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# The International Treaty

ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



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<b>Item 13 of the Provisional Agenda</b>
<b>FOURTH SESSION OF THE GOVERNING BODY</b>
<b>Bali, Indonesia, 14-18 March 2011</b>
<b>GLOBAL CONSULTATIONS ON FARMERS' RIGHTS IN 2010</b>

*Note by the Secretary*

1. The attached document entitled *Input paper submitted by Ethiopia based on Global Consultations on Farmers' Rights in 2010*, is circulated at the request of the Government of Ethiopia in the language and form in which it was received.
2. The input paper submitted by Ethiopia, through its National Focal Point, was received by the Secretary of the International Treaty in January 2011 and was "*developed as input to the discussion on the implementation of ITPGRFA Article 9 on Farmers' Rights in the Fourth Session of the Governing Body*".
3. In its letter to the Secretary, the National Focal Point of Ethiopia stated that "*the document reflects the outcomes from the Global Consultations on Farmers' Rights 2010, including an e-mail based consultation process from July to September 2010 and the consultation conference held in Addis Ababa in November 2010. The consultations were organized with regional components as a response to Governing Body resolution 6/2009, which called for regional workshops on Farmers' Rights. In the two phases of the consultations, a total of 177 experts and stakeholders participated, from 46 countries in Africa, Asia, the Near East, Latin America and the Caribbean, North America and Europe, and from farmer organizations, government institutions, the seed industry, NGOs, IGOs, research and other relevant groups. Most of them participated in their personal capacities, whereas 45 participants in the e-mail consultations responded on behalf of their organizations*".
4. The National Focal Point further clarified that it is "*not a consensus document or a negotiated paper. It contains important elements and recommendations that were proposed and discussed during the consultations and that might be useful for the further consideration by the Governing Body*".

*Annex 1 : Input paper submitted by Ethiopia based on Global Consultations on Farmers' Rights in 2010.*

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Meeting documents are available on Internet at <http://www.planttreaty.org>

## ANNEX I

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**INPUT PAPER SUBMITTED BY ETHIOPIA BASED ON GLOBAL CONSULTATIONS  
ON FARMERS' RIGHTS IN 2010**

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*This input paper provides an introduction to the 2010 Global Consultations on Farmers' Rights (Chapter I), findings from the included e-mail-based survey from July to September 2010 (Chapter II), and information on the consultation conference held in Addis Ababa, Ethiopia, 23–25 November 2010 (Chapter III). It further presents recommendations to the Governing Body from the regional groups of the consultation conference in Addis Ababa (Chapter IV), and joint recommendations to the Governing Body from the conference (Chapter V). The list of joint recommendations is not exhaustive and does not cover all the specific needs identified in the regions. It is therefore strongly recommended that one studies the recommendations from the regions as well (Chapter IV).*

**I. INTRODUCTION**

1. The realization of Farmers' Rights is critical to ensuring the on-farm conservation and sustainable use of plant genetic resources for food and agriculture, and therefore for achieving the objectives of the International Treaty on Plant Genetic Resources for Food and Agriculture. According to Article 9 of the International Treaty, responsibility for the implementation and realization of Farmers' Rights rests with the national governments. Measures for the realization of Farmers' Rights suggested under Article 9 include protection of traditional knowledge, equitable benefit-sharing and participation in decision-making. The rights that farmers have to save, use, exchange and sell farm-saved seeds and propagating material are also addressed. Articles 19 and 21 provide that the Governing Body shall promote the full implementation of, and compliance with, the provisions of the Treaty.

2. At its Third Session in Tunis, 2009, the Governing Body adopted a resolution on Farmers' Rights (Resolution 6/2009), in which it requested the Secretariat to convene regional workshops on Farmers' Rights, subject to the agreed priorities of the Programme of Work and Budget and to the availability of financial resources. The aim of such workshops would be to discuss national 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.

3. Resolution 6/2009 had requested the Secretariat to convene regional workshops on Farmers' Rights, subject to the agreed priorities of the Work Programme and to the availability of financial resources. Due to a lack of financial and human resources available to the Secretariat, the Secretariat was unable to convene the regional consultations as requested by the Governing Body. Consequently, the Fridtjof Nansen Institute (FNI), Norway, offered to organize the consultations, and the Bureau observed that the Secretariat was currently constrained in terms of financial and human resources. It consequently encouraged Contracting Parties to consider providing funding for the consultations and emphasized the need to reflect the contribution of any host government in the proposed budget. The regional consultations were merged into one global consultation process with regional components, to minimize funding requirements and workload. The consultation process included an e-mail-based survey conducted between July and September 2010 and a conference held together with the Institute of Biodiversity Conservation, Ethiopia, in Addis Ababa, 23–25 November 2010. The consultation process was supported by the Swedish International Biodiversity Programme (SwedBio), the Norwegian Agency for Development

Cooperation (NORAD), the Norwegian Ministry of Agriculture and Food, the Development Fund, Norway, and the Spanish Agency for International Development Cooperation (AECID).

