Crop genetic diversity is important for food security. Farmers' varieties contributes to more resilient production systems and reduce the risk of crop failures. This adaptive capacity becomes even more important with climate change. On-farm management of crop genetic diversity is an essential component of national and international efforts to conserve plant genetic resources.

The realization of Farmers' Rights is a cornerstone for implementation of ITPGRFA, henceforth known as the International Treaty. It is also important for implementation of Aichi Biodiversity Target 13 in the current ten-year Strategic Plan for Biodiversity of the Convention on Biological Diversity (CBD). Furthermore, the realization of Farmers' Rights is relevant for the achievement of the Sustainable Development Goals (SDGs) adopted by governments in September 2015 as part of the 2030 Agenda for Sustainable Development. The SDGs address the complex challenges we face in our interconnected world, and are a call for action that will shape the next 15 years of policies, programmes and funding. Farmers' Rights are particularly linked to Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture.

The International Treaty specifies that the responsibility for implementing Farmers' Rights (Article 9) lies with the various national governments. Each country is free to choose the measures deemed necessary and appropriate, in accordance with its own needs and priorities.

Article 9 indicates measures for protecting and promoting these rights, including the protection of traditional knowledge relevant to crop genetic resources, the right to participate equitably in sharing benefits arising from the use of crop genetic resources, and the right to participate in decision-making at national level on matters related to the conservation and sustainable use of crop genetic resources. In addition to these measures, the importance of the rights of farmers to save, use, exchange and sell farm-saved seeds and propagating material is affirmed in the preamble of the International Treaty. Farmers' Rights, as laid down in Article 9, are backed up by other provisions of the International Treaty; most frequently referred to in this context is Article 6 on Sustainable Use of Plant Genetic Resources for Food and Agriculture (PGRFA).

The implementation of Farmers' Rights has been addressed at each session of the Governing Body of the International Treaty. At its Sixth Session, in October 2015, the Governing Body adopted Resolution 5/2015 (Annex 1), which among other things "*invites 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*". Against this background, the Government of Indonesia invited the Government of Norway to co-host a Global Consultation on Farmers' Rights (hereafter referred to as the consultation) in Indonesia.

The Global Consultation was a response to the invitation of the Governing Body through Resolution 5/2015. The objectives of the consultation were to develop common ground for understanding Farmers' Rights, to find inspiration in the exchange of best practices on realization of Farmers' Rights, and to gather ideas on how to strengthen implementation of Farmers' Rights by bringing together a broad



range of stakeholders. The consultation brought together 95 participants from 37 countries in Africa, Asia, Europe, Latin America and the Caribbean, the Near East, North America and Southwest Pacific. The participants were drawn from farmers' organizations, non-governmental organizations (NGOs), intergovernmental organizations (IGOs), Contracting Parties, seed industry organizations and research institutions. The event was co-chaired by Regine Andersen from Norway and Carlos Correa from Argentina.

The consultation addressed the following issues in particular: (i) why Farmers' Rights matter;

(ii) different challenges for the realization of Farmers' Rights; and (iii) possible ways of further strengthening the realization of Farmers' Rights. During the consultation, participants actively engaged and shared views, experiences and examples of best practices related to the implementation of Farmers' Rights, as addressed in the International Treaty on Plant Genetic Resources for Food and Agriculture. They also identified a range of issues that may affect the realization of Farmers' Rights and discussed a possible set of recommendations to the Governing Body in this regard.



The proceedings of the global consultation

Field trip

One day prior to the consultation conference, a field trip was organized to a rice breeding programme and a coffee garden. The participants first visited the rice seed breeders' association, called Subak Guama, and their farmers' cooperative KUAT Subak Guama. KUAT Subak Guama the Manager Wayan Atmajaya welcomed the participants and gave an overview of programme activities. FAO Representative Mark Smulders briefed the participants on FAO's work and the country's development programmes. Ida Bagus Suryawam introduced Subak Guama, and presented its rice breeding programmes, farm facilities and production processes, which seek to support farmers in increasing productivity and incomes. Afterwards, participants were

given a tour of the rice fields. The second site visited was the Taman Ayu Luwak¹ Coffee garden in Gianyar. Taman Ayu Luwak Coffee is an agritourism destination that aims to introduce both conventional Luwak Coffee and its main product, Probiotic Luwak Coffee. Developed by the Indonesian Agency for Agricultural Research and Development (IAARD), this probiotic coffee includes partly digested coffee cherries eaten and defecated by the Asian palm civet or Luwak. The probiotic microbes are the result of isolating microbes in the Luwak's small intestine and appendix. The process uses exclusively natural ingredients, and is therefore chemical-free. Inside the Taman Ayu Luwak Coffee garden, participants had the chance to examine the different local herbal plants and fruits.



Participants at the Taman Ayu Luwak Coffee garden

¹ Luwak – Asian Palm Civet (*Paradoxurus hermaphroditus*).

Session 1: Opening the consultation

Opening and welcome addresses

On behalf of the ITPGRFA Secretariat, **Mario Marino** opened the consultation by outlining the background to the International Treaty's work on Farmers' Rights. He cited the consultation as an important undertaking in response to Resolution 5/2015 regarding the convening of consultations on Farmers' Rights. On behalf of the Secretariat, Marino acknowledged the host country and organizers, together with other Contracting Parties and stakeholders involved in organizing the consultation. He also paid tribute to Jose "Pepe" Esquinas-Alcazar, who played a crucial role during the negotiation of the International Treaty, and whose advocacy for Farmers' Rights is widely recognized.

Opening remarks were delivered through a video message from **Shakeel Bhatti**, Secretary of ITPGRFA. He emphasized the importance of conducting global and interregional discussions, consultations and coordination, likely to have a real impact on implementing Article 9 of the International Treaty. Thanking all participants, Bhatti expressed his hope that they will continue their work until Farmers' Rights are fully realized. He thanked Indonesia and Norway for their prompt response, and for making the global consultation possible. He also acknowledged the financial contribution made by the Governments of Italy and Switzerland.

First Secretary at the Norwegian Embassy **Borgar Olsen Tormodsgard** thanked Indonesia for organizing and hosting the global consultation. He underscored the need to strengthen the complementary strategies of *in situ*, on-farm and *ex situ* conservation efforts, as well as the mutual supportive work of farmers, plant breeders, scientists, civil society and government officials. Given that producers' on-farm management of crop diversity is an irreplaceable component of joint efforts to safeguard plant genetic diversity,

it is clear that farmers play a key role in achieving the Sustainable Development Goals. In recognition of the benefits that Norwegian agriculture derives from seed diversity managed by farming communities around the world, Norway has, since 2009, made an annual contribution to the International Treaty's Benefit-sharing Fund. In conclusion, Tormodsgard said he expected the consultation to identify various challenges to the realization of Farmers' Rights, as well as suggestions on how to overcome difficulties and achieve concrete results for farmers worldwide, who are conserving plant genetic resources for food and agriculture.

Prama Yufdi, Executive Secretary of the Indonesian Agency for Agriculture Research and Development (IAARD) at the Ministry of Agriculture, welcomed participants to the consultation on behalf of Andi Syakir, the Director-General of IAARD. He explained the Government's programmes to address conservation and the sustainable use of genetic resources, including the country's efforts to promote Farmers' Rights. Yufdi noted the seeming contradiction between the Government's goal of increasing crop production and the various provisions of Article 9 regarding Farmers' Rights. Increased crop production normally requires the use of modern crop varieties, adopting certified seeds and a monoculture system. He observed that Farmers' Rights should not be seen as exclusively related to the informal seed system, and the right to save, exchange and sell seeds, although this is a common interpretation. Yufdi stressed the importance of complementarity between the informal and formal seed systems. Moreover, he expressed hope that, through the consultation, his country would learn from others' experiences, and eventually find the means to develop national seed legislation, with the proper engagement of relevant stakeholders.



Setting the scene: Evolution of the international policy debate and national implementation of Farmers' Rights

In order that all participants should have an understanding of Farmers' Rights, **Regine Andersen**, Director of Oikos - Organic Norway – the national movement of organic producers and consumers in Norway – and a former Senior Research Fellow at Norway's Fridtjof Nansen Institute, presented a historical background to the concept, tracing the international negotiation processes and describing the development of Farmers' Rights to date. She recalled how the idea of Farmers' Rights emerged at FAO in the early 1980s, as a way of focusing attention on the unremunerated innovations of farmers throughout the history of agriculture. Such innovations have constituted the foundation of all modern plant breeding. The International Treaty, which was adopted in 2001 and came into force in 2004, is the most important international instrument for the management and conservation of crop genetic resources, and the protection and promotion of Farmers' Rights, said Andersen. Although these rights are not specifically defined, the International Treaty offers measures and clarification that can be considered elements of Farmers' Rights. These comprise the protection of traditional knowledge related to crop genetic diversity, the right to participate in benefit sharing, the right to participate in decision-making at national level, and any rights that farmers have to save, use, exchange and sell farm-saved seeds. She stressed the importance of realizing Farmers' Rights in order to achieve the objectives of the International Treaty, *the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising from their utilization*. This is highlighted in Article 9, where the Contracting Parties “...recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world (...) 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.” Andersen identified this contribution as the basis of Farmers' Rights, as set out in the preamble of the International Treaty. She also highlighted several provisions (i.e. Articles 5, 6, 13, 18, 19 and 21), which support the recognition and implementation of Farmers' Rights. However, despite the resolutions adopted at all sessions of the Governing Body since the Second Session, the realization of Farmers' Rights is proving a slow process. One challenge is that the International Treaty is a binding agreement, without binding obligations on this issue. A number of examples exist, where the provisions of Article 9 have been fulfilled. However, the realization of Farmers' Rights remains limited, due to various constraints. Two challenges involve the lack of definition of Farmers' Rights, coupled with the fact that the International Treaty does not oblige the Contracting Parties (countries) to undertake specific measures for implementation. On the other hand, the International Treaty does provide an arena for the development of international norms, and the Global Consultation on Farmers' Rights held in Bali may well contribute to that goal.

Andersen outlined the development of international norms on Farmers' Rights since 2007, when sessions of the Governing Body adopted resolutions on measures to promote their realization. These included collecting views and experiences; reviewing, and if necessary, adjusting national measures (such as legislation) that affect the realization of Farmers' Rights; convening regional workshops and other consultations on the realization of Farmers' Rights; developing national action plans; considering success stories and ways to promote Farmers' Rights; engaging farmers' organizations; and exploring ways forward. She went on to describe some of the key points and recommendations resulting from previous global consultations, held in Zambia in 2007, and in Ethiopia in 2010. In conclusion, Andersen said she hoped that the global consultation

would produce recommendations for the next session of the Governing Body. These might address issues such as ways forward for helping to further shape international norms on the national implementation of Farmers' Rights, government responsibilities, how to safeguard legal space for Farmers' Rights, building capacity worldwide, and ensuring that sufficient funds are made available for implementation.

