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FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

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

This addendum contains a note on the implementation of Farmers' Rights submitted by the Ministry of Agriculture and Food of Norway.

The information contained in this document relates to the implementation of Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture. It was received by the Secretary at the end of May 2009 and it is presented in the form and language in which it was received.

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Information paper on views on, and experiences with, Farmers' Rights in Norway

Resolution 2/2007 of the Governing Body of the International Treaty encourages Contracting Parties and relevant organizations to submit their views and experiences on the implementation of Farmers' Rights, as set out in Article 9. This information paper is a response to the resolution and summarizes the views on, and experiences with, Farmers' Rights in Norway. After an introduction, the paper provides a brief description of crop genetic diversity and farmers engaged in the management of this diversity in Norway. Then views on Farmers' Rights among stakeholders in the country are presented. The paper ends with addressing existing gaps and needs of relevance for the Governing Body, as seen from the Norwegian perspective.

A set of case studies on the implementation on Article 9 of the International Treaty has been conducted by the Fridtjof Nansen Institute. The studies have been conducted in a number of Countries, including Norway. This information paper is based on the results of a comprehensive analysis of Farmers' Rights in Norway, which will be published shortly.[1]

1. Introduction

When the International Treaty came into force in 2004, relevant Norwegian Ministries decided to support a set of case studies on the implementation of Article 9 of this Treaty by the Fridtjof Nansen Institute, Norway. The aim was to gain and share knowledge on the status of implementation of Article 9 on Farmers Rights and also to disclose areas and gaps where international efforts by the Governing Body and others may be needed.

At the First Session of the Governing Body held in Madrid in 2006, Norway also proposed that Farmers' Rights be put on the Working Agenda of the Governing Body. The proposal was supported by several Contracting Parties and adopted by the Governing Body. Based on this decision the Bureau ensured that implementation of t he International Treaty Article 9 on Farmers' Rights was included in the discussions of the Governing Body at its next session. Towards this end, Norway took the initiative to an informal international consultation, which was arranged in Lusaka, Zambia, in September 2007. The consultation was co-hosted by the Zambia Agricultural Research Institute, the Norwegian Ministry of Agriculture and Food, and the Fridtjof Nansen Institute, Norway. The proceedings of the consultation were published in a report that was widely distributed and presented at a side event during the Second Session of the Governing Body in Rome, November 2007. Based on the results from the Lusaka consultation, Zambia and Norway submitted an input paper on Farmers' Rights to the Governing Body of the Plant Treaty for consideration at its Second Session. Pursuant to this, at the Second Session of the Governing Body a Resolution 2/2007 on Farmers' Rights was adopted, to which this information paper is a response.

As the paper shows, the state of Farmers' Rights in Norway is mixed, with substantial achievements in some areas, whereas other areas are not yet that far developed. However, there is interest and efforts conducive to further progress in this regard, and several actions are underway.

[1] Andersen, Regine (2009): Farmers' Rights in Norway – A Case Study (Lysaker, Norway: Fridtjof Nansen Institute)

2. Norway, crop genetic diversity and farmers

Norway is situated in the extreme North of Europe. The total land area is 323,000 square kilometres, with a population of 4.5 million. Thus, population density is low, with only 14 people per square kilometre. The country is rugged and mountainous, with only 3.2% of the total area used for agricultural purposes, which is low compared to European Union with its 57% of farmland as a whole. About 65% of the agricultural land is used as pasture today, whereas 35% is devoted to crop production (partly for fodder). Barley is the most common crop, followed by wheat, oats, fodder plants, potato, oil plants and vegetables. Agriculture was responsible for a mere 0.5% of GNP in 2005, and only 65,000 person-labour years of the total workforce were devoted to agriculture as of 2006. Small and medium-sized family farm dominate, with an average farm size of 20.3 hectares in 2006.

