



# The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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## Item 14 of the Provisional Agenda

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

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

THIRD SESSION OF THE GOVERNING BODY

Tunis, Tunisia, 1 – 5 June 2009

### COLLECTION OF VIEWS AND EXPERIENCES SUBMITTED BY CONTRACTING PARTIES AND OTHER RELEVANT ORGANIZATIONS ON THE IMPLEMENTATION OF ARTICLE 9

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*Annex 1: Collection of views and experiences by Contracting Parties and other relevant organizations concerning the implementation of Article 9.*

## I. Introduction

1. Article 9 of the Treaty provides that:

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

*9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:*

- (a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;*
- (b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and*
- (c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.*

2. At the First Session of the Governing Body, Contracting Parties discussed Article 9 and the Report of that Session contains the following account of the discussions:

*Norway stressed the importance of Farmers' Rights, noting that the responsibility for their implementation lay with national governments. Norway was accordingly funding a project that focused on how countries could best implement Farmers' Rights, the need for cooperation in this regard within the framework of the Treaty, and how the Governing Body could support these efforts. The results of the first phase of the project had been presented in a side-event on 13 June. Mindful of the workload that the Secretariat was carrying, and that the first priority of the Treaty was make the Multilateral System functional, Norway nonetheless requested that follow-up to Article 9, Farmers' Rights, be considered by the Bureau for possible inclusion in the agenda of the Governing Body's Second Session. Many regions supported this proposal.<sup>1</sup>*

3. At the Second Session of the Governing Body, the Secretary presented an information document as IT/GB-2/07/Inf. 6 that gave a brief outline of the history of Farmers' Rights in the context of International Undertaking on Plant Genetic Resources and Article 9 of the Treaty.<sup>2</sup>

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<sup>1</sup> Paragraph 54 IT/GB-1/06/Report

<sup>2</sup> IT/GB-2/07/Inf. 6, The Development of Farmers' Rights in the Context of the International Undertaking and Article 9, <http://ftp.fao.org/ag/agn/planttreaty/gb2/gb2i6e.pdf>

## II. Resolution 2/2007 on Farmers' Rights

4. At its Second Session the Governing Body extended its appreciation to the Governments of Norway and Zambia for convening an informal international consultation on Farmers' Rights in Lusaka, Zambia, in September 2007, and for sharing the outcomes with the Governing Body.<sup>3</sup>

5. The Governing Body also adopted the Resolution 2/2007 on Farmers' Rights acknowledging that there was "uncertainty in many countries as to how Farmers' Rights can be implemented and that the challenges related to the realization of Farmers' Rights are likely to vary from country to country".

6. Through Resolution 2/2007 the Governing Body "encourage[d] Contracting Parties and other relevant organization to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders".

## III. Submissions received by the Secretary

7. The Governing Body also requested the Secretary to "collect these views and experiences as a basis for an agenda item for consideration by the Governing Body at its Third Session to promote the realization of Farmers' Rights at the national level, and to disseminate relevant information through the website of the International Treaty, where appropriate".

8. The Secretary of the Treaty sent a Circular State Letter to Contracting Parties on 11 June 2008, recalling the decision of the Governing Body. The submissions received from Contracting Parties as of 31 August 2008 have been collected and compiled in *Annex I* of this document.

9. The Governing Body is invited to consider the submissions included in *Annex I* and provide further guidance and the next steps for the implementation of Article 9.

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<sup>3</sup> IT/GB-2/07/Circ.1, Implementation of Article 9 of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture: Farmers' Rights, <http://ftp.fao.org/ag/agn/planttreaty/gb2/gb2c1e.pdf>

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***ANNEX I: COLLECTION OF VIEWS AND EXPERIENCES BY CONTRACTING PARTIES  
AND OTHER RELEVANT ORGANIZATIONS CONCERNING THE IMPLEMENTATION  
OF ARTICLE 9***

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**INTRODUCTION**

This annex is a collection of the submissions by Contracting Parties and other relevant organizations concerning the implementation of Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture.

All submissions contained in this annex were received by the Secretary of the Treaty before 31 August 2008.

The majority of the submissions have been inserted into this annex in the form and language in which they were received. Minor editorial changes include the full rendering of acronyms and the correction of spelling.

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## I. ECUADOR

Las Partes Contratantes acordaron en el Tratado, la responsabilidad de hacer realidad los Derechos del Agricultor en lo que se refiere a los recursos fitogenéticos para la alimentación y la agricultura y que esto incumbe a los gobiernos nacionales.