Rationale and objectives of the consultation

The organizers of the global consultation, **Svanhild-Isabelle Batta Torheim** (Ministry of Agriculture and Food, Norway) and **Muhammad Sabran** (Indonesian Center for Agricultural Biotechnology and Genetic Resources Research and Development (ICABIOGRAD)) presented the background and purpose of the event. This was arranged as a response to Resolution 5/2015 and its call for consultations. Both Batta Torheim and Sabran underscored the importance of consultation in finding common ground for an understanding of Farmers' Rights. They said that the event created a space to share and exchange ideas and experiences, and expressed their hope that the participants would be inspired to strengthen implementation of Farmers' Rights in their own countries. Finally, they invited everyone to play an active role in the dialogue, and to make suggestions on how to further strengthen the realization of Farmers' Rights.

The consultation process began as the organizers introduced the Co-Chairs: **Regine Andersen**, Director of Oikos - Organic Norway and **Carlos Correa**, Director of the Center for Interdisciplinary Studies on Industrial Property and Economics at the University of Buenos Aires, Argentina.

Inspirations and expectations from the participants

Due to the large number of participants, time did not allow for every person to express their expectations. Nevertheless, as a starting point, the Co-Chairs invited participants who wished to share their hopes from the consultation, as well as their thoughts as to why Farmers' Rights matter, to take the floor. Several speakers observed that peasants and smallholder farmers are at the heart of seed systems, and are the custodians, innovators and keepers of biodiversity, which has sustained and will continue to sustain humanity. Any decision-making process relating to seed systems, whether at local, national or international level, should therefore ensure the participation of smallholder farmers, including women, and indigenous peoples. Some participants hoped to hear deliberations to address specific challenges to the realization of Farmers' Rights, such as the concentration in the seed industry with the merger of major companies, as well as patents on seeds and global competition among farmers in the international trade system. Other ideas proposed as potential solutions to be explored during the consultation included the development of a protocol or guidelines for Farmers' Rights, the strengthening of partnerships to create synergies between the work of different actors, and improving linkages and clarifying boundaries with other international processes, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the UN Declaration of Peasants' Rights and the Nagoya Protocol. Despite different priorities and areas of focus, participants showed a strong degree of determination to come up with concrete and practical recommendations for the Governing Body, capable of strengthening the implementation of Farmers' Rights.



Session 2: Why Farmers' Rights matter

This session explained the rationale for the recognition of Farmers' Rights in the International Treaty by exploring examples of farmers' contributions to the conservation of genetic resources and the management of genetic diversity, as well as the value of farmers' varieties and informal seed systems and their role in ensuring food security.

Tadesse Reta, a farmer from Ethiopia, shared his perception of the local seed system and the importance of diversity for food production. For example, the wheat varieties grown by himself and other fellow farmers rely on diverse agronomic values, such as the seed's adaptation to physical and climatic conditions and fewer inputs, as well as on diverse gastronomic values (unique taste, quality) and more importantly, ensure crop yields (seed, food, income). Tadesse singled out the importance of local seed systems and seed diversity, which constitute his and fellow farmers' primary means of minimizing risks and coping with emerging challenges in food production. Local seed systems ensure farmers' rights to save, use and exchange seeds, in contrast to the intellectual property right system, which has been imposed on small-scale farmers, creating confusion and challenges. The local seed system offers a wide range of choices, types and qualities, in adequate quantities, at affordable prices, and which are available when needed. However, the contribution of small-scale farmers does not receive adequate recognition, said the Ethiopian farmer, and as a result, investments and other technical support to this sector are minimal. Technologies are generally developed for commercial producers, who produce seed as a commodity for sale, with profit-making as the primary objective. Declaring that food production is a basic human right, Tadesse explained that his ancestors maintained a wide range of diversity, which has been handed down to himself and his peers. The current

generation of farmers must maintain this diversity, which is their patrimony, and pass it on to the next one. In closing, the farmer declared: "Choosing what we want to grow, eat and conserve is Farmers' Rights. It is also about dignity of farmers, food producers, and about maintaining the food base that enables sustainable production for current and future generations".

Marvin Gomez, of the Foundation for Participatory Research with Honduran Farmers (FIPAH), presented his organization's work on promoting food sovereignty and increasing resilience to climate change by strengthening the local seed system, which accounts for roughly half the country's total seed supply. For more than two decades, farmer breeders have been working with scientists and NGOs to strengthen their local seed systems, introducing participatory plant breeding approaches and community seed banks, in so doing enhancing seed security for hundreds of families in the context of climate variability in Honduras. The experience has shown that when farmers are given opportunities, and the tools to develop their local seed systems, they can successfully create the strategies that they need. To date, farmers have developed numerous varieties of bean and corn, thereby increasing both the genetic base of these crops and their yields, with more than 40 community seed banks now operating nationwide. A major result of their work has been the organization of small-scale farmers. FIPAH's work has been recognized in the national programme, but much remains to be done. Among other proposals, FIPAH has called for the country's new seed law to include Farmers' Rights.

Normita Ignacio from Southeast Asia Regional Initiatives for Community Empowerment (SEARICE), based in the Philippines, presented the local seed system in Viet Nam, where 85 to 95 percent of total seed



requirements are produced and supplied by the informal sector, mainly in the form of farm-saved seeds. The establishment of seed clubs helps to empower farming communities by securing their local seed system and allowing them to make decisions on developing and utilizing the seeds that they want. Ignacio told how informal systems, and farmer seeds and varieties, had gained trust among farmers, due to their adaptability to local conditions. Ignacio also explained how farmers, given the right capacity development and appropriate support, can effectively and efficiently meet their own seed needs and even contribute to meeting the seed requirements of other farmers. The country's more than 400 seed clubs are now producing a total of 920,960 tons of seeds, offering affordable and adaptable seeds to local communities. She highlighted the complementary roles of farmers and formal seed systems, and described how government support has helped to sustain the initiative, thereby putting Farmers' Rights into practice. Farmers' varieties must undergo official registration, but this poses a bureaucratic hurdle for the seed clubs. The fact that seed regulations prohibit the sale of uncertified varieties at market creates a serious challenge. If such strict rules are imposed, there will be a vacuum in the seed market, as the formal seed sector will not be able to meet the demand for quality and affordable seeds.

In Bolivia, where potato is the main crop, **Ximena Cadima** from Fundación PROINPA, said that as much as 97 percent of propagating material for potatoes comes from the informal traditional seed system. The formal or official seed system predominantly supplies just two varieties of commercial importance, neglecting the vast majority of native varieties (more than 1 000 nationwide). Cadima described the complexity of the dynamic, informal seed system, where social and cultural relations play an important role in spreading propagating material of a broad portfolio of varieties adapted to different regions. Smallholder farmers in the upland have specialized in seed

production, since these areas face far less pressure from pests and diseases, compared with the lowlands. This is how farmers have maintained the quality of their production. Cadima also described traditional seed systems as fundamental to the maintenance of crop diversity, traditional knowledge and culture associated with local seed structures. The traditional strategies that have helped to maintain the quality and suitability of seeds have been weakened in recent years by the emergence of rural markets, where seeds are increasingly sold and bought. This development has fractured the traditional link between seed providers from upland areas and potato growers in lowland areas. While she acknowledged the contribution of market fairs to farmers' access to seeds, she said that levels of transparency between seed suppliers and buyers has been compromised. As a result, farmers have little guarantee of the quality of seed that they buy. PROINPA and Bioversity International led a project to support the traditional seed system, aimed at restoring the transparent links between seed suppliers and farming communities, and at introducing good practices and technological innovations that can help to strengthen farmers' role as suppliers of quality seed, and gain official recognition for the traditional seed system in the Bolivian legal framework.

Omer Agoligan, Coordinator of the Comité Ouest Africain des Semences Paysannes (COASP) in Benin, talked about the farmers' seeds network and dynamic management of genetic resources for food and agriculture. Agoligan stressed the importance of food sovereignty and explained how the network of smallholder farmers in West Africa collectively promotes traditional seed systems among producers. He acknowledged the important contribution of seed fairs, which offer a way to exchange and share knowledge and experiences among farmers. He and his fellow farmers assert that sowing and planting seeds of their choice is a fundamental right, the equivalent of having the autonomy to



choose the foods they prefer to eat. Agoligan concluded his intervention by making a call for the full implementation of Farmers' Rights.

José Esquinas-Alcázar, Former Secretary of the International Treaty on PGRFA, highlighted the important role of farmers and their traditional varieties as the ultimate source of genetic diversity for food production. He illustrated several examples that underscored the significance of traditional knowledge systems in maintaining and conserving biodiversity, to cope with different environmental and climatic changes that are difficult to forecast. Esquinas-Alcázar recalled his interaction with a Spanish melon farmer, who had little experience of science and technology, yet had proved his knowledge to be of great importance to food production. The Spanish farmer's fungus resistant melon genes would later help farmers around the world. The speaker highlighted how farmers' traditional knowledge and in-depth understanding of their seeds, biological and evolutionary processes, have enabled them to carefully select and conserve seed diversity. Another example he shared was that of black quinoa seeds, which farmers keep in the Andes region. To Esquinas-Alcázar, as a researcher, the black seed plants appeared sickly, compared with the standard yellow seeds plants. The farmers admitted that the black seeds produced lower yields, but insisted that the nutritional importance of the black seed plants as it can prevent or cure tuberculosis. When the black seeds plants were subsequently analysed in the laboratory, their higher nutrient value was confirmed. Esquinas-Alcázar raised concerns about current efforts in plant breeding. High-yielding varieties are often constrained by low adaptability, and are less sought after by most farmers in marginal areas as a result.

Key points discussed

During lively discussions, the participants raised several issues linked to the important role of farmers as custodians and innovators of crop genetic diversity. Their rights in this regard

are crucial if they are to continue to be key providers of local and global food security. The valuable contribution of farmers' seed systems to the conservation and sustainable use of plant genetic resources for food and agriculture was stressed during the consultation. Farmers' seed systems serve as reservoirs of PGRFA that are of great significance to agricultural production in the light of climate change and other challenges. In addition, some participants said that farmers' seed systems are embedded in local cultures, and highlighted the important role they play in preserving local identity and traditions as a result.

Views and perspectives shared in the discussion session included the following points:

- Farmers' role in conserving and managing PGRFA should not just be acknowledged, but there is also a need to support and empower them as producers. How to increase access to information and appropriate technology by farmers? And how to build the capacities of smallholder farmers and indigenous communities in conserving and managing plant genetic resources (PGR)? These are the issues identified as requiring attention if implementation of Farmers' Rights is to be reinforced. Such support could also promote the complementarity of both formal and informal seed systems, but should at the same time recognize the differences between them. In this discussion, participants also expressed views on precisely which farmers the notion of 'Farmers' Rights' apply to. Some claimed that it is primarily a case of farmers in the informal sector, since these are less protected by current laws and policies, which mainly target the formal sector. Others observed that the issue of Farmers' Rights principally addresses farmers who are involved in the management of crop diversity.
- Several participants stressed the fundamental role of farmers as producers of food and nutrition, as well as seed. Farmers play an



important role as seed producers, especially at difficult times, when there is a scarcity of sufficient seeds suitable for diverse agro-ecological zones. In such cases, these producers may be able to distribute seeds quickly to other farmers.