## II. E-MAIL SURVEY, JULY–SEPTEMBER 2010

4. The e-mail consultations were held to enable as many participants as possible to participate in the consultation process. A draft questionnaire was developed by the FNI. The FNI sought comments from a wide range of stakeholders, including Contracting Parties, farmers' organizations, international organizations and the Secretariat. The FNI incorporated most of those comments and widely distributed the resulting questionnaire. Recipients were encouraged to consult with farmers in their countries without access to e-mail. All in all, 61 questionnaires were completed by a total of 130 participants from 36 countries and all relevant stakeholder groups. In addition, seven contributors chose to submit their views and experiences in the form of six position papers. Thus, altogether 137 people participated in this part of the consultation process. The questionnaire covered the four elements of Farmers' Rights in Article 9: protection of tradition knowledge, participation in benefit-sharing, participation in decision-making, and rights to save, use, exchange and sell farm-saved seed (Articles 9.2 and 9.3). It asked about main achievements and obstacles in realizing these rights at the national level, national measures affecting the realization of these rights, identification of gaps and needs, and recommendations to the Governing Body. The consultations resulted in a preliminary report, with the findings presented by topic and by region. The report was presented at the Global Consultation Conference in Addis Ababa and fed into the consultations there. The results from the e-mail survey are presented in a separate report from the 2010 Global Consultations on Farmers' Rights (including the results from the e-mail survey as well as the conference), submitted to the Treaty Secretariat by the Fridtjof Nansen Institute, Norway.

5. The e-mail-based consultation process shows that achievements have been made within all four elements of Farmers' Rights in Article 9, and that there have been many success stories. It also shows that some major obstacles remain to be overcome in order to ensure the realization of these rights:

- a. The prime concern among most respondents is the need for guidance and support from the Governing Body to develop or adjust national legislation, policies, strategies and programmes for the realization of Farmers' Rights. In particular, respondents were concerned about how to ensure or re-establish sufficient legal space within seed laws and intellectual property legislation to enable farmers to continue conserving, developing and sustainably using the diversity of plant genetic resources (Art. 9.3.).
- b. Most respondents agreed that saving what remains of traditional knowledge from becoming lost is the most central concern with regard to the protection of traditional knowledge (Art. 9.2.a), and projects in this regard were reported. Further measures to document and encourage the sharing of traditional knowledge are urgently needed. Furthermore, to avoid misappropriation of traditional knowledge, it is important to ensure adequate legislation.
- c. There are many examples of benefit-sharing, mostly at the local level (Art. 9.2.b). Local seed banks, seed exchange networks, participatory plant-breeding projects, registries of crop genetic resources and value-adding projects are all examples of benefit-sharing measures aimed at strengthening informal seed systems and thereby improving farmers' livelihoods. Scaling up such experiences to the national level is among the central challenges. Several respondents voiced the need for national measures to strengthen informal seed systems.

- d. Several respondents mentioned that awareness regarding Farmers' Rights had increased in their countries, and that farmers are involved in hearing processes (Art. 9.2.c). Nevertheless, respondents also noted that much remains to be done to facilitate greater awareness among farmers and decision-makers and to ensure farmers' participation in decision-making. The need for awareness-raising and capacity-building measures in this regard is an important concern among the majority of the respondents.
- e. Technical and financial support is required for the realization of Farmers' Rights, according to most respondents.

### **III. GLOBAL CONSULTATION CONFERENCE ON FARMERS' RIGHTS, ADDIS ABABA, 23–25 NOVEMBER 2010**

6. The Global Consultation Conference on Farmers' Rights was held in Addis Ababa from 23 to 25 November 2010, organized by the Fridtjof Nansen Institute, Norway, and hosted by the Institute of Biodiversity Conservation, Ethiopia. It gathered 51 participants from 30 countries in Africa (19 participants), Asia (11), Latin America and the Caribbean (7), Europe and North America (14). Twenty participants were from government institutions/public sector, fifteen from NGOs, four from farmers' organizations, three from the seed industry, and three from international organizations.

7. The Global Consultation Conference dealt with the four elements of Farmers' Rights covered in Article 9. It provided an overview of national measures affecting the realization of Farmers' Rights, achievements and success stories in this regard, farmers' views on required measures, major obstacles and options, gaps and needs, as well as recommendations to the Governing Body. The Conference was opened by H. E. Mr. Sileshi Getahun, State Minister of Agriculture, Ethiopia, and chaired by Dr. Abera Deressa, Ministry of Agriculture, Ethiopia (Opening Ceremony) and Dr. Regine Andersen, FNI, Norway (plenary sessions). The first day included presentations from experts and stakeholders on the various topics, discussions and sharing of views and experiences. The second day was devoted to regional consultations in four groups: Africa, Asia, Latin America/ Caribbean, and Europe with North America. The results from these consultations were presented on the third day, and provided the basis of joint recommendations to the Governing Body. The proceedings from the Conference are presented in the above-mentioned report on the Global Consultations. The recommendations from the regional consultations and the joint recommendations are presented below.