In Norway, as in most other industrialized countries, the diversity of crops, varieties and production methods has decreased rapidly in recent decades. When systematic gene banking started with the Nordic Gene Bank (today NordGen) in 1979, much of the genetic diversity was already gone. The Nordic Genetic Resource Center (NordGen) has since then efficiently collected most of the relevant PGRFA including wild relatives to be conserved in the gene bank, working in close collaboration with national plant genetic resource groups and programmes. With the establishment of the Norwegian Genetic Resource Center in 2006, increased focus on *in situ* conservation, on farm and sustainable use of plant genetic resources has been put on the agenda. Not only are scientific and idealistic institutions involved as partners in this important and urgent work, but also farmers who conserve and contribute to sustainable management of the plant genetic resources for food and agriculture are increasingly acknowledged as an important partner. Agricultural policies, and the role and framework for farmers in this context are therefore central, as also highlighted in Article 6 of the International Treaty

The agricultural polices support a large variety of farming systems and are locally adapted to the different growing conditions in the country. There are support schemes for organic farming and for farming practices that take environmental concern. The vast majority of farmers use modern commercial varieties and only few farmers are engaged in growing land-races and locally developed varieties of crops. Such “diversity farmers” are found largely in organic agriculture, and particularly in biodynamic farming. The proportion of land devoted to organic farming (including biodynamic agriculture) was 4.7% of the total agricultural area in 2007. As of June 2008, there were 2689 organic farms in Norway. The number of biodynamic farms is small, only 28, but is still important because these farms are particularly active in maintaining crop genetic diversity and traditional knowledge associated with it. The fact that there are so few such “diversity farmers” left in Norway indicates a particular need for recognition and support.

Norway represents a very small and special market for seeds. Partly this is because the farming sector is small and still decreasing. Every year valuable farmland is lost to building of roads, infrastructure and buildings. Growth in tenure of arable land in marginal areas is not matching this loss of acreage in the most productive areas. The seed marketing situation is also special because the country is situated so far north. Whereas temperatures may be comparable with those in many other countries, the particular daylight situation is especially important when it comes to seeds. Summers are short, but with many hours of daylight, whereas the winters bring little daylight. Therefore, it is vital that plants react not only to temperatures but also to daylight when preparing for wintering. These particular conditions, which Norway shares with very few other countries, makes the seed market less attractive to multinational corporations and other foreign companies. Thus, the seed sector in Norway concentrates on varieties adapted to Norwegian agriculture and for areas in which there are not adequate available varieties from abroad.

The seed industry in Norway is privatized and crop varieties of interest to diversity farmers are normally not offered for sale by the commercial seed shops due to low demand. Whereas most farmers in Norway are satisfied with their access to seed and propagating material, some organic farmers wish for greater diversity, to be able to adapt varieties to their environment and consumer demand. Farmers actively engaged in the management of crop genetic diversity cannot get the seeds they need from the commercial sector. Thus, some of them currently seek to develop a parallel structure of seed supply by establishing their own seed shops. However, due to the seed legislation in Norway, they are faced with a number of problems as pointed out below (Section 4).

3. The concept of Farmers' Rights in the Norwegian context

The concept of Farmers' Rights related to crop genetic diversity is relatively new in Norway, and not well known to people at large. The general understanding is that Farmers' Rights concern those rights that are required for farmers to maintain plant genetic diversity on behalf of the current generation, for the benefit of present and future generations. The understanding is that while they apply to all farmers' whether small scale or large scale, conventional or organic, Farmers' Rights affect the work of "diversity farmers" to a much greater extent than the work of farmers who are not engaged in such farming.

The study shows that farmers and farmers' organizations in Norway are generally clear about the necessity of promoting Farmers' Rights, as they are addressed in the International Treaty. This is recognized as important in order for farmers to be able to retain control over their own working conditions, as well as for the country's long-term ability to feed itself. Maintaining and developing older varieties of plants is necessary to meet crucial challenges, such as changing climate conditions, plant pests and diseases, as well as the increasing demand for more healthy and nutritious food. It is believed that active use of such varieties is a prerequisite for their continued maintenance.

4. Farmers' Rights to save, use exchange and sell seed and propagating material

Rights that farmers have to save, use, exchange and sell seed and propagating material are in many cases vital for their ability to conserve and maintain crop genetic diversity. Two laws are of particular importance in this regard in Norway: The plant breeders' rights legislation and the Food Law with regulations on seed and propagating material.