- There were differing views as to how well the International Treaty's current access and benefit sharing system is capable of addressing the recent and rapid development of information technology linked to genetic material sequencing (so called *dematerialization*).
- Several issues were raised on the subject of intellectual property rights (IPRs). It was suggested that Farmers' Rights should not be viewed as a subset of IPRs. Others observed that the Indian law was a good

example, in the sense that it offers legal space to farmers to save, use and sell farm-saved seeds of protected varieties. There were different views as to what degree IPRs are human rights since IPRs are recognized in some human rights declarations. It was stressed that fundamental human rights belong to individuals, while IPRs are private rights, temporary in nature and may be revoked at any time. The difference between patents and plant variety protection (PVP) was also pointed out. It was argued that a key purpose of PVP is the benefit to society through the development of improved varieties that meet the needs of farmers. Other participants considered different types of PVP to be a challenge for the realization of Farmers' Rights.



Tadesse Reta (left), a farmer from Ethiopia sharing the importance of crop diversity in food production and his perceptions of Farmers' Rights



Session 3: Challenges and experiences regarding the realization of Farmers' Rights

This session was devoted to discussion of the various challenges and experiences involved in the realization of Farmers' Rights. It also examined a number of seed and intellectual property laws, as well as the different degrees of attention paid to farmers' traditional management systems in governments' plans and donors' investments. During the discussions, participants were invited to identify further challenges that impact the realization of Farmers' Rights.

On behalf of the International Treaty Secretariat, **Mary Jane dela Cruz** shared the results of a recent global survey conducted by the Secretariat on Farmers' Rights. The study set out to gather views, perceptions and possible strategies to advocate for implementation of Farmers' Rights. Dela Cruz presented the partial analysis of the survey data, focusing on the most frequently mentioned challenges cited by the respondents from 58 countries. These included: (i) limited promotion of the wider use of local and locally adapted crops, varieties and underutilized species; (ii) limited or lack of awareness and understanding of the concept of Farmers' Rights; (iii) lack of financial support; (iv) lack of or limited implementation of national measures strengthening informal seed systems; (v) limited legal space to enable farmers to continue conserving, developing and sustainably using PGRFA; and (vi) limited capacity-building activities. Concluding the presentation, Dela Cruz stated that overall, the majority of respondents rated the implementation of Farmers' Rights in their country as "insufficient".

Francis Leku Azenaku, Director of Réglementation et du Contrôle de Qualité des Intrants et des Produits Agricoles, Cameroon, presented the results of the Africa Region pre-consultation held in June 2016 in Harare, Zimbabwe. Discussing the conditions of

traditional agriculture in Africa, where 80 to 90 percent of producers are smallholder farmers, he said that they rely heavily on their own farm-saved seeds, and that their farming depends on crop diversification. Crop diversity is their only means of maintaining yields and quality, particularly during droughts. However, African farmers face a number of challenges in maintaining their seed varieties. Leku Azenaku highlighted the need for Article 9 to be effectively incorporated into national policies if it is to have any real impact. The International Treaty should provide guidelines for PGR policy formulation. He also pointed out the need for capacity development and awareness creation through different applicable methods, and by bringing all stakeholders together. Summing up his presentation, he stressed the need for synergies between and among various funding and partner institutions to address the challenges of Farmers' Rights, and avoid the duplication of efforts and unnecessary waste of resources.

Senior researcher from the Africa Centre for Biodiversity (ACB, South Africa), **Haidee Swanby**, presented examples of PGR policy development in Southern Africa, where there was insufficient participation of stakeholders. She described the extensive efforts that the ACB has made since 2012 to build the capacities of African civil society and farmers' movements on the radical policy changes that would displace farmer-managed seed system. Swanby underscored the importance of informal seed systems for rural farmers. This supplies up to 80 percent in Africa of their seed requirements, but also preserves the culture and safeguarding of knowledge, helping to maintain seed diversity, and contributing to resilience. Furthermore, the formal sector is incapable of serving the agricultural sector beyond commercially viable crops. However, the informal system is now being challenged



by the harmonization of policies and laws on the continent. A case in point is the African Regional Intellectual Property Organization (ARIPO)'s Arusha Protocol for the Protection of New Varieties of Plants (Arusha Protocol). According to Swanby, the protocol was adopted without consultation with stakeholders. She claimed that insufficient efforts are being made to operationalize Article 9.2c of the International Treaty, while international organizations such as UPOV and the World Intellectual Property Organization (WIPO) have hampered of Article 9.2c of ITPGRFA and promoted the undermining of Farmers' Rights, by supporting flawed and illegitimate policy processes. Also, the Southern African Development Community (SADC) developed a harmonized plant variety protection (PVP) protocol based on UPOV 1991. However, key provisions on Farmers' Rights were amended due to strenuous civil society and farmer participation at the tail end of the process in 2014.

Kong Kea, Head of the Rice Seed Management and Development Office, Cambodia, highlighted the initiatives taken by the Department of Rice Crop under the General Directorate of Agriculture (GDA) to address some of the concerns faced by farmers regarding seeds. GDA has been actively working and engaging farmers through partnerships with civil society organizations (CSOs), such as SEARICE and Srer Khmer. This collaboration has enabled GDA to have more meaningful interactions with smallholder farmers, for example through participatory plant breeding, Farmer Field Schools and training, and a deeper understanding of the challenges and issues that they face in their farming. Kea described a project called Democratizing Agricultural Research and Extension (DARE), which involved developing the capacities of farmers to secure their local seed systems, and leveraging similar agricultural projects that could strengthen farmers' capacities. This effort has led to the development of a national seed policy, which recognizes the important

roles of farmers in the seed sector. Furthermore, more than 1 000 farmers have been trained through Farmer Field Schools in participatory variety selection of seeds and development, and several seed producer groups have been formed. Two outstanding farmers were presented with an award by the Minister in 2014 for their efforts in producing high quality seeds and developing new varieties for their communities. In the future, the Government plans to include participatory plant breeding in the country's strategic programme for rice seed management and the development of improved seed quality and diversity of rice varieties. GDA is currently seeking further financial support from government and development partners, to promote participatory variety selection and participatory plant breeding.

Erizal Jamal, from the Indonesian Center for Agricultural Socio-Economic Policy Studies, the Indonesian Agency for Agricultural Research and Development (IAARD), and **Surono Danu**, a farmer, presented national experiences from Indonesia. Jamal described the Indonesian Supreme Court Decision 2012, which amended the Indonesian law on Plant Cultivation System (Law No. 12.1992). The law defines the rights of farmers in the conservation and development of plant genetic resources. Jamal explained that the amended law provides more rights to farmers to save, use, exchange and sell farm-saved seed and other propagating material. He also spoke of Law No. 19 on Farmers' Protection and Empowerment, whose objective is to empower farmers through applicable services and capacity-building. Other national programmes related to Farmers' Rights include the 1 000 villages self-sufficiency in seed initiative, participatory plant breeding, and community-based management implementation of conservation and sustainable use of wild garcinia trees and shrubs in Sijunjung District, West Sumatra. Farmers are allowed to use derivatives of protected seeds for propagating purposes and to exchange and distribute seeds. The Government uses farmers'



organizations as partners, in order to prevent the monopolization of the seed production and distribution process.

Farmer **Surono Danu** presented his local rice breed called Sertani. This variety is resistant to pests and diseases, and is more resilient to climate change due to a high tolerance to salinity. He conducted the breeding at his own farm after collecting seeds of 181 local varieties. The Sertani variety has been widely distributed and helped many farmers to afford the seed.

On behalf of the CBD Secretariat, **John Scott** addressed participants of the global consultation via video. He reflected on Article 8j and related provisions of the CBD and the Parties to the Convention's long history of working with indigenous peoples, as well as local and traditional communities, especially women, many of whom are smallholder farmers. In particular, Scott addressed the objectives of Article 9.2, namely to protect traditional knowledge relevant to plant genetic resources for food and agriculture; the right to equitably participate in sharing benefits



arising from the utilization of plant genetic resources for food and agriculture; and 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. He also spoke of Article 9.3, which outlines the rights of farmers to save, use, exchange and sell farm-saved seed/propagating material, and the Nagoya Protocol. In conclusion, Scott drew the attention of participants to the relevant CBD documents made available for the consultation, and stressed that actions on the ground and collective contributions of indigenous peoples, local and traditional communities – especially women and smallholder farmers – are central to the success of the Convention on Biological Diversity, the Strategic Plan for Biodiversity 2011-2020 and its twenty Aichi Biodiversity Targets.

Bert Visser, from Oxfam Novib in the Netherlands, shared the results of a recent study on the impact of seed policies and laws on farmers' seed systems in eight countries (India, Laos, Mali, Myanmar, Peru, Senegal, Viet Nam and Zimbabwe). According to the study, the seed sector in developing countries has changed considerably over the past three decades. In the 1980s, most national governments played a major role in the seed sector. Then, national agricultural systems largely disengaged from seed production, and farmers' seed supplies, to a large extent aided by the private sector, replaced the role of the public sector. Nevertheless, the seed policy that was developed focused mainly on promotion of the private seed sector. As a consequence, the purpose of seed legislation has never been to promote the functioning of farmers' seed systems.

All seed laws studied offer exemptions for traditional small-scale farmer activities, including the sale of seeds, though they sometimes require that certain quality conditions are met (Peru, Viet Nam, proposed in India). However, often there are no specific

conditions for farmer seed enterprises, with exception of Myanmar possibly (if in collaboration with departments and services of the Ministry). In the case of farmer seed enterprise, there appears to be a general requirement for the registration both of varieties and the seller (legal or natural person), as well as the certification of seed lots. If such seed is sold in local markets only, meeting certification standards may be facilitated in some countries (e.g. Zimbabwe), though not in others (e.g. Viet Nam), although some countries may tacitly accept such practice (Viet Nam). Such policies limit farmers' options to market their seed outside the local community, and in particular to market the seed of farmers' varieties that are only maintained in small-scale systems, and which contribute to a wider diversity in farming systems. Except in the case of Zimbabwe, no special reference is made to the role of seed fairs, although they can be understood as facilitating the exchange, barter or sales of seeds from one small-scale farmer to another, thereby falling into the category of exemptions for traditional activities.

Formalities in seed registration and certification often impose excessive transaction costs, which small-scale farmer-seed producers cannot meet. As long as farmers' seeds are considered local and informal, and do not therefore qualify for supervision and regulation, no problems may occur. But as soon as quantities or marketing areas extend beyond local parameters, these requirements may become real impediments. In conclusion, Visser said that seed laws need revision in the light of the major contribution of small-scale production to national and global food security.

Guy Kastler, global spokesperson for La Via Campesina, shared his concerns about seed and IPR laws in Europe and North America, which are exported to other parts of the world through the World Trade Organization and Free Trade Agreements. He claimed that these laws do not recognize farmers' seed systems. In France, however, civil society organizations have succeeded in convincing the Government



to allow farmers' seed exchanges that do not meet the criteria of being distinct, uniform and stable (DUS). Kastler also addressed new developments in genetic modification ('gene editing'), which seemed not to be regulated anymore as genetically modified organisms (GMOs) and, therefore, authorized by the EU to enter the market without the label "GMO". According to Kastler, farmers then face the risk of being criminalized, due to the fact that the plants they use might contain patented genetic information. Due to lack of labelling, farmers would not know if plants they buy contain patented genetic information or not. If farmers make their seed selection from these plants, they might introduce the patented genes into the farmers' seed systems, and thus legally remove farmers' ownership over their own seeds.

