

SUMMARY REPORT OF THE STAKEHOLDER CONSULTATION ON IMPLEMENTATION OF FARMERS' RIGHTS

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1. BACKGROUND INFORMATION

“Farmers’ Rights” are considered a cornerstone of the International Treaty on Plant Genetic Resources for Food and Agriculture (hereafter ITPGRFA or “International Treaty”) and a precondition for the maintenance of crop genetic diversity, which is the basis of all food and agricultural production in the world. The concept of Farmers’ Rights encompasses rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity. They are enshrined in Article 9 of the International Treaty, as trustee for present and future generations of farmers, with the purpose of ensuring full benefits to farmers, and supporting the continuation of their contributions. The realisation of farmers’ rights is seen as a vital means to halt genetic erosion and ensure food security. It is also viewed as central in attempts to counterbalance current inequities in the world. As such, it represents a crucial concept in the fight against poverty and food insecurity.

At its Sixth Session, in October 2015, the Governing Body of the ITPGRFA adopted Resolution 5/2015 on the Implementation of Article 9, Farmers’ Rights. The Governing Body has requested the Secretariat to engage Contracting Parties and relevant organizations to gather information at national, regional and global levels for exchanging knowledge, views, experiences and best practices on the implementation of Farmers’ Rights. The Governing Body has invited Contracting Parties and relevant organizations to take initiatives to convene regional workshops and other consultations including with farmers’ organizations and present results at the next session of the Governing Body.

Taking note of the guidance received from the Governing Body as contained in Resolution 5/2015, in preparation for the Global Consultation on Farmers’ Rights, the Quaker United Nations Office (QUNO), together with with the Treaty Secretariat, organised a stakeholder consultation at Quaker House, Geneva, on the afternoon of May 28th 2016. The agenda can be found in Annex I.

This report provides a summary of the discussion and the key messages arising from it.

2. OBJECTIVES OF THE STAKEHOLDER CONSULTATION

The consultation focused on four key themes:

- Taking stock of significant country experiences, best practices and lessons learned in realising Farmers' Rights;
- Identifying challenges in the realisation of Farmers' Rights,
- Identifying practical options and strategies for national implementation of Farmers' Rights; and
- Discussing national experience regarding the relationship between Farmers' Rights, WIPO bodies and UPOV.

3. LIST OF PARTICIPANTS

- **Susan H. BRAGDON**, Representative, Food & Sustainability, *Quaker UN Office*
- **Biswajit DHAR**, Professor, *Jawaharlal Nehru University / Indian delegation to WIPO*
- **Parviz KOOHAFKAN**, President, *World Agricultural Heritage Foundation / Senior Honorary Research Fellow and Policy Advisor, Bioversity International*
- **Waltraud KUGLER**, Project Office, *SAVE Foundation*
- **Paul KURUK**, Professor, *Cumberland School of Law / Ghanaian delegation to WIPO*
- **Isabel LOPEZ NORIEGA**, Legal Specialist, *Bioversity International*
- **Erik MANGAJAYA**, Second Secretary, *Permanent Mission of Indonesia in Geneva*
- **Chidi OGUAMANAM**, Professor, Faculty of Law, *University of Ottawa / Nigerian delegation to WIPO*

- **MaryJane RAMOS DELA CRUZ**, Treaty Technical Officer, *ITPGRFA Secretariat*

- **Riccardo BOCCI**, *Rete Semi Rurali* (via Skype)

4. LIST OF PRESENTATIONS

The discussion was structured around a set of presentations that enabled participants to engage in an open and wide-ranging discussion. The list can be found below, with slides documented in Annex II.