8. In particular, the following questions were taken up for discussion:

- a. Article 9.2.a: What are the best measures to ensure that traditional knowledge can be shared without being misappropriated? How can formal science be used to protect and promote the sharing of traditional knowledge? How could other laws, such as cultural heritage laws and laws on the rights of indigenous peoples, be supportive in protecting traditional knowledge in relation to plant genetic resources?
- b. Article 9.2.b: How can sufficient participation of farmers be ensured in making decisions on the distribution of funds from the benefit-sharing fund under the Treaty, and in receiving such funds? How to ensure financial resources to national benefit-sharing funds? How to balance incentive structures to adjust the current emphasis on industrial agriculture, and to meet the needs of diversity farming? How can promising local benefit-sharing projects be upscaled to the national level? How can substantially more funds be channelled into benefit-sharing?

- c. Article 9.2.c: Who represents farmers, and which farmers are represented by formalized means of participation? How to ensure that farmers engaged in agricultural biodiversity participate effectively in decision-making processes, such as hearings, committees and media discussions? How can farmers be more adequately represented in the work of the Governing Body? What are the needs for awareness-raising and capacity-building as a basis for efficient participation?
- d. Article 9.3: How can the legal systems be developed to accommodate formal and informal seed systems? How to balance the need for legal space for farmers' practices with phyto-sanitary concerns in regulations on variety release and seed distribution? How to balance the need for farmers to continue conserving and sustainably using crop genetic resources with the needs of plant breeders for compensation and incentives to continue crop breeding? How does GM-contamination influence Farmer' Rights to save, use, exchange and sell farm-saved seed?

#### **IV. RECOMMENDATIONS FROM THE REGIONAL GROUPS OF THE GLOBAL CONSULTATION CONFERENCE ON FARMERS' RIGHTS**

9. The participants at the Global Consultation Conference found regional consultations a fruitful approach to sharing experiences and identifying gaps and needs with regard to the realization of Farmers' Rights, as the situation of farmers as well as the conditions for conservation and sustainable use of plant genetic resources differs between countries and regions. This is reflected in the recommendations from the regional consultations, which contain important suggestions for the realization of Farmers' Rights relevant in the respective regions.

##### **i. Recommendations from Africa**

10. *The following recommendations were agreed in the Africa group, consisting of 15 participants from relevant stakeholder groups in nine African countries:*<sup>1</sup>

##### ***Farmers' Rights to save, use, exchange and sell farm-saved seeds and propagating material (Art. 9.3)***

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<sup>1</sup> The Africa group consisted of: Dr. Kassahun Embaye (Chair of the group), A/Director General, Institute of Biodiversity Conservation (IBC), Ethiopia; Mr. Zachary Muthamia (Co-chair of the group), Head, National Genebank of Kenya, Kenya Agricultural Research Institute, Kenya; Dr. Gemedo Dalle Tussie (Rapporteur of the group), Director, Genetic Resources Transfer and Regulation Directorate, Institute of Biodiversity Conservation (IBC), Ethiopia; Ms. Michelle Andriamahazo, Chef de Service, Ministry of Agriculture/Service of Environment, Madagascar; Dr. Catherine Mungoma, Director, Seed Control and Certification Institute, Zambia; Prof. Didier Balma, Director, Direction Générale des Enseignements et de la Recherche Scientifique, Burkina Faso; Mr. Regassa Feyissa, Director, Ethio-Organic Seed Action (EOSA), Ethiopia; Prof. Virgínia Lacerda Quartin, Coordinator, Faculty of Agronomy, University José Eduardo dos Santos/Collaborator, Action for Rural Development and Environment (ADRA), Angola; Dr. Alganesh Tesema Gellaw, Team Leader of Plant Genetic Resource, Institute of Biodiversity Conservation (IBC), Ethiopia; Mr. Nyasha Chishakwe, Head of Policy and Advocacy Programme, Community Technology Development Trust (CTDT), Zimbabwe; Ms. Sue Edwards, Director, Institute for Sustainable Development (ISD), Ethiopia; Dr. George Phiri, Biodiversity Specialist, Centre for Environmental Policy and Advocacy (CEPA), Malawi; Dr. Girma Gebremedhin, GTZ Sustainable Land Management (SLM) Program, Ethiopia; Dr. Abebe Demissie, Regional Coordinator, Eastern Africa Plant Genetic Resources Project (ASARECA); and Mr. Kiflu Tarekegn Abera, Director, Communications and Public Relations, Institute of Biodiversity Conservation (IBC), Ethiopia.