The International Treaty may contribute to solving this problem if the Standard Material Transfer Agreement (SMTA) forbids patents that not only limit the research and selection process, but also the plantation and commercial use of the material provided by the Multilateral System (MLS). Farmers will never cease transferring their own varieties to the MLS if such a guarantee is not secured.

Breeders can freely use farmers' varieties during the selection process, while farmers cannot use breeders' varieties for the same purpose, since they rely on market oriented agricultural production and this is considered to be outside the scope of breeders' exemption for IPR protected varieties. Kastler stressed that breeders should support farmers who preserve their seeds, since farmers adapt plants to climate change, and contribute to increased

diversity, which is also useful for breeders.

Sangeeta Shashikant, from Third World Network (TWN), spoke of the contradictions between Farmers' Rights and Plant Breeders' Rights, based on a study by civil society organizations.² She said that Farmers' Rights were a core component of the International Treaty, adding that there is concern that the activities of UPOV and WIPO are undermining those rights. Shashikant presented an analysis of the conflicts between the International Treaty and the requirements of UPOV, and the implications for the implementation of Farmers' Rights. She described UPOV 1991 as a 'one-size-fits-all' regime, which is restrictive and inflexible; it lacks mechanisms to prevent misappropriation; it lacks recognition of farmers' seed systems; and it limits implementation of Farmers' Rights. To illustrate this point, she presented the examples of national *sui generis* PVP laws of Malaysia and the Philippines, which were reviewed by UPOV. UPOV called for the deletion of provisions that implemented farmers' rights to exchange and sell farm-saved seeds, and which operationalized equitable benefit sharing, on the basis that they are contrary to UPOV 1991. Shashikant also pointed to a human rights impact assessment³ of UPOV 1991, which found that UPOV's restrictions on the use of protected seeds adversely affects the right to food - since seeds become harder to access - as well as other human rights, by reducing household income that is available for health care or education.

Furthermore, she stressed that the right to participate in decision-making processes (Article 9.2(c) is a prerequisite for the realization of Farmers' Rights, adding that

² The paper International Contradictions On Farmers' Rights: The interrelations between the International Treaty, its Article 9 on Farmers' Rights, and Relevant Instruments of UPOV and WIPO, available at http://www.twn.my/title2/intellectual_property/info.service/2015/ip151003/457628655560ccf2b0eb85.pdf

³ Owning seeds, accessing food – A human rights impact assessment of UPOV 1991 based on case studies in Kenya, Peru and the Philippines, October 2014. Available at <https://www.publiceye.ch/en/topics-background/agriculture-and-biodiversity/seeds/owning-seeds-accessing-food/>



UPOV undermines Farmers' Rights, since it supports non-participatory processes, referring to the flawed process of developing the ARIPO protocol on PVP, which excluded farmers. In conclusion, she said that countries should opt for *sui generis* plant variety protection systems that are distinct from UPOV 1991, as such systems offer the policy space to realize Farmers' Rights.

Yolanda Huerta, Legal Counsel at the Office of the International Union for the Protection of New Varieties of Plants (UPOV), discussed the provisions for farmers in the different Acts of the UPOV Convention. She presented the UPOV mission statement "to provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society". She further explained that the UPOV Convention only offers protection to new varieties of plants. Thus, UPOV does not regulate varieties that are not covered by plant variety protection such as non-protected farmers' varieties. Plant Variety Protection does not therefore restrict the ability of farmers to grow and sell propagating material of non-protected varieties. She emphasized that no restrictions are imposed on who can be considered to be a breeder under the UPOV system, a breeder can be a farmer, researcher, public institute, company, etc. With regard to acts of subsistence farmers concerning propagating material of protected varieties, Huerta clarified that under the UPOV Convention, members have the flexibility to consider whether the legitimate interests of the breeders are significantly affected or not. In the occasional case of propagating material of protected varieties, it allows subsistence farmers to exchange this against other vital goods within the local community.⁴

She also noted that the 1991 Act contains additional provisions on the scope of the breeder's right and the exceptions to the breeder's right. For instance, the 1978 Act does not contain specific provisions on farm saved seed. Certain UPOV members like France, when it was bound by the 1978, did not allow farmed saved seeds, while other UPOV members bound by the 1978 Act allow certain farm saved seed practices. She noted that under the 1991 Act, UPOV members can allow farmers to use farm saved seeds under reasonable limits and subject to the safeguarding of the legitimate interests of the breeder. Based on a map showing that many countries apply both the International Treaty and the UPOV Convention, she illustrated that is possible to implement both international instruments in a mutually supportive manner. She concluded that breeders' rights result in farmers' benefits.

Key points discussed

Following the presentations, participants discussed and exchanged their views and opinions regarding challenges and issues that impede the implementation of Farmers' Rights. It was noted that challenges in implementing Farmers' Rights vary from one country to another, as well as from technical to policy levels, and that they include limited or lack of awareness and understanding of Farmers' Rights. Among the core challenges to the further realization of Farmers' Rights, the following were identified:

- *How to enhance understanding, create awareness of the importance of realizing Farmers' Rights and build capacities of stakeholders?* Responsibility for the implementation of Farmers' Rights rests with national governments, as stipulated in the International Treaty. However, some participants argued that in many

⁴ Explanatory notes on exceptions to the breeder's right under the 1991 Act of the UPOV Convention http://www.upov.int/edocs/expndocs/en/upov_exn_exc.pdf and UPOV FAQ "Is it possible for subsistence farmers to exchange propagating material of protected varieties against other vital goods within the local community?" <http://www.upov.int/about/en/faq.html#QF70>

- cases, stakeholders do not have the means to implement these rights due to lack of institutional/technical capacity, lack of understanding of information and capacity-building needs in order to realize Farmers' Rights, or lack of adequate funding.
- *How to address variety release and seed distribution legislation?* There are concerns about national seed laws and plant variety registration and certification, which hamper farmers in acquiring non-registered seeds and saving, exchanging and selling farm-saved seeds. In addition to this limitation of the legal space for farmers to use farm-saved seeds, another concern is the lack of farmers' participation in making the laws and policies regulating this area. In terms of registration and certification, it was said that the majority of farmers in developing countries cannot fulfil the technical requirements. Nor do they have sufficient capacity and resources to engage in the legal/administrative procedures, though some documented experiences show that many farmers are meeting the formal standards for seed quality control.
 - *How to support the complementarity between informal and formal seed systems?* Smallholder farmers and peasant communities conform on informal seed systems and its contribution to the formal seed sector should not be underestimated. Complementarity or interface with the formal seed sector should be addressed. Several participants said that the needs and concerns of smallholder farmers were not properly reflected in national seed laws. It was also pointed out that we should not try to make a system unfit for farmers and their system of seed production and distribution, but that, on the contrary, there is a need to tailor laws and policies to reflect the realities on the ground. Some said it was a paradox that many countries neglected the informal seed system in their policies and legal framework, when this system accounts for up to 80 or 90 percent of the seed supply in many developing countries.
- Several participants expressed concern at monopolization in the seed sector, with just a handful of companies controlling the global seed market.
- *How to address Intellectual Property Rights (IPRs)?* Participants expressed concerns about current national plant variety protection laws, especially those based on UPOV 1991, which are affecting the seed flow between formal and informal seed systems, as well as limiting farmers' rights to use, exchange and sell protected varieties. Some proponents of the UPOV system said that it is up to each country to decide on its own PVP laws, but there was no consensus about the extent of flexibility enjoyed by countries who signed up to the 1991 Act of the UPOV Convention. Some representatives claimed that the UPOV's Frequently Asked Questions (FAQ) showed that subsistence farmers could exchange protected varieties within the local community. However, others pointed out that UPOV's explanatory notes, which address exceptions to breeders' rights, adopt a very narrow understanding of subsistence farmers, and that such farmers may only under certain conditions be allowed to consume farm-saved seeds on their own holding, but are not permitted to exchange and sell them. In addition, UPOV's FAQ state that the interests of the breeder should not be affected, and that the exchange of seeds is not accepted as a regular activity. Others said that patents on genetic resources have a far more negative impact on Farmers' Rights and on breeding than Plant Variety Protection.
 - *How to integrate the implementation of Farmers' Rights within the relevant sectors and various UN fora?* In addition to UPOV, the other relevant UN agreements and processes mentioned were the Convention on Biological Diversity (Article 8j), the Nagoya Protocol, and the Commission on Genetic Resources for Food and Agriculture, the World Trade Organization, UNDRIP, as well as ILO 161.





Session 4: Possible ways forward

This session was devoted to sharing experiences and examples of how different aspects of Farmers' Rights are implemented in various parts of the world. The session sought to stimulate discussion on how the realization of Farmers' Rights could be strengthened.

Sergio Romeo Alonzo Recinos, of the Association of Organizations from the Cuchumatanes, (ASOCUCH), Guatemala, presented an overview of experiences in this country regarding the abolition of Act 19-2014 Protection of New Varieties of Plants, which posed severe restrictions on the realization of Farmers' Rights. Indigenous peoples, farmers' and civil society organizations and other stakeholders joined forces to raise their concerns about the Act, before Congress voted to abolish it in September 2014. Meanwhile, a draft national seed policy is underway, integrating several measures to realize Farmers' Rights. These include the provision of incentives for community seed banks in agricultural communities; recognition and incentives for systems of *in-situ* conservation, promotion of participatory plant breeding of traditional and local varieties; strengthening of extension services; promotion of the use of local and native plants for food and nutrition security; strengthening local seed producers' organizations; establishing a mechanism for recognition of the informal seed system; and several other provisions to ensure that Farmers' Rights are put in place. Industry representatives have attempted to block the seed laws.

Delessa Angassa, Director of the Crop and Horticulture Biodiversity Directorate at the Ethiopian Biodiversity Institute, talked about the role of community seed banks in conserving crop genetic resources. He described the country's enormous wealth in terms of crop genetic resources, cultural diversity and indigenous knowledge. He acknowledged

the important contributions of farmers as custodians of crop genetic resources and attributed the presence of genetically diverse farmers' varieties to producers' indigenous knowledge. He explained government efforts to conserve and manage crop genetic resources by establishing and scaling up community seed banks, which he described as representing a dynamic farmer-based approach to the conservation of Ethiopian's plant genetic resources. Community seed banks contribute to maintaining greater genetic diversity in farmers' fields; they ensure farmers' seed security by making seeds available and accessible; they offer a crucial means of restoring lost varieties and sharing knowledge and expertise among farmers; they serve as a buffer against environmental and economic losses, and as a source of genetic materials for improving cultivar selection and enhancement; and they are also valuable as a springboard for enhancing extension services on conservation of farmers' varieties. He underlined the importance of empowering and building capacities of farmers, especially women farmers. Generally, Angassa explained, community seed banks aim to establish a programme linking *ex-situ* and on-farm conservation. Community seed banks are often understood as community-based stores used for the distribution of seed to local communities. On-farm conservation also maximizes the retention and continued evolution of the genetic qualities of farmers' varieties.