Norway is a member of the Union for the Protection of New Varieties of Plants (UPOV), based on the 1978 Act of the UPOV Convention. This means that breeders and also farmers have the possibility to further develop on the protected varieties. In Norway farmers may also use farm-saved seed from protected varieties on their own fields. Exchange of seed from protected varieties is also allowed under this legislation (but not under the seed legislation, as elaborated below), but it is not allowed for farmers to sell seed from protected varieties. Farmers generally perceive this legislation as legitimate.

In 2005, the Norwegian government decided to reject a bill proposing to reduce the farmers' ability to use farm saved seeds from protected varieties to enable Norwegian membership in UPOV based on its 1991 Act. Norway's commitment to Farmers' Rights was a main argument for turning down the bill.

Currently, Norway is in the process of revising its seed regulations, which were harmonised with EU regulations in 2004 to comply with Norway's commitments to the European Economic Area (EEA). Current rules prohibit any exchange and sales of seeds among farmers. The criteria for approving crop varieties for release can not be fulfilled by most land races and farmers varieties used in Norway. Seed certification is a further problematic requirement. Norwegian "diversity farmers"see the legislation as a serious hinder for their ability to conserve, sustainably use, and further develop land races and older varieties. Norwegian authorities are aware of this problem, and seek to find ways and means to meet the needs of "diversity farmers" in this regard.

A new directive on Conservation Varieties was adopted by the EU in 2008. It enters into force in June 2009. However, under the new directive (1) seed exchange and sale is still prohibited among farmers; (2) only varieties deemed interesting for conservation and sustainable use by certain authorities can be covered by the system, (3) the variety release and certification criteria are still strict, (4) the marketing and use of the varieties are limited to the regions of origin; (5) only limited quanta can be used; and (6) the conservation varieties cannot be further developed by farmers. These provisions are under revision for possible implementation in Norway. The revision of the seed regulations is carried out in close dialogue with farmers and their organizations, as well as with other stakeholders.

5. Farmers' Rights related to the protection of traditional knowledge

Information and knowledge related to crop genetic diversity is vital for understanding the properties of plants, their uses and how to cultivate them. Also traditional knowledge may be of importance in this regard and would need to be protected. Whereas there has been much debate internationally on what the 'protection of traditional knowledge' means, Norwegian farmers do not fear misappropriation of their knowledge, but that this valuable knowledge for food security might fade away from lack of interest. In the Norwegian context, protection of traditional knowledge thus means protecting it from dying out. In practice this means protection by sharing.

Although the little traditional knowledge that is left in the country is scattered, promising efforts are underway to revive, systematically document and make information available. Information activities are thus the key to improving the maintenance of traditional knowledge. The Norwegian Genetic Resource Centre and NordGen are central contributors in this regard. Also farmer initiatives like seminars and field workshops are taken. The greatest bottleneck here seems to be the lack of funds and the lack of awareness among central stakeholders in decision-making processes on the value and importance of traditional knowledge related to crop genetic diversity. According to the study, these two factors can be seen as key barriers to further progress in the maintenance of traditional knowledge in Norway.

There are still farmers left in the country who remember 'the old days', the older varieties and traditions. But they are elderly, and action is urgent if their knowledge is to be saved for future generations. Also younger farmers need support to revive and share traditional knowledge. The plant heritage work of the Norwegian Genetic Resource Centre represents a promising start at documenting and making available such knowledge.

The project 'Cultivated Grain' *(Kulturkorn)* provides a good illustration of how farmers contribute to the maintenance of crop genetic diversity and traditional knowledge. The main goals of the project are to disseminate and breed varieties of grain based on older land races and varieties, to provide information to other stakeholders and to society at large, and to establish a user gene bank. Through the project, traditional knowledge related to older varieties of grain has been widely disseminated, resulting in a new drive for the use of these varieties among farmers.

It should also be mentioned that the introduction of trademarks to recognize traditional food and awards for the maintenance of the Norwegian plant heritage are instruments that stimulate the use and dissemination of traditional knowledge.

6. Farmers' Rights to participate equitably in the sharing of benefits

According to the study, in the Norwegian context, what matters to farmers is that they are recognized, rewarded and supported for their contribution to the pool of genetic resources. It is particularly important that incentive structures are conducive, and that support is available.