11. The formal seed systems in African countries are focused on the use of seeds of formally improved varieties, and there is a lack of policy support for farmers engaged in the conservation, development and sustainable use of farmers' varieties. Farmers have limited capacity to influence the laws and policies affecting their rights to save, use, exchange and sell farm saved seed and propagating material. Therefore the Governing Body is recommended to take measures to support the Contracting Parties technically and financially in:

- a) building farmers' capacity to participate in decision-making regarding their rights to save, use, exchange and sell farm-saved seed and propagating material;
- b) facilitating access to relevant information regarding the laws and policies pertaining to farmers' rights to save, use, exchange and sell farm-saved seed;
- c) ensuring effective participation of farmers in such decision-making;
- d) raising awareness among farmers, policy-makers and other relevant groups at all levels;
- e) establishing legal support for informal seed systems;
- f) mainstreaming Farmers' Rights to save, use, exchange and sell farm-saved seed in legal and policy frameworks;
- g) up-scaling and institutionalizing successful local activities aimed at strengthening informal seed systems, including NGO-led activities, to the national level;
- h) harmonizing seed regulation in the region to protect Farmers' Rights;

***Realization of measures to protect traditional knowledge (Article 9.2.a)***

12. Whereas legal provisions on the protection of traditional knowledge related to crop genetic resources are in place in several countries, implementation of these is lagging behind. Also, the loss of traditional knowledge represents a challenge, and efforts are required to document this knowledge and coordinate information exchange. Traditional knowledge is dynamic, and this dynamism needs to be protected and respected. On this background, the Governing Body is recommended and requested to consider supporting the Contracting Parties in:

- a) establishing measures to recognize traditional knowledge and facilitate its use;
- b) establishing measures to ensure that traditional knowledge, as well as the systems that generate such knowledge, are respected and promoted;
- c) facilitating documentation of traditional knowledge;
- d) making use of media to ensure publicity for traditional knowledge;
- e) building capacity for documenting and using traditional knowledge;
- f) establishing measures for scaling up documentation and use of traditional knowledge;
- g) developing and implementing legal provisions on traditional knowledge;
- h) supporting on-farm conservation activities by farmers.

***Realization of Farmers' Rights to participate in benefit sharing (Article 9.2.a)***

13. No tangible benefit-sharing is found to take place in Africa. Moreover, there is no mechanism to ensure that benefits flow directly to farmers under the Treaty, and farmers are not in a position to come up with proposals to enable them to get benefits from the benefit-sharing fund.

Furthermore, there is a lack of adequate policy frameworks, as well as limited implementation where they exist. The lack of information related to questions of access and benefit-sharing is a related problem. Therefore the Governing Body is requested to consider:

- a) developing guidelines for the implementation of the benefit-sharing mechanism under the Treaty;
- b) studying the relationship between benefit-sharing and fair-trade systems with a view to improving the benefit-sharing mechanism under the Treaty;
- c) reviewing the efficiency and effectiveness of the flow of resources under the International Treaty;

- d) strengthening the arrangement for access and benefit-sharing under the Multilateral System of the International Treaty;
- e) supporting Contracting Parties in developing capacity-building measures for farmers, to enable them to benefit from the various existing opportunities (at all levels);
- f) supporting Contracting Parties in institutionalizing and mainstreaming benefit-sharing measures;
- g) facilitating access to information and technology transfer.

***Realization of Farmers' Rights to participate in decision-making (Article 9.2.c)***

14. Farmers engaged in the conservation and sustainable use of crop genetic diversity do not normally participate effectively in relevant discussions, consultations and decision-making, and very few are represented at international-level meetings related to Farmers' Rights. A related problem is the lack of adequate connectivity between the focal points for the International Treaty in the countries and the government structures. Therefore the Governing Body is recommended to:

- a) support the Contracting Parties in establishing measures to ensure effective participation of farmers in decision-making processes;
- b) support the Contracting Parties in building capacity among farmers for participation in decision-making;
- c) encourage the establishment of effective mechanisms for communication in the process of decision-making;
- d) study ways and means of an effective system to enable farmers' voices to be heard;
- e) establish a Clearing House Mechanism for sharing experiences among contracting parties on the realization of the right of farmers to participate in decision-making;
- f) encourage synergies with other treaties in relation to farmers' participation in decision-making regarding plant genetic diversity for food and agriculture.

***Recommendations regarding other important issues***

15. The Governing Body may request the Secretariat to assess the impacts of genetically modified organisms on the diversity of plant genetic resources for food and agriculture.

16. The Governing Body should encourage measures to build farmers' capacity in adapting their management of plant genetic resources for food and agriculture to climate change.

17. The Governing Body should take steps to ensure that farmers have the right to freely maintain and improve plant varieties that are protected under UPOV-derived legislation on plant breeders' rights.

**ii. Recommendations from Asia**

18. The following recommendations were agreed in the Asia group, consisting of 11 participants from relevant stakeholder groups in seven Asian countries:<sup>2</sup>

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<sup>2</sup> Mr. Lim Eng Siang (Chair of the group), Honorary Fellow, Bioversity International, Regional Office for Asia, the Pacific and Oceania, Malaysia; Dr. Muhamad Sabran (Co-Chair of the group), Head of Collaboration and Public Relation Division, Indonesian Agency for Agriculture Research and Development, Indonesia; Mr. Kamalesh Adhikari (Rapporteur of the group), Research Director, South Asia Watch on Trade, Economics and Environment, SAWTEE; Mr. Singay Dorji, Senior Biodiversity Officer, National Biodiversity Center, Ministry of Agriculture and Forests,

***Farmers' Rights to save, use, exchange and sell farm-saved seeds (Art. 9.3)***

19. A review of national measures such as seed legislation and plant variety protection in the Asia/Near East region reveals the existence of several policy, legal and technical barriers to the realization of farmers' rights to protected seeds, as well as farmers' and local varieties. The Governing Body is urged to develop a set of policy, legal and technical guidelines and criteria to facilitate and assist Contracting Parties in addressing such barriers at local and national levels. In this process, active consultations should be carried out with relevant farmers' organizations, non-government organizations and government organizations.