Pitambar Shrestha, of Local Initiatives for Biodiversity, Research and Development (LI-BIRD), Nepal, discussed the lessons learned in participatory plant breeding (PPB) to strengthen farmers' seed systems and promote farmers' rights on seeds in Nepal. He explained the framework of PPB, which involves farmers and scientists working together to develop new varieties and/or improve landraces. The plant



breeders and farmers jointly set the breeding goals based on the needs and varietal preference of communities, while the aim is to develop farmer-preferred high-yielding varieties that are tolerant to biotic and abiotic stresses. Nepal is a highly diverse country, and one variety cannot grow in many places, and the PPB approach is more useful in agro-ecologically diverse countries such as this. Shrestha explained that the PPB process empowers farmers, not only to develop new varieties, but also to produce and disseminate quality seeds of the PPB-bred varieties locally. Since the new variety development process takes place in farmers' fields, the selected variety spreads rapidly through informal networks, such as farmer-to-farmer dissemination. Local farmers are involved in identifying suitable local parents for PPB, and women farmers play an active role in conducting a post-harvest assessment of selected varieties. The process therefore promotes recognition and further use of farmers' traditional knowledge and participation in decision-making processes. New varieties developed through the PPB programme are registered in the national system, under the joint ownership of farmers, farmers' groups and plant breeders involved in the PPB process. Shrestha concluded that the PPB approach strongly supports local seed systems, adds value to local genetic resources, and promotes Farmers' Rights.

Carlos Correa, Special Advisor to the South Centre and University of Buenos Aires, Argentina, presented tools for designing alternative *sui generis* systems for plant variety protection.⁵ His starting point was that the objective of the system should be to ensure the conservation and sustainable

use of plant genetic resources. It should also balance plant breeders' rights and the needs of farmers and society at large, improve the livelihoods of farming communities, and ensure the continuous adaptation of seeds and the increased diffusion of adapted varieties. He said that there seems to be general agreement on these objectives, but there are disagreements on how to achieve them. Correa continued by discussing the rigidity of the UPOV Convention as revised in 1991, and possible elements that alternative regimes may contain, including in respect of varieties that do not meet the conventional standards under UPOV. *Sui generis* PVP is a combination of positive (plant variety protection) and defensive (benefit sharing requirements) protection, with a scope that is broader than UPOV (including non-uniform varieties), and provides exceptions for small-scale farmers. He said that developing countries may opt to design *sui generis* plant variety protection (PVP) regimes, which, while being consistent with the requirements of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), may be suitable to the seed and agricultural systems that prevail in those countries. Such regimes may also promote the achievement of the objectives of the Convention on Biological Diversity (CBD), the Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

Ronnie Vernooy, from Bioversity International, discussed its work on community seed banks around the world, as well as preconditions for success.⁶ He highlighted the multiple uses and functions of such seed banks, which normally

⁵ His presentation was based on this report, which is available in English, French and Spanish at <http://www.apbrebes.org/news/new-publication-plant-variety-protection-developing-countries-tool-designing-sui-generis-plant>

⁶ In response to the request of the Plant Treaty Secretariat to gather "information at national, regional and global levels for exchanging views, experiences and best practices on the implementation of Farmers' Rights", Bioversity International has prepared two briefs on *Realizing farmers' rights through community-based agricultural biodiversity management* and *Supporting community seedbanks to realize farmers' rights*, available at <http://www.bioversityinternational.org/news/detail/realizing-farmers-rights-through-community-biodiversity-management/>

bearing short and long-term conservation plan, providing access and availability of seeds, as well as promoting seed and food sovereignty. Vernooy cited case studies of community seed banks from different regions, which effectively contribute to the implementation of Farmers' Rights (i.e. the right to save, use, exchange and sell farm-saved seed and propagating material; protection of traditional knowledge relevant to plant genetic resources; and equitable sharing of the benefits arising from these resources). In some areas, they are seen as a platform for local rural sustainable development and recognition of the key roles of women in local seed management. According to his studies, global interest in community seed banks has increased significantly in the past five years. However, for the sustainability of any community seed bank, there are certain preconditions, if the seed bank is to sustain its functions and effectively support the realization of Farmers' Rights. These may include, but are not limited to: (i) farmers' interest and leadership; (ii) availability of local facilitator and interlocutor with other stakeholders; (iii) responsiveness to crop diversity decline/loss; (iv) possibility to respond to climate change; (v) availability of technical support; (vi) a supportive policy and legal environment.

Marciano Toledo Da Silva, global spokesperson for La Via Campesina, talked about the National Plan for Agroecology and Organic Production (PLANAPO) in Brazil, which is the Government's policy for sustainable rural development, including strengthening the development of farmers' seeds. PLANAPO includes six guidelines and several strategic actions and initiatives of Government and civil society, which should be encouraged by the Government through financial support to the plan for food and national seed production. Da Silva expressed concerns about the focus of a Brazilian economy based on "export-oriented agriculture". He also expressed concerns about certain challenges faced by peasant

communities, and which need to be addressed. These include access to land and water, respect for communities, empowerment of women, youth participation, rescue and recognition of peasants and traditional knowledge. He emphasized the need for social participation, of both peasants and urban workers, including consumers. Challenges faced by peasants in Brazil include the small size of farmers' plots, the low quality of the seeds in markets, the difficult of obtaining non-GMO seeds, genetic contamination and the loss of local varieties. Family farmers in Brazil demand locally adapted varieties and funding for seed production.

Alejandro Argumedo, Director of the Association ANDES from Peru, briefly introduced the film *Uyway (Seeds)*, which was then shown for its full 15 minutes. The film shows how Quechua farmers are mobilizing as climate change threatens their diverse seed stock and food secure future. Potato farmers embark on a spiritual and physical journey to deposit seeds in the Svalbard Global Seed Vault, on the Norwegian island of Spitsbergen. "I will come back if there is a danger", promises the 'seed' in the song. The film explores the connections between seeds and humans, biodiversity and the sacred. It underlines the importance of linking on-farm and *ex situ* conservation and highlights the role of farmers in plant genetic resources conservation.

Gigi Manicad, SD=HS Programme Lead from Oxfam Novib, the Netherlands, and **Andrew Mushita**, Director of the Community Technology Development Trust (CTDT) in Zimbabwe, presented possible steps for national implementation of Farmers' Rights, based on the lessons learned from their global programme. They stressed the need for full implementation of Farmers' Rights for global and national food and nutrition security. This should work towards the development of a vibrant seed sector, together with the public and private seed sector and farmers'



seed systems. Manicad said that the Sowing Diversity=Harvesting Security (SD=HS) and other similar programmes had collected best practices and empirical evidence in support of Farmers' Rights. There is now a need to move forward from gathering best practices. She recommended the following preparatory steps for the development of Voluntary Guidelines for National Implementation of Farmers' Rights: (1) Assess the role and needs of farmers' seed systems within the national seed sector; (2) Participatory identification of key policy issues on both technical and institutional factors that facilitate or hinder Articles 9.2 a, b, c and 9.3; and (3) Convene multistakeholder dialogue to set guidelines for Farmers' Rights. According to both speakers, there is a need to assist countries in formulating effective policy and legislation, which would create an enabling environment for farmers to maintain their contributions to conserving, improving and making plant genetic resources available.

Martin Stottele, Head of Economic Development Cooperation at the Embassy of Switzerland, Jakarta, shared the Swiss experiences in Southern Africa in integrating Farmers' Rights perspectives in food security programmes. Smallholder farmers have traditionally been a noteworthy contributor to food security and nutrition in Africa. Their various produce has also been important in providing incomes, particularly for women, who sell foodstuffs at local markets. However, the potential to meet growing demand for produce has been limited by lack of diversified good quality seed. In southern Africa, less than 20 percent of the seed planted is purchased from the formal market. It is against this background that in selected countries in the Southern African Development Community (SADC), the Swiss Agency for Development and Cooperation

(SDC) is supporting a regional food security programme that aims to increase the resilience of smallholder farmers by improving the availability, access and variety of quality seeds from the informal and semi-formal systems. In the early stage of the programme, support for regional integration of the seed markets and seed law harmonization was not widely extended to the informal seed sector. As examples of processes that undermined the legal space for farm-saved seed, Stottele cited the development of PVP and harmonization of the seed system in the SADC region, as well as the Arusha protocol for PVP under ARIPO. In addition, these processes excluded smallholder farmers and CSOs from active engagement. So far, the Swiss supported project has influenced the drafting of seed laws at both regional and national levels. For example, Malawi and Tanzania have incorporated clauses related to farmers' rights in their national laws, resulting in increased space for smallholder farmers to participate and continue to use, plant, and exchange locally produced seed. SDC's involvement in the sector has further influenced research and policy related structures, while working closely with farmers, and farmer support groups.

Laurent Gaberell, from Public Eye (Switzerland), one of the founding members of the Association for Plant Breeding for the Benefit of Society (APBREBES), presented a recent study on Farmers' Rights to participate in decision-making.⁷ This right is recognized in Article 9.2 (c) of ITPGRFA as a prerequisite for the full and effective implementation of Farmers' Rights. Yet Gaberell claimed that its implementation is severely inadequate at national, regional and international levels. Farmers face considerable challenges in exercising their right to participate at all levels, resulting in policies and laws that often not

⁷ The report is available at http://www.apbrebes.org/files/seeds/files/PE_farmers%20right_9-16_def-high.pdf

only ignore their concerns, but also adversely affect their freedom to operate. Drawing from the challenges, as well as from the norms, principles, good practices and mechanisms that exist within the United Nations system – especially within the human rights framework – Gaberell presented some of the key elements that are essential for the effective implementation of Farmers’ Rights to participate in decision-making. He recommended that the Governing Body (GB) of ITPGRFA, decide to conduct an assessment of farmers’ participation in International Treaty related meetings and processes; that the GB gather information on national, regional and international rules and practices for stakeholder participation; and that it develop guidance for the effective implementation of Article 9.2 (c). Furthermore, he recommended that the compliance reports of Contracting Parties should be made available to farmers for their comments. He also suggested the establishment of an ombudsman and stressed the need to ensure adequate funding for farmers’ participation in working groups and other processes under the International Treaty. Finally, he encouraged all Contracting Parties to legally endorse Farmers’ Rights to participate in decision-making.

Juanita Chaves Posada, from the Global Forum on Agricultural Research (GFAR), presented the Joint Capacity Building Programme on the Implementation of Farmers’ Rights. The goals of the programme are to: i) improve the implementation of Farmers’ Rights at national and local levels, by developing and increasing capacity and awareness on Farmers’ Rights under the International Treaty; ii) increase awareness of the importance of informal seed systems; iii) promote policies and legal measures that recognize Farmers’ Rights; and iv) promote the co-existence and mutual support of the formal and informal seed systems. Chaves Posada explained that the programme promotes the establishment and strengthening of networks of stakeholders implementing Farmers’ Rights, building trust among them and enhancing consensus on Farmers’ Rights under the

International Treaty. She noted the importance of building capacities and raising awareness on various provisions of Farmers’ Rights, as one of the needs identified in the global online survey and in several requests made by the Governing Body of the International Treaty. On this issue, she emphasized the need to conduct national workshops, develop capacity-building materials, provide legal advice for developing or amending national policies, and raising awareness of Farmers’ Rights through various communication media.