- **MaryJane RAMOS DELA CRUZ**, Treaty Technical Officer, *ITPGRFA Secretariat*

- **Isabel LOPEZ NORIEGA**, Legal Specialist, *Bioversity International*

- **Chidi OGUAMANAM**, Professor, Faculty of Law, *University of Ottawa / Nigerian delegation to WIPO*

- **Biswajit DHAR**, Professor, *Jawaharlal Nehru University / Indian delegation to WIPO*

- **Parviz KOOHAFKAN**, President, *World Agricultural Heritage Foundation / Senior Honorary Research Fellow and Policy Advisor, Bioversity International*

5. MESSAGES FOR THE GLOBAL CONSULTATION

The following messages are distilled from the presentations and the discussions that took place around them. They are divided into two parts: (a) procedural recommendations relating to the Global Consultation, targeted towards the Governing Body of the International Treaty, and (b) substantive messages relating to the implementation of Farmers' Rights.

PROCEDURAL MESSAGES

1. The Global Consultation on Farmers' Rights should be ongoing.

It is vital that the Treaty body take a lead on monitoring and driving forward progress in the implementation of Farmers' Rights, not limited to a time-bound series of expert consultations. The Global Consultation should therefore be seen as a beginning and not an end, with the goal of supporting the next meeting of the Governing Body to the Treaty in 2017 in making meaningful decisions on the implementation of Article 9. Guided by the Global Consultation, work should continue on developing lessons learned, key messages and recommendations to transmit to the next meeting of the Governing Body of the Treaty.

2. The Global Consultation and further sessions should seek to include representatives from governments, research institutions and civil society, with a particular emphasis on dialogue *between state delegates and farmers' organisations*. In the interests of generating a sustained, cohesive approach to implementing Farmers' Rights, the consultation should bring together the diverse stakeholders involved in plant genetic resources for food and agriculture (PGRFA), acknowledging and accounting for the power imbalances among them. Emphasis needs to be on bringing together those normally not in close dialogue with one another, hence the recommendation of the QUNO-Secretariat Stakeholder Consultation on the need for the Global Consultation and what follows to bring together government representatives and farmers' organizations.

a. SUBSTANTIVE MESSAGES

1. Overall there is limited 'know-how' and experience relating to the implementation of Farmers' Rights. Contrasting perspectives of Farmers' Rights have impeded the development of policies, legal instruments and tools. A lack of financial resources and long-term funding commitments for in-situ conservation of PGRFA have also slowed implementation.

2. Mainstreaming Farmers' Rights within all national policies, programmes and initiatives across sectors should be a central objective for national governments. Cross sectoral collaboration is

often missing. For example, biodiversity policies increasingly mention Farmers' Rights, but the lack of policy coherence prevents scaling-up of pro-Farmers' Rights policies. This point relates closely to point 9 below, noting that Farmers' Rights is also a concept that extends beyond the PGRFA objectives of the International Treaty. Agricultural development policy, trade policy (subsidies, import/export restrictions etc.), and research and development policy must incorporate Farmers' Rights. Capacity building is required in this regard.

3. **Bottom-up initiatives generate momentum** for the realisation of Farmers' Rights. There are an increasing number of projects that put farmers at their centre, though these are often led by international civil society and may bypass national administration, hindering coordination and scaling-up. There is a need to understand how these initiatives can move beyond “islands of success” and the challenges to doing so (see point 7 below.)
4. **There is a need for complementary ‘top down’ institutional and legal mechanisms for promoting Farmers’ Rights.** Bottom-up approaches cannot succeed in a policy environment dictated from above (nationally or internationally) that limits policy space and pays insufficient attention to the importance of Farmers' Rights and the role of small-scale farmers. The Food and Agricultural Organization of the United Nations (FAO) is called upon to draft a 'Model Law on Farmers' Rights' to be adapted and implemented in various contexts.
5. **Even when laws are made, there needs to be an effective use of those instruments.** This means more government, not less. It will be important to shift the prevailing narrative that upholds a smaller public sector as the ideal. Farmers need solid institutional mechanisms that protect and support their work.
6. **Greater political capital is required to effectively implement Farmers' Rights.** The complex international governance structure for PGRFA can make the concept opaque to non-experts. Work needs to be undertaken to engage the public generally and raise awareness of what is at stake as regards agricultural biodiversity and the farmers that conserve, maintain and develop these resources. Greater visibility brings a greater chance of effective and inclusive implementation. To this