20. There are success stories in the region with regard to the implementation of Farmers' Rights. In this regard, the Governing Body should call upon the Secretariat to collect and document the success stories of farmers' organizations, non-government organizations, government organizations and international agencies, and report to the Governing Body for further action and strengthening of the implementation of Article 9 of the Treaty.

***Protection of traditional knowledge (Article 9.2.a)***

21. There is a lack of policy and legal measures to implement Article 9.2a, and there is concern regarding the misappropriation as well as erosion of traditional knowledge. The Governing Body should urge Contracting Parties to further strengthen appropriate policy, legal and implementation measures to respect and protect traditional knowledge associated with plant genetic resources for food and agriculture, and to also respect and protect customary rights dealing with traditional knowledge.

22. There is a lack of documentation of traditional knowledge at the local and national levels. Defence mechanisms to protect traditional knowledge need to be established at the national and global levels. The Governing Body should urge Contracting Parties to develop national libraries on traditional knowledge associated with plant genetic resources for food and agriculture, and requests the Secretariat to initiate work on developing a Global Library on the same.

***Farmers' Rights to participate in benefit sharing (Article 9.2.b)***

23. There is a lack of specific budgetary mechanism to ensure benefit sharing for the conservation and sustainable use of PGRFA, in particular by farmers and farmers' organizations. To ensure effective implementation of Article 13.3 that can provide for the flow of benefits primarily, directly and indirectly, to farmers, an appropriate gene-fund mechanism needs to be established. The Governing Body should urge Contracting Parties to establish PGRFA Gene Funds at the national and local levels, and channel the Benefit Sharing Fund of the International Treaty through such national and local funds for the implementation of approved projects proposed by farmers' groups and community-based organizations.

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Bhutan; Ms. Wilhelmina R. Pelegrina, Executive Director, Southeast Asian Regional Initiatives for Community Empowerment, SEARICE; Mr. Tejo Pramono, Staff Member, La Via Campesina, Indonesia; Dr. Anil Kumar, Director of Biodiversity, M.S. Swaminathan Foundation, India; Dr. Shreeram Prasad Neopane, Executive Director, Local Initiatives for Biodiversity, Research and Development, LI-BIRD, Nepal; Mr. Surya Prasad Adhikari, Farmer, Farmer Breeder and President of National Farmers Committee, Nepal; Dr. Vanaja Ramprasad, Managing Trustee, GREEN Foundation, India; Ms. Diana Lakmini, Project Manager, The Green Movement of Sri Lanka.



24. There is an opportunity for greater use of farmers' varieties currently conserved in international and national gene banks, in particular varieties that can adapt to shifting conditions and the needs of climate change. The Governing Body should urge Contracting Parties and CGIAR Centres to strengthen the transfer of farmers' varieties currently conserved in international and national gene banks to community gene banks, in order to enable farmers to utilize such varieties.

25. Success stories have been documented with regard to participatory plant breeding in the region, and such programmes can serve as a means for the transfer of information, technologies and capacities. The Governing Body should urge Contracting Parties and CGIAR Centres to promote participatory research, including participatory plant breeding at both national and local levels.

26. Registration, release and marketing of farmers' varieties are still a problem, even though the informal use, exchange and sales of such seeds represent between 60% and 80% of the total use, exchange and sale of seeds in the region. The Governing Body should urge Contracting Parties to establish appropriate policy, legal and technical measures for the development and improvement of farmers' varieties, and for their registration, release and marketing.

### ***Farmers' Rights to participate in decision-making (Article 9.2.c)***

27. Farmers' participation in national decision-making processes relating to plant genetic resources for food and agriculture is weak. The institutional representation and participation of farmers in decision-making bodies and processes have to be strengthened. The Governing Body should urge Contracting Parties to strengthen farmers' institutional representation and participation in decision-making bodies and processes at the national level through active consultations with farmers on the management of plant genetic resources for food and agriculture; and through education and capacity-building of farmers on the legal and technical aspects of such management.

28. The Governing Body should urge Contracting Parties to include farmers/farmers' organizations as delegates to International Treaty meetings.

29. The Governing Body should call upon the Secretariat to organize meetings based on existing international mechanisms (within the CBD, the FAO Committee on Food Security, etc.) which allow for farmers and their organizations to participate in decision-making processes with regard to the implementation of ITPGRFA, Article 9 in particular.