Key points discussed

Several presentations described good practices and practical action on the ground that demonstrate Farmers’ Rights. These practices included, but were not limited to community seed banks and seed networks, seed fairs, participatory plant breeding and national government programmes and initiatives. Some of these practices are well documented and can be shared and upscaled, as appropriate. In this context, the participants discussed possible recommendations that would underpin Farmers’ Rights implementation at national and international level.

The Co-Chairs and organizers gathered all the recommendations received during the consultation presentations and discussion sessions, as well as those received via email from participants. Initially, the organizers had suggested that a list of joint recommendation would be one of the expected results of the consultation. However, due to the large number of recommendations, large number of participants, time limitation, and the fact that some participants represented organizations without a mandate to adopt recommendations, it was agreed to request the Co-Chairs to make a summary reflecting their interpretations of the discussions at the consultation.

The full list of all recommendations are presented in Annex 4. The Co-chairs summary of recommendations are presented in the box at the next pages.



The Co-Chairs' summary of recommendations

Participants at the Global Consultation on Farmers' Rights at Bali, Indonesia, 27–30 September 2016, shared views, experiences and examples of best practices related to the implementation of Farmers' Rights, as addressed in the International Treaty on Plant Genetic Resources for Food and Agriculture ('the International Treaty'). They also identified a range of issues that may affect the realization of Farmers' Rights, and discussed a draft list of recommendations to the Governing Body in this regard. Due to the large number of participants, time limitation and the fact that some participants represented organizations without a mandate to adopt recommendations, it was agreed to request the Co-Chairs to make a summary reflecting their interpretation of discussions at the consultation. The recommendations will be presented to the Seventh Session of the Governing Body by Norway and Indonesia.

The following constitutes the Co-Chairs' summary of recommendations to the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture:

- i) Recalling Resolutions 2/2007, 6/2009, 6/2011, 8/2013 and 5/2015 of the Governing Body of the International Treaty;
- ii) Recalling also the Informal International Consultation on Farmers' Rights in Lusaka, Zambia, in 2007 and the Global Consultation on Farmers' Rights in Addis Ababa, Ethiopia, in 2010, which resulted in recommendations that were presented to the Governing Body at its sessions in 2007 and 2011;
- iii) Noting that further progress in the implementation of Article 9 on Farmers' Rights is urgent as:
 - a) Farmers' Rights are a cornerstone in the International Treaty; their realization is essential for the conservation and sustainable use of crop genetic resources and traditional knowledge, as farmers are custodians and innovators of crop genetic diversity;
 - b) Farmers' seed systems provide reservoirs of plant genetic resources of great importance to agricultural production in the light of climate change and other challenges in agriculture, such as emerging pests and diseases;
 - c) Farmers' seed systems constitute the backbone of agricultural production in many parts of the world, and are thus crucial to the food security of local communities in many countries;
 - d) Farmers' seed systems are embedded in local cultures and provide important means to maintain identity and traditions.

The Governing Body is invited to consider:

- 1) Calling upon all Contracting Parties to adopt legislation, build capacity and create the institutional framework necessary for the realization of Farmers' Rights, as provided in the International Treaty;
- 2) Establishing an *ad hoc* Working Group to guide and assist Contracting Parties in the implementation of Farmers' Rights. The terms of reference for the *ad hoc* Working Group may include:
 - a) Producing an inventory of national measures that may be adopted to enhance the realization of Farmers' Rights, including the right to save, use, exchange and sell farm-saved seed, subject to national law.

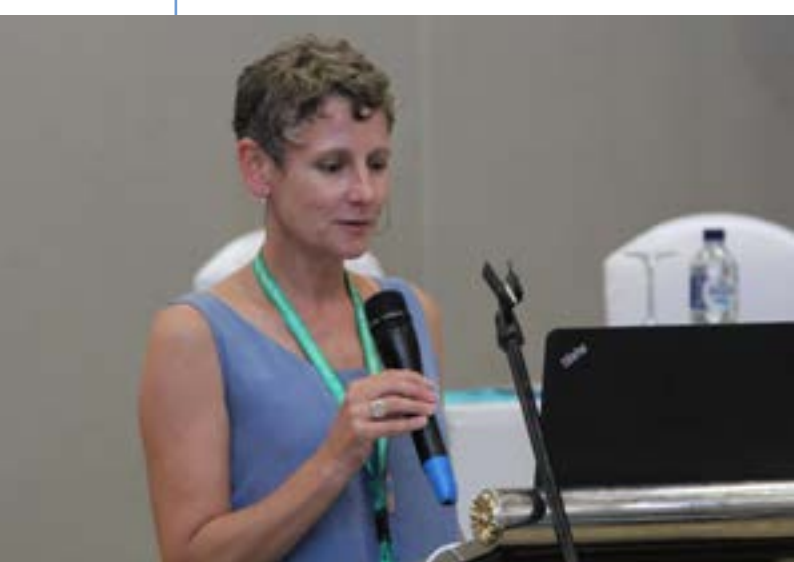


- b) Developing, in an inclusive and participatory manner, voluntary guidelines on the realization of Farmers' Rights at national level, having in view submissions of Contracting Parties and other stakeholders.
- 3) Requesting the Secretariat to provide organizational assistance to the *ad hoc* Working Group on Farmers' Rights, in particular to effectively involve in their work farmers' organizations and other relevant stakeholders from all regions;
- 4) Inviting Contracting Parties to contribute to the work of the *ad hoc* Working Group on Farmers' Rights by offering organizational and financial support and by facilitating the participation of farmers' organizations and other relevant stakeholders.
- 5) Inviting Contracting Parties to provide the Secretariat with electronic copies of legislation and other regulations they have adopted relating to the implementation of Farmers' Rights.
- 6) Encouraging Contracting Parties and relevant organizations to take initiatives to convene biannual global consultations on the realization of Farmers' Rights, to bring together all relevant stakeholders, including policy-makers, farmers' and indigenous peoples' organizations, government officials, scientists, consumers, public and private research institutions, civil society organizations and the seed industry.
- 7) Calling on Contracting Parties to revise, as necessary, seed laws, intellectual property laws and other legislation that may limit the legal space or create undue obstacles for the realization of Farmers Rights.
- 8) Encouraging Contracting Parties to take measures, including in their legislation and national policies, to protect and promote traditional knowledge that is relevant to plant genetic resources for food and agriculture (PGRFA), recognizing its dynamic nature and the need for a holistic approach that considers factors including livelihoods, cultures and landscapes.
- 9) Adopting procedures to strengthen the participation of representatives of farmers, as well as local and indigenous communities that contribute to the conservation and sustainable use of PGRFA in processes and initiatives relating to the International Treaty.
- 10) Encouraging Contracting Parties to promote participatory approaches such as community seed banks, community biodiversity registries, participatory plant breeding and seed fairs as tools for realizing Farmer's Rights.
- 11) Instructing the Secretariat of the International Treaty to provide inputs about Farmers' Rights to the Commission on Human Rights in the context of the ongoing negotiation of a UN declaration on the rights of peasants and other people working in rural areas.
- 12) Requesting the Secretariat of the International Treaty to provide information about Farmers' Rights, as appropriate, to UN fora dealing with the rights of indigenous peoples, such as the ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and the United Nations Permanent Forum on Indigenous Issues.
- 13) Recommending the United Nations to designate an annual international day to celebrate farmers of all regions who contribute to the conservation and sustainable use of crop genetic resources for food and agriculture and to the achievement of food security.
- 14) Requesting the assistance of FAO and other relevant international and national organizations in the provision of technical and financial support to national governments and organizations for the realization of Farmers' Rights.





Annexes



THE GOVERNING BODY,

Recalling the recognition in the International Treaty of the enormous contribution that the local and indigenous 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 its Resolutions 2/2007, 6/2009, 6/2011 and 8/2013,

1. **Requests** the Secretariat to engage Contracting Parties and relevant organizations 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 as set out in Article 9 of the International Treaty ;
2. **Invites** each Contracting Party to consider developing national action plans for the implementation of Article 9, as appropriate, and subject to national legislation, in line with the implementation of Articles 5 and 6;
3. **Invites** each Contracting Party that have not already done so, to consider reviewing and, if necessary, adjusting its national measures affecting the realization of Farmers' Rights, as set out in Article 9 in the International Treaty, to protect and promote Farmers' Rights;
4. **Invites** each Contracting Party to engage farmers' organizations and relevant stakeholders in matters related to the conservation and sustainable use of plant genetic resources for food and agriculture, and consider their contributions to awareness raising and capacity building towards this aim;
5. **Invites** Contracting Parties to enhance interaction and coordination, as appropriate, among the different institutions dealing with Farmers' Rights as set out in Article 9 of the Treaty and plant genetic resources for food and agriculture;
6. **Invites** 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;
7. **Requests** the Secretary to facilitate such initiatives upon request and depending on available resources;
8. **Requests** the Secretary, subject to availability of financial resources, to prepare a study on lessons learnt from the implementation of Farmers' Rights as set out in Article 9 of the Treaty, including policies and legislation; and invites Contracting Parties and all relevant stakeholders, especially farmers' organizations, to submit their views and experiences to derive examples as possible options for national implementation of



Article 9 on Farmers' Rights, as appropriate and subject to national legislation. The study will be presented at the 7th session of the Governing Body;

9. **Decides** to consider at its next session success stories in the national implementation of Farmers' Rights as set out in Article 9 of the Treaty with a view to invite Contracting Parties to consider how to promote them further at the national level, as appropriate and subject to national legislation;
10. **Requests** the Secretary, subject to the availability of financial resources, to launch and implement a Joint Capacity Building Programme with the Global Forum on Agricultural Research (GFAR) and other relevant organizations on Farmer's Rights as set out in Article 9 of the International Treaty;
11. **Requests** the Secretary, in consultation with the Bureau and subject to availability of financial resources, to finalize the Educational Module on Farmers' Rights as set out in Article 9 of the Treaty;
12. **Requests** the Secretary to continue engaging, in a mutually supportive manner with the International Union for the Protection of New Varieties of Plant (UPOV) and the World Intellectual Property Organization (WIPO) to jointly, and including through a participatory and inclusive process, as appropriate and subject to availability of resources, finalize the process for identification of possible areas of interrelations between their respective instruments and the Treaty and report on the outcomes to the Seventh Session of the Governing Body;
13. **Appreciates** the participation of farmers' organizations in its work and invites them to continue to actively participate in its sessions and in relevant inter-sessional processes, as appropriate and according to the Rules of Procedure, giving due consideration to the FAO Strategy for Partnerships with Civil Society;
14. **Invites** Contracting Parties and development cooperation organizations to consider providing financial and technical **support** for the implementation of Farmers' Rights as set out in Article 9 of the Treaty in developing countries, and to enable farmers and representatives of farmers' organizations to attend meetings under the International Treaty;
15. **Requests** the Secretary to report on relevant discussions that relate to Farmers' Rights, as set out in Article 9 of the International Treaty, within FAO fora;
16. **Encourages** the Secretary to conduct active outreach on the extent of Farmers' Rights as set out in Article 9 of the Treaty to relevant stakeholders as another necessary measure to advance the implementation of these rights;
17. **Calls upon** Contracting Parties in a position to do so to support, including with financial resources, the implementation of the activities foreseen in this Resolution;
18. **Requests** the Secretary to report to the Governing Body, at its Seventh Session, on the implementation of this Resolution.