Según la legislación nacional o nueva Constitución del Ecuador, si se aprueba en el 2008, existe un acápite que se refiere a “Reconocer y valorar los aportes de las mujeres a la agroalimentación, preservación, difusión y desarrollo de conocimientos y prácticas ancestrales; garantizarles adecuadas condiciones de trabajo y acceso igualitario a recursos”.

Con este acápite se tiene garantizado los derechos de los agricultores en la conservación y uso sostenible de la agrobiodiversidad.

## II. GERMANY

Plant Breeders' Rights as a sui generis system of intellectual property rights are the most common way of protecting varieties, and they allow, to some extent, the saving of seeds for the next season by farmers as well as the utilisation of protected varieties for research purposes and the breeding of new varieties.

The international legal instrument for the protection of varieties, the UPOV agreement, has been signed by Germany as well as 60 other countries. Besides, the Treaty introduces the Farmers' Rights as a recognition of the contribution of local and indigenous communities and farmers in the past, present and future.

In Germany, Farmers' Rights are realised as necessary. The responsibility for realising Farmers' Rights as they relate to plant genetic resources rests with the Federal and Laender governments. The opportunities of farmers to participate in decision-making processes on the conservation and use of plant genetic resources, in particular in pre-breeding and breeding activities, are still limited.

The German government emphasises the sovereignty of all countries over their local genetic resources, their commitment to the protection of traditional knowledge relevant to these resources as well as the balanced and equitable sharing of benefits arising from the utilisation of these resources. The Treaty states that the national governments are responsible for the realisation of Farmers' Rights as they relate to plant genetic resources for food and agriculture, and describes the measures that should be taken by national governments in accordance with their needs and priorities, and subject to their national legislation to protect and promote them. Through its cooperation with the F. Nansen Institute (Norway), the GTZ supports the implementation of Farmers' Rights at national level. The following issues are therefore, inter alia, considered in German technical cooperation projects:

- documentation and maintenance of farmers' traditional knowledge pertaining to agricultural plant varieties or landraces
- access to seed and propagating material and related information
- participatory plant breeding (in collaboration between farmers, breeders, research and extension service)
- strengthening agricultural research
- strengthening breeding and seed sectors at national level, in particular in developing countries
- strengthening farmers' seed systems
- enhanced utilisation of farmers' varieties / landraces, including market access

- technical cooperation and capacity building
- raising awareness of the importance of agrobiodiversity for the world's food supply and the reduction of poverty).

### **III. MALI**

Aucune expérience dans le domaine de la gestion des droits des agriculteurs. Toutefois les agriculteurs sont reconnus comme étant les détenteurs des variétés locales et savoirs locaux associés. La majorité des variétés de sorgho, mil mises au point par la recherche agronomique au Mali le sont à partir des locales.

### **IV. NIGER**

Le Niger n'a pas de disposition législative (légale) particulière relative aux droits des agriculteurs. Les initiatives pouvant être développées par l'Institut National de la Recherche Agronomique du Niger (INRAN) et éventuellement le Conseil National de l'Environnement pour un Développement Durable (CNEDD) sont bloquées par le manque de moyens financiers.

### **V. PAKISTAN**

Plant Breeder's Rights Act is under process in Ministry of Food, Agriculture and Livestock for necessary legislation. The same draft includes the Farmer's Rights on PGRFA recognizing their contribution in conserving the seeds of important genetic resources.

### **VI. SYRIA**

The bill drafted in Syria for the plant genetic resources stresses the farmers' rights and their role in the conservation and development of genetic resources and sharing the benefits arising out of the exchange of these resources. It would be useful to consider:

Establishing a Special Global Fund to fund some of the small-scale projects for the conservation and protection of the genetic resources held by peasants and farmers.

### **VII. ZAMBIA**

As part of consultations on the need to implement the ITPGRFA in general and Farmers Rights in particular Zambia has organised and conducted a number of meetings and seminars , with the latest being a National Seminar for Policy Makers held on the 30 May 2008. The recommendations from these meetings call for further consultations involving all relevant stakeholders and in particular seeks greater sensitisation of farmer groups and farmers, in terms of sensitisation and getting them to express their views and make demands on what they require from the realisation of Farmers rights at the national level. To spearhead the national process that is expected to lead to the review of policies and legislation necessary for the realisation of farmers rights it has been recommended that a Working Group be put in place.