### **iii. Recommendations from Latin America and the Caribbean**

30. *The following recommendations were agreed in the Latin America and Caribbean group, consisting of 7 participants from relevant stakeholder groups in 4 countries:*<sup>3</sup>

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<sup>3</sup> Dr. Maria Cecilia Vieira (Chair of the group), Environment Division, Ministry of Foreign Affairs, Brazil, and member of the ITPGRFA Bureau; Dr. Modesto Fernández Díaz-Silveira (Co-chair of the group), Senior Officer for Environment, Ministry of Science, Technology and Environment, Cuba; Dr. Juliana Santili (Rapporteur of the group),

31. Farmers' rights and the Multilateral System are equally important cornerstones of the Treaty. The Governing Body should prioritize, and request the assistance of FAO and other relevant international organisations in the provision of technical and financial support to national governments in the realization of farmers' rights in a manner that reflects this equality.

32. In particular national governments should be supported in the following:

***The rights that farmers have to save, use, exchange and sell farm saved seed (Art. 9.3)***

33. National governments should consider Article 9.3 broadly, with particular regard to the fact that the factors involved in determining how to recognize these rights are not purely scientific and that these rights have implications for farmer livelihoods, intellectual property rights and other issues.

34. Formal and local seed systems should not be seen as in opposition but should be recognized as 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.

35. There is a continuing need for national governments to promote knowledge and awareness of farmers' rights at all levels, including decision makers and farmers.

***The realization of measures to protect traditional knowledge (Art. 9.2.a)***

36. National governments should protect traditional knowledge that is relevant to agricultural biodiversity; recognizing the need for a holistic approach that considers other factors, including livelihood, culture and place.

37. In developing mechanisms for the protection of traditional knowledge relevant to PGRFA, national governments should consider Articles 5.1(c) and 5.1(d) and not limit themselves to purely intellectual property rights based approaches.

38. National governments should promote collaboration between local communities and research scientists and encourage the mutual exchange of knowledge, provided that these exchanges promote and ensure the protection of local community rights.

***The realization of Farmers' Rights to fair and equitable benefit sharing (Art. 9.2.b)***

39. National Focal Points should actively:

- a) Promote farmers access to material under the Multilateral System,
- b) Assist farmers to formulate and submit proposals to the benefit-sharing fund of the Treaty.

40. National governments should promote the right of communities to directly benefit from the conservation and development of their PGRFA by ensuring their ability to participate in local and national agricultural markets.

41. National governments should explore the possibility of establishing national benefit sharing funds to support and promote the conservation and sustainable use of agrobiodiversity among smallholder farmers.

42. In the allocating of funds and formulating national policies relating to agrobiodiversity, national governments should promote equality between formal scientific and local community knowledge.

***The realization of Farmers' Rights to participate in decision making (Art. 9.2.c)***

43. National governments are encouraged to involve farmers in the reviews provided for in Article 6.2(g) and in decision-making on breeding strategies and the regulation of variety release and registration.

44. In addition to the recommendations above, in the realization of farmers' rights, national governments should concentrate on capacity building and the promotion of awareness, including:

- a) The complementary nature of formal and local seed systems
- b) The provision of information related to the Treaty
- c) How forms of organisation affect decision-making

**iv. Recommendations from Europe and North America**

45. *The following recommendations have been agreed in the Europe and North America group of the Global Consultation Conference on Farmers' Rights held in Addis Ababa, 23–25 November 2010, consisting of 14 participants from the most relevant stakeholder groups, including farmer organizations and the seed industry, in their private capacities.*<sup>4</sup>

***Preamble:***

46. *Noting that the broad range of biodiverse farming practices using diverse seed systems across all regions (including Europe and North America) respond to diverse human needs and balance different requirements,*

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<sup>4</sup> The Europe and North America group consisted of: Ms. Pernilla Malmer (Chair of the group), Senior Advisor, SwedBio, the Swedish Biodiversity Centre, Mr. Patrick Mulvany (Co-chair of the group), Senior Policy Advisor, Practical Action, UK; Dr. Regine Andersen, Senior Research Fellow, and Ms. Tone Winge Research Fellow, Fridtjof Nansen Institute, Norway (rapporteurs of the group); Mr. François Burgaud, International and Public Affairs Manager, GNIS, the French Association for Seeds and Seedlings, Mr. Pat Mooney, Executive Director, ETC Group, Canada; Dr. Robin Pistorius, Facts-of-Life.nl/CGN, The Netherlands; Ms. Annette von Lossau, Senior Advisor, GTZ, Deutsche Gesellschaft für Technische Zusammenarbeit, Germany; Ms. Susanne Koudahl, Legal Advisor, Ministry of Agriculture of Food, Norway; Mr. Terry Boehm, President, National Farmers' Union, Canada; Ms. Heike Schiebeck, Farmer and Board Member, ÖBV, Farmers' Association of Austria, and Via Campesina, Austria; Mr. Riccardo Bocci, AIAB, Italian Association for Organic Agriculture, and Coordinator of the Italian Seed Network, and Ms. Bell Batta Torheim, Advisor, Development Fund, Norway. In its discussions, the group took into account the differences of farming systems and legal frameworks between Europe and North America.