Farmers' Rights Global Consultation

27-30 September 2016, Bali, Indonesia

PROGRAMME

Tuesday 27 September 2016

Field excursion

- 09:00 Departure from the hotel. Trip to “Subak Guama“ in Tabanan.
- 10:30 Farmers' group: Subak Guama. Visiting paddy-seed breeder organized by farmers' group “Subak Guama”. They also have formed farmers' cooperative namely “KUAT Subak Guama” who manage the paddy-seed business. Program: Welcome speech from the head of farmers' group; Presentation and discussion; Field visit to paddy fields and facilities for paddy-seed breeding.
- 12:00 Lunch
- 13:00 Trip to “Taman Ayu Luwak Coffee” in Gianyar. Taman Ayu Luwak Coffee is one of the agro-tourism destinations that aim to introduce not only conventional Luwak Coffee but also the “Probiotic Luwak Coffee” as their main product. Probiotic Luwak Coffee is the invention of IAARD and has been licensed by this company. This coffee is produced through adopting the digestive process of Luwak. The probiotic microbes are the result of the isolation of microbes in the small intestine and appendix of Luwak. In this product processing, it only uses natural ingredients, thus chemical-free. Participants can witness the traditional coffee processing of Balinese people, and also can find collection of local herbal plants and fruits in the garden.
- 14:30 Visit to Taman Ayu Luwak Coffee. Program: Enjoying a cup of Probiotic Luwak Coffee and other types of coffee and tea; Presentation and discussion of the traditional coffee processing and local plant genetic resources collection in the garden; Visiting factory outlet.
- 16:00 Trip to Jimbaran
- 17:30 Sunset and welcome dinner reception at Jimbaran restaurant.
- 19:30 Return to hotel.



Wednesday 28 September 2016

Co-chairs: Ms. Regine Andersen, Director, Oikos- Organic Norway and Mr. Carlos Correa, Director, Center for Interdisciplinary Studies on Industrial Property and Economics, University of Buenos Aires, Argentina

Session 1: Opening session

- 09:00 **Opening address** by *Mr. Shakeel Bhatti*, Secretary, International Treaty on Plant Genetic Resources for Food and Agriculture
- 09:10 **Welcome address** by *Mr. Stig Traavik*, Ambassador to Indonesia, Norway
- 09:20 **Welcome address** by *Mr. Prama Yufdi*, Executive Secretary, on behalf of *Mr. Andi M. Syakir*, Director General, Indonesian Agency for Agriculture Research and Development, Ministry of Agriculture, Indonesia
- 09:30 **Farmers' Rights: Evolution of the International Policy Debate and National Implementation** by *Ms. Regine Andersen*, Director, Oikos – Organic Norway, Norway
- 10:00 Tea and coffee break
- 10:20 **Background and Purpose of the Conference** by *Mr. Muhamad Sabran* Researcher, Indonesian Center for Agricultural Biotechnology and Genetic Resources Research and Development (ICABIOGRAD), Indonesian Agency for Agricultural Research and Development, Ministry of Agriculture, Indonesia and by *Ms. Svanhild-Isabelle Batta Torheim*, Senior Advisor, Ministry of Agriculture and Food, Norway
- 10:35 **Presentation round** with exchange of hopes and expectations for the conference

Session 2: Why Farmers' Rights matter

The Contracting Parties to the International Treaty recognise the enormous contribution that the local and indigenous communities and farmers have made and will continue to make for the conservation and development of plant genetic resources. What is the rationale for this recognition? This section will explore examples of farmers' contribution to the conservation of genetic resources and the management of genetic diversity, the value of farmers' varieties and informal seed systems and their role in ensuring food security.

- 11:20 **Why local communities appreciate local varieties and local seed systems in Ethiopia** *Mr. Tadesse Reta*, farmer, Ethiopia
- 11:30 **Local seed supplies saving life - how farmers' varieties contribute to food**



- security in times of climate change** by *Mr. Marvin Gomez*, Foundation for Participatory Research with Honduran Farmers (FIPAH), Honduras
- 11:40 **Seed clubs – farmers’ seed supply system providing the necessary quantum of seeds** by *Ms. Nori Ignacio*, Director, SEARICE, Philippines
- 11:50 **The role of farmers’ seed systems – farmers as producers of quality seeds** by *Ms. Ximena Cadima*, Fundación PROINPA, Bolivia
- 12:00 **Questions for clarification**
- 12:15 **Farmers Seeds networks and dynamic management of GRFA**, by *Mr. Omer Agoligan*, Coordinator of COASP - Comité Ouest Africain des Semences Paysannes, Benin
- 12:25 **Territorial governance to strengthen local farming systems** by *Ms. Teresa Agüero Teare*, Ministerio de Agricultura, Chile
- 12:35 **Farmers Varieties as ultimate sources of genetic diversity for food production. Some illustrative examples** by *Mr. José Esquinas-Alcázar*, International University of Gastronomic Sciences (UNIGS)
- 12:45 **Questions for clarification**
- 13:00 Lunch
- 14:00 **Discussion**
- 15:30 **Wrap up of Session 2**
- 16:00 Tea and coffee break

Session 3: Challenges and experiences regarding the realization of Farmers’ Rights

What are the challenges for the realization of Farmers’ Rights? This session will address often mentioned challenges such as rules and regulations, including seed laws and intellectual property laws, as well as the different degrees of attention given to farmers’ traditional management system in governments’ plans and donors’ investments. During discussions, the participants are invited to identify further challenges that impact the realization of Farmers’ Rights.

- 16:30 **What are the most frequently mentioned challenges? Results from the global survey** by *Mr. Mario Marino*, the ITPGRFA Secretariat
- 16:40 **Awareness raising and financial resources – challenges identified at the Africa Region pre-consultation** by *Mr. Francis Leku Azenaku*, Director, Réglementation et du Contrôle de Qualité des Intrants et des Produits Agricoles, Cameroon



- 16:50 **Policy development with insufficient participation? Examples from Southern and Eastern Africa.** *Ms. Haidee Swanby*, researcher, Africa Centre for Biodiversity, South Africa
- 17:00 **Recognizing and Addressing Farmers' Rights to Seeds through Government Programs and Policies: Experiences in Cambodia** by *Mr. Kong Kea*, the Head of Rice Seed Management and Development Office, Cambodia
- 17:10 **National policy on Farmers' Rights – experiences from Indonesia** by *Mr. Suroño Danu*, farmer and *Mr. Erizal Jamal*, Indonesian Center for Agricultural Socio-Economic Policy Studies (ICASEPS), Indonesian Agency for Agricultural Research and Development (IAARD), Indonesia
- 17:30 **CBD's experiences** (video presentation) by *Mr. John Scott*, CBD Secretariat
- 17:40 **Questions for clarification**
- 19:00 Dinner (hosted by Global Alliance for the Future of Food)

Thursday 29 September 2016

- 09:00 **What are the impact of seed policies and law on farmers' seed systems? Findings of an eight country study** by *Mr. Bert Visser*, Oxfam, the Netherlands
- 09:10 **EU regulation and new breeding techniques: which legal framework for implementation of Farmers' Rights?** By *Mr. Guy Kastler*, La Via Campesina, Coordinator IPC Working Group Agriculture Biodiversity, France
- 09:20 **Are there contradictions between Farmers' Rights and Plant Breeders' Rights? A view from civil society** by *Ms. Sangeeta Shashikant*, Third World Network
- 09:30 **Provisions for farmers in the different Acts of the UPOV Convention** by *Ms. Yolanda Huerta*, Legal Counsel, International Union for the Protection of New Varieties of Plants (UPOV)
- 09:40 **Questions for clarification**
- 10:00 **Discussions** (with 15 min coffee/tea break)
- 13:00 Lunch
- 14:00 **Wrap up of Session 3**
- 15:00 Tea and coffee break



Session 4: Possible ways forward

This section will give examples of how different aspects of Farmers' Rights are realised in different parts of the world. The session will also strive to identify areas on how the realizations of Farmers' Rights could be strengthened.

- 16:00 **Including Farmers' Rights in the revision of seed legislation – recent experiences in Guatemala**, by *Mr. Sergio Romeo Alonzo Recinos*, Association of Organizations from the Cuchumatanes, (ASOCUCH), Guatemala
- 16:10 **The Role of Community Seed-Banks in Conservation of Crop Genetic Resources- The Experience of Ethiopia** by *Mr. Delessa Angassa* , Director, Crop and Horticulture Biodiversity Directorate, Ethiopian Biodiversity Institute, Ethiopia
- 16:20 **Participatory plant breeding – strengthening farmers' seed systems. Lessons from Nepal** by *Mr. Pitambar Shresta*, Local Initiatives for Biodiversity, Research and Development (LI-BIRD), Nepal
- 16:30 **Tools for Designing Alternative sui generis systems for plant variety protection** *Mr. Carlos Correa*, Special Advisor, South Centre; University of Buenos Aires, Argentina
- 16:40 **Questions for clarification**
- 17:00 Tea and coffee break
- 17:30 **Community seed banks around the world – preconditions for their success** by *Mr. Ronnie Vernooy*, Bioversity International
- 17:40 **National Policy for Agroecology and Organic Production – strengthen the development of peasants' seeds in Brazil** by *Mr. Marciano Toledo Da Silva*, MPA, Brazil and global spokesperson on seed issues, La Via Campesina
- 17:50 **Showing the film from Andes: potato farmers depositing seeds in the Svalbard Global Seed Vault**, by *Mr. Alejandro Argumedo*, Director, the Association ANDES, Peru
- 18:10 **Questions for clarification**
- 19:00 Dinner (hosted by the ITPGRFA Secretariat)



Friday 30 September 2016

- 09:00 **Possible steps for national implementation of Farmers' Rights – the need for voluntary guidelines. Lessons from a global programme**, by *Ms. Gigi Manicad*, Oxfam, the Netherlands and *Mr. Andrew Mushita*, Director, Community Technology Development Trust (CTDT), Zimbabwe
- 09:10 **The integration of Farmers' Rights perspectives in regional program of food security – experiences from Swiss supported program in Southern Africa** by *Mr. Martin Stottele*, Head of Economic Development Cooperation (SECO), Embassy of Switzerland, Jakarta
- 09:20 **Farmers' rights to participate in decision making** by *Ms. Yoke Ling Chee*, APBREBES/ Director of Programmes, Third World Network
- 09:30 **Joining efforts to develop capacity for the full implementation of Farmers' Rights: the Joint Capacity Building Programme** by *Ms. Juanita Chaves Posada*, Consultant, Global Forum on Agricultural Research (GFAR)
- 09:40 **Questions for clarification**
- 09:50 **Discussions** (with 15 min coffee/tea break)
- 13:00 Lunch
- 14:30 **Wrap up of Session 4**
- 15:00 **Summary of the consultations** Main points from the different sessions and elaboration of recommendations to the Governing Body.
- 18:15 **Closing addresses**
- 18:30 **Finalisation of the consultation**
- 19:00 Dinner