There are no direct incentives for farmers to maintain crop genetic diversity in their fields. There exist a few, and financially very limited, support schemes, providing support for individual, time-limited projects. Therefore the Norwegian on-farm management of crop genetic diversity rests largely on idealism. However, as the issue has not been the agenda of the larger farmers' unions, probably more pressure from this side could improve the situation. Particularly, there are potentials of further developing the instruments that have been established to support organic agriculture to focus more on diversity farming.

The topic of genetic resources is addressed in various research programmes under the Research Council of Norway, but is normally not highlighted in the calls for research proposals. Only infinitesimal amounts of funding are channelled to research related to the management of crop genetic diversity.

The Norwegian Genetic Resource Centre has funds for supporting conservation and sustainable use of PGRFA and also measures taken by farmers may be eligible to such support.

All in all, this indicates that farmers in Norway who engage in maintaining crop genetic diversity participate only to a limited extent in the equitable sharing of benefits from its use. However, there are good options for improving this situation.

Norway contributes in various ways to benefit sharing with the South. The Svalbard Global Seed Vault is the most prominent example, followed by the Norwegian pledge to contribute annually to the International Treaty's benefit-sharing fund with an amount equivalent to 0.1% of the value of all seeds sold in Norway (NOK 0.5 million for 2009). Furthermore, Norway provides support to countries in the South for their implementation of the Treaty, through international collaboration and development cooperation. The latter is done mainly through an Norwegian NGO, the Development Fund, which receives its funds from the Ministry of Development Cooperation via Norad, the Norwegian Agency for Development Cooperation.

7. Farmers' Rights to participate in decision-making

In a Norwegian context, participation in decision-making means enabling participation in legislative and regulative processes, policy formulation and implementation as well in decisions carried out by public institutions regarding the management of crop genetic resources. Farmers' Rights to participate in decision-making at the national level is in general relatively well taken care of in Norway, but as "diversity farmers" are only to a limited extent organized as an interest group, they are often not represented in the relevant forum.

In Norway, the general participation of farmers in decision-making processes at the national level is high. A hearing system provides good opportunities to voice concerns and demands.

Norway's two largest farmer unions exercise substantial influence over decision-making on agricultural issues, as they participate in annual negotiations with the government on administered product prices, direct support schemes, agricultural policy programmes and market regulations systems, leading to the so-called Agricultural Agreement. However, crop genetic resources and Farmers' Rights in this regard receive relatively little attention in the negotiations, as these issues are outside of the Agreement and covered by the regular processes governed by the Ministry of Agriculture and Food mainly through the work of the Norwegian Genetic Resource Centre.

Diversity farmers are not represented directly in the advisory committees of the Centre, which is the national institution central to the management of crop genetic diversity. However, representatives from the two main farmers' unions, organic farming, and different breeding organizations are represented in the various advisory committees. "Diversity farmers" are also invited to relevant workshops and seminars.

NordGen has so far not included any farmer representatives in their governing and advisory bodies. However, the gene bank is making seeds available for such farmers at their request and free of costs.

8. Gaps and needs of relevance for the Governing Body

The report on implementing Article 9 of the IT in Norway, shows that even though there have been major achievements, there are still a number of tasks to improve. Norway is in a good position to solve many of the remaining challenges to the implementation of Farmers' Rights in the country. However, there are issues which cannot be solved adequately at the domestic level. For these issues, further international cooperation could be required. The Governing Body of the IT could take the following issues into consideration:

1. Developing shared norms on how to ensure sufficient legal space for farmers to maintain their customary practices of maintaining crop genetic diversity, including to use, exchange and sell farm-saved material.

2. Increase the knowledge-base on how farmers may participate in implementing Article 5 and Article 6 of the International Treaty and what supporting elements are needed for assisting farmers in this regard.

3. Creating awareness of the role of "diversity farmers" participation in decision making structures in relevant national institutions and bodies,

4. Creating awareness of the role of "diversity farmers" participation in decision making structures in relevant international institutes and organizations. .

5. Establishment of guidelines or checklist for implementing Article 9 on Farmers rights.