47. *Bearing in mind that the diversity of plant genetic resources for food and agriculture developed by farmers/breeders and exchanged within and among communities, countries, and continents require diverse seed systems within different legal situations,*
48. *Recognizing that the conservation and sustainable use of plant genetic resources for food and agriculture are inseparable from farmers' knowledge and practice about seed and farming systems,*
49. *Further recognizing the notion of farmers as breeders which is based on the idea that farmers as well as specialized plant breeders have important knowledge and skills that can complement one another,*
50. *Conscious that the European and North American regulatory systems, even if those systems are very diverse, have an impact far beyond our own borders: they have set the standards for the world, and that information about how we cope with these systems in order to maintain, develop and share the diversity of plant genetic resources for food and agriculture is important for other regions,*
51. *Further informing that in Europe and North America, there is a growing awareness that the seed laws could be improved, and that efforts are being made to study and possibly modify EU and national legislation and practices so as to minimize their potentially negative impact on conservation and sustainable use of seed of old or traditional local varieties, and in particular the legal space for use, exchange, sales and saving of seed of those varieties and/or propagating material in particular by small-scale farmers,*
52. *Noting that farmers' contribution to conserving and developing plant genetic resources for food and agriculture, as recognized in Article 9.1, relates to many aspects of the Treaty. Therefore, the full realisation of Farmers' Rights within Article 9 should be linked to the implementation of many other relevant articles of the Treaty, especially Article 6 as well as aspects of other Articles, e.g. Article 5,7,12,13,15, and 18.*
- 53. *Recognising the need for increased funding for the implementation of the Treaty, the Europe and North America group of the 2010 Global Consultation Conference on Farmers' Rights recommend the following, subject to availability of funds:***

***General recommendations on the implementation of Article 9:***

54. The Governing Body should give more attention in its working agenda to the promotion and implementation of Farmers' Rights in relation to Article 9 and related provisions, especially Article 6.
55. Noting the valuable contributions of the voluntary Guidelines on the Right to Food, the Governing Body is recommended to establish an *ad hoc* working group to develop voluntary guidelines on the national implementation of Article 9 and related provisions, in a transparent, participatory and inclusive manner, with the effective involvement of farmers' organizations, and other relevant organizations.
56. The Governing Body should, through the Secretariat, facilitate the exchange of information relevant to the realisation of Article 9 and related provisions.
57. The Governing Body is requested to implement Resolution 6/2009, in which each Contracting Party was invited to consider reviewing and, if necessary, adjusting its national measures

affecting the realization of Farmers' Rights as set out in Article 9 of the International Treaty, to protect and promote Farmers' Rights.

58. The Governing Body is requested to instruct the Secretariat to promote the Treaty, including Farmers' Rights at the international level, including especially in the UPOV and WIPO.

**Article 9.3:**

59. The Governing Body is requested to study options for provisions in national seed legislation of Contracting Parties, with a view to provide recommendations for the improvement of national legislation in order to allow for a balanced regulation for all types of seeds.

60. In response to the impacts of climate change, the Governing Body is recommended to study ways and means to enhance farmers' access to diverse seed, fostering local innovation in the development of crop genetic diversity, and to remove obstacles to this, such as non re-registration of varieties.

**Article 9.2.b:**

61. Mindful of the FAO CGIAR accord of 1994 wherein policy oversight of the CGIAR collections rests with FAO, we request the Governing Body in collaboration with CGIAR to ensure the system of access to germplasm and propagating material, and in particular material under development, is equally available to all.

62. Noting the CBD/COP10 decision on agricultural biodiversity (CBD/COP10/L33), and further noting that a number of applications have been made for multi-genome patents, which may include significant genetic material included in Annex 1 of the Treaty, and restrict free access to the genetic material, we recommend that the Governing Body requests the Secretariat together with the Legal Counsel of FAO to undertake an immediate analysis of these claims, and take whatever steps may be appropriate to affirm the integrity and spirit of the Treaty.

63. Recognising the importance of Article 6, especially with regard to providing the legal framework for the rolling Global Plan of Action, to the implementation of Article 9 and related provisions and the realisation of Farmers Rights, the Governing Body is requested to commission a study on how the multilateral system can assist farmers to increase diversity of plant genetic resources on farm and in their communities.

64. In light of the recent developments in maintaining the longevity of viable seeds using low cost conservation technologies, the Governing Body is requested to commission a study of these and new strategies for decentralised seed storage and their contribution to *ex situ* and *in situ* conservation strategies by farmers and others, to be presented to the Governing Body at its next session.

65. The Governing Body should request the Secretariat to facilitate the provision of information to farmers and others about seed saving, and report back to the Governing Body at its next session about the experiences with these information activities.

66. The Governing Body is requested to study new developments in gene synthesis, gene mapping and the creation of digital libraries of genetic material that could impact access and benefit sharing under the Treaty.