Annex 3: List of Participants

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Annex 4. The gross list of recommendations suggested by participants at the Consultation¹

The Governing Body should:

1. Request the Secretary in collaboration with relevant partners to organise awareness raising events about the International Treaty and Farmers' Rights at regional and international levels.
2. Encourage Contracting Parties and relevant organisations to take initiatives to convene national, regional and international consultations to bring together all relevant stakeholders, including policy-makers, farmer's organization, government officials, scientists, consumers, public and private research institutions, civil society organisations and seed industry.
3. Encourage Contracting Parties and donor agencies to enhance and financially support capacity-building of farmers (especially of small-scale farmers) by farmer groups and civil society organisations in respect of (1) their rights, (2) developments that may challenge the realisation of Farmers' Rights, and (3) the importance of active farmers' engagement in relevant national, regional and international processes.
4. Request the Secretary to establish a Farmers' Rights Unit within the Secretariat charged with providing information, technical assistance and capacity building on the implementation of Farmers' Rights to Contracting Parties, farmers' organisations and civil society organisations.
5. Appoint a Special Rapporteur/ombudsman facility under the Treaty and open a window for addressing gaps/obstacles in implementation of Farmers' Rights.
6. Develop a Protocol for the implementation of Farmers' Rights and for that purpose create an Ad Hoc Working Group, which should include representatives of farmers' organizations and civil society organizations; and should request the Secretariat to provide organizational assistance to the Committee, where needed, in particular to effectively consult stakeholders in all regions. As a basis for this work, the Secretariat should compile national policy and legislation supportive of the implementation of Farmers' Rights.
7. Request the Secretariat to work with farmers organizations to draft a model law on the implementation of Farmers Rights.

¹ This is the gross list of recommendations, of which not all were discussed in detail. The purpose of this list is to show the wide range of possible actions for strengthening the realisation of Farmers' Rights. The participants at the global consultation agreed not to strive to reach consensus on these recommendations.



8. Develop guidelines on the realization of Farmers' Rights at the national level, with particular emphasis on how Farmers' Rights can be realized through relevant provisions of the Treaty. It is recommended that this be done through an *ad hoc* Working Group, which could be converted into a permanent Working Group to support the Governing Body in assisting Contracting Parties in their realization of Farmers' Rights. The process should be transparent, participatory and inclusive.

The guidelines should

- a. Support, strengthen and provide mechanisms for seed exchange, sharing, saving, multiplication and sales between and among farmers without the application of Intellectual Property Rights.
 - b. Provide an overview of possible political, financial and legal measures that contracting parties can choose to select from when implementing Farmers' rights.
 - c. Assist countries wishing to do so, on how to apply participatory approaches such as community seed banks, community biodiversity registries, and participatory plant breeding and seed fairs.
 - d. Provide guidance on how to develop seed policies that also strengthen farmers' seed systems. They should provide overview of options for plant variety protection.
9. Encourage Contracting parties to bear in mind the implication of these rights on farmers' livelihoods and their ability to continue to contribute to the global genetic pool.
 10. Recognise that formal seed system and farmers' seed systems are different in nature, but are complementary and, as such, there is a need to ensure legal space for each to make its contribution to the conservation and sustainable use of PGRFA at the national level.
 11. Encourage contracting parties to revise seed laws, intellectual property laws and other national measures to ensure sufficient legal space for farmers' varieties and farmers' seed systems.
 12. Call for and promote the prohibition of intellectual property rights on genetic information contained in plant genetic resources, in particular genetic resources in Multilateral System on Access and Benefit-Sharing of the Treaty.
 13. Recommend that the Contracting Parties in implementing Farmers' Rights should in particular ensure that the rights of small-scale farmers to freely and sustainably save, use, exchange and sell seeds and propagating material, including of IP-protected varieties, is safeguarded.
 14. Encourage national governments to protect and promote, as a matter of urgency, traditional knowledge that is relevant to PGRFA, recognising its dynamic nature and the need for a holistic approach that considers factors including livelihoods, cultures and places.



15. Encourage national governments to promote collaboration between local communities and scientists and encourage the mutual exchange of knowledge and practices relevant to PGRFA, provided that these exchanges are consistent with Article 9, acknowledging participatory plant breeding as an example of best practise of such collaboration.
16. Encourage national governments, including through their Focal Points, to actively promote farmers' access to PGRFA, including material under the Multilateral System.
17. Encourage all Contracting parties to establish and/or support community seed banks technically, organizationally and financially.
18. Adopt mechanisms and procedures to institutionalise and strengthen farmers' participation in Treaty-related meetings, processes and initiatives. Such mechanisms and procedures could draw on good practices in other forums such as the FAO Strategy for Partnership with Civil Society Organisations, the Committee on World Food Security (CFS) and the Convention on Biological Diversity.
19. Develop guidance for the effective implementation of Article 9.2 that is coherent with human rights and builds on the good practices of the UN system with the full and effective participation of farmers' representatives and public interest civil society organisations.
20. Encourage national governments to involve farmers in the reviews provided for in Article 6.2(g) and in decision-making on the regulation of variety release, registration and seed distribution.
21. Acknowledging the need for Farmer participation in decision-making, support establishing farmer-led national frameworks that facilitate multi-stakeholder consultations towards the realization of farmer's priorities, needs and challenges related to conservation and sustainable use of plant genetic resources for food and agriculture.
22. Call upon national governments to ensure the participation of farmers in decision-making on seed policies and laws at the national, regional and international levels. Seed policies and laws including intellectual property and seed certification and marketing laws that have been formulated without or with limited involvement of farmers, especially small-scale farmers, should be urgently reviewed with the participation of farmers.
23. Encourage Contracting Parties to include capacity building, participatory plant breeding, community seed banks, and access to good quality seeds as strategies for achieving food, seed and nutrition security, when they review their national agricultural policies.
24. Encourage Contracting Parties to establish relevant and competent national structures for implementing Farmers Rights. These could include village, district and national level authorities including appointing National Registrars for Farmers Rights.



25. Call upon all Parties to adopt domestic legislation, build capacity and create the institutional framework necessary for the full enjoyment of farmers' rights as foreseen in the ITPGRFA;
26. The primary responsibility to give effect and implement farmers' rights rests with national governments as Parties to the Treaty. The incorporation into domestic law of the provisions of Article 9 may require adoption of legislation to give effect to the different dimensions of farmers' rights - protection, benefit sharing and participation in decision-making - in accordance with national circumstances. Some countries have already put in place legislation to that effect which might serve as a reference to those Parties who have not yet done so. Hence, it might be useful:
 - to request the Secretariat of the Treaty to compile national legislation relating to the implementation of farmers' rights, in order to produce an inventory of national legislation translated in English, Spanish and French available to all Parties wishing to develop and adopt domestic legislation to give effect to Article 9;
 - to call upon all Parties to adopt domestic legislation, build capacity and create the institutional framework necessary for the full enjoyment of farmers' rights foreseen in the ITPGRFA; and
 - to invite Parties which already have legislation relating to the implementation of farmers' rights to provide the Secretariat with electronic copies of it.
27. Consider including compensation to farmers in cases of crop failure due to inappropriate varieties and seeds in the Farmers' Right addressed in the Plant Treaty. Such compensation could be provided for in national seed regulation.
28. Consider including a right to fair price of farmers' products to be integrated under the farmer's right of the Treaty which justifies the eminent contribution of farmers for the food security.
29. Encourage Contracting Parties to adopt participatory approaches such as community seed banks, community biodiversity registries, participatory plant breeding and seed fairs as appropriate tools/approaches, as well as farmer to farmer seed response for addressing farmer's right of the treaty.
30. Study options for provisions in national seed legislation of Contracting Parties, with a view to providing recommendations for the improvement of national legislation in order to allow for a balanced regulation for all types of seeds.
31. Request the Secretariat of the Treaty to compile national legislation relating to the implementation of farmers' rights, in order to produce an inventory of national legislation translated in English, Spanish and French available to all Parties wishing to develop and adopt domestic legislation to give effect to Article 9;
32. Invite Parties which already have legislation relating to the implementation of farmers' rights to provide the Secretariat with electronic copies of it.



33. Recognize the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), already adopted by all signatory countries of the International Treaty.
34. Strengthen the communication with the international bodies listed below : ILO Convention 169; United Nations Declaration on the Rights of Indigenous Peoples; Final Document of the World Conference on Indigenous Peoples; Sustainable Development Goals; Convention on Biological Diversity; Nagoya Protocol; United Nations Convention to Combat against Desertification; the Paris Agreement to facilitate the appropriation and implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture at the local, regional and international levels.
35. Request the Secretary to provide relevant information about the treaty and Farmers' rights to the ongoing process on developing a declaration on peasants' rights.
36. Encourage other regional and international organisations and processes to recognise, legally establish and institutionalise farmers' right of participation in their decision-making processes and activities building on the good practices of the UN system for participatory mechanisms and processes and coherent with principles of human rights.
37. Requests the Secretary, subject to the availability of financial resources, to continue the implementation of the Joint Capacity Building Programme with the Global Forum on Agricultural Research (GFAR) and other relevant organizations on Farmer's Rights as set out in Article 9 of the International Treaty;
38. Continue to identify and address potential impacts on the realisation of Farmers Rights in relation to WIPO and UPOV and suggest potential ways to resolve any conflicts.
39. Urge regional and international organizations and processes to respect Farmers' Rights and ensure that their instruments and activities are in full harmony with the implementation on Farmers' Rights.
40. Express its concern about the ongoing mergers of giant companies that constitute oligopolistic control over seeds and pesticides and their potential impact on the conservation and sustainable use of PGRFA, as well as the implementation of Farmers Rights.
41. Ensure that genetic sequence data initiatives such as DivSeek must require that access to sequence data is treated as equivalent to physical access to genetic resources, and must be governed by data access and other agreements that invoke the benefit sharing obligations of international treaties. Fair and equitable benefit sharing rules for these initiatives must ensure that prior informed consent (PIC) for use of genetic resources and traditional knowledge is obtained from indigenous peoples and farmers.
42. Prioritise and request the assistance of the FAO and other relevant international organizations in the provision of technical and financial support to national governments on the realization of Farmers' Rights.



43. Ensure adequate, predictable and timely funding to implement farmers' right to participate in the work of the Governing Body, including its inter-sessional work and relevant consultations and meetings that may be held.
44. Ensure that the Benefit-sharing Fund will prioritise support for farmers' seed systems in order to contribute to the conservation and sustainable use of PGRFA.
45. Ensure that the Benefit-sharing Fund will be financed by mandatory payments proportional to the sales of legally and biologically non-reproducible seeds.
46. Encourage Contracting Parties to support the marketing of products of farmers' varieties and promote the fair pricing of such products.
47. Encourage Contracting parties to adopt policies to promote on-farm management of crop genetic resources for food and agriculture and secure funding through the national budgets for these policies.
48. Ensure adequate, predictable and timely funding to implement Farmers' Rights to participate in the work of the Governing Body, including in its inter-sessional work and relevant consultations and meetings that may be held.





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