**Article 9.2.c:**

67. Recognizing the successful progress achieved by governments in the reform of the UN/FAO Committee on World Food Security (CFS), with significant improvements in the effective participation by farmers' organisations and others, the Governing Body is recommended to examine these procedures agreed in the CFS for consideration as a template for new procedures in the Governing Body that will ensure the full participation of all stakeholder groups.

68. Recognizing the enormous contribution of local and indigenous communities and farmers of all regions of the world in achieving the goals of the Treaty, the Governing Body is recommended to facilitate the participation of farmers' organizations in preparing a biennial State of the Worlds' Farmers Report within the framework of the International Treaty, and in particular Article 9 and related provisions, for discussion at each session of the Governing Body.

69. The Governing Body is requested to study novel mechanisms at national level for the resolution of disputes on issues concerning Farmers' Rights that avoid the need for court based systems, prioritising other means of mediation that will help farmers defend themselves.

70. Noting the adoption of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, the Governing Body is requested to consider establishing a mechanism that will make it possible for farmers' organizations to draw to the attention of the Governing Body any systemic issues that they believe can adversely affect their strategies to conserve and sustainably use plant genetic resources.

## **V. JOINT RECOMMENDATIONS FROM THE GLOBAL CONSULTATION CONFERENCE ON FARMERS' RIGHTS**

71. Participants at the Global Consultation Conference on Farmers' Rights in Addis Ababa,<sup>5</sup> 23–25 November 2010, identified several cross-cutting issues between and among the regions in need of particular consideration. Some of these are reflected in the joint recommendations from the Global Consultation Conference presented here. The list of joint recommendations is not exhaustive and does not cover specific needs identified in the regions. It is therefore strongly recommended to study the recommendations from each region as well.

### **i. Joint recommendations**

72. Farmers' Rights is a cornerstone of the Treaty. The Governing Body should prioritise, and request the assistance of FAO and other relevant international organisations in the provision of technical and financial support to national governments in the realisation of Farmers' Rights.

73. The Governing Body is requested to 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.

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<sup>5</sup> These include all the participants of the regional groups listed in the footnotes of the regional recommendations above, and in addition Ms. Szonja Csörgő (Manager, Intellectual Property and Legal Affairs, ESA, European Seed Association, Belgium).

74. Recognising the successful progress achieved by governments in the reform of the UN FAO Committee on World Food Security (CFS) the Governing Body is requested to consider adopting the procedures agreed in the CFS as a template for new procedures in the Governing Body that will ensure the full participation of all stakeholder groups.

75. With respect to all aspects of Farmers' Rights as set out in this Treaty, the role of gender should be mainstreamed, because it is a cross cutting issue in seed saving, traditional knowledge, benefit sharing and participation. The Governing Body should explore the role of gender in the realisation of Farmers' Rights.

76. Noting the valuable contributions of the Voluntary Guidelines on the Right to Food, the Governing Body should in particular establish an *ad hoc* working group to develop voluntary guidelines on the national implementation of Article 9 and related provisions, in a transparent, participatory and inclusive manner, with the effective involvement of farmers' organizations and other relevant organizations.

77. The voluntary guidelines should assist and support national governments in implementing the following:

### ***Article 9.3***

78. National governments should consider Article 9.3 broadly, with particular regard to the fact that the factors involved in determining how to recognise these rights are not purely scientific and that these rights have implications for farmers' livelihoods and other social, economic and environmental issues.

79. Formal and local seed systems should not be seen as in opposition but should be recognised as 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.

80. National governments should promote understanding and awareness of Farmers' Rights at all levels, including decision makers and farmers.

### ***Article 9.2.a***

81. National governments should 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.

82. National governments should, in developing mechanisms to protect and promote traditional knowledge relevant to PGRFA, consider Articles 5.1(c) and 5.1(d).

83. National governments should 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.

### ***Article 9.2.b***

84. National governments should, including through their Focal Points, actively:

- a. promote farmers' access to PGRFA, including material under the Multilateral System;
- b. assist farmers and farmers' organizations in formulating and submitting proposals to the benefit-sharing fund of the Treaty.

85. National governments should promote the right of farmers to directly benefit from the conservation and development of their PGRFA by ensuring their ability to participate in local and national agricultural markets.

86. Consistent with the Treaty, national governments should explore the possibility of establishing national benefit sharing funds to support and promote the conservation and sustainable use of PGRFA among smallholder farmers.

87. In allocating funds and formulating national policies relating to agricultural biodiversity, national governments should promote equality between formal scientific and local community knowledge.

***Article 9.2.c***

88. National governments are encouraged to involve farmers in the reviews provided for in Article 6.2(g) and in decision-making on breeding strategies and the regulation of variety release and registration.

89. In addition to the recommendations above, in the realisation of Farmers' Rights, national governments should concentrate on capacity building and the promotion of awareness, including:

- a) the complementary nature of formal and local seed systems;
- b) the provision of information related to the Treaty;
- c) how types of farmer participation affect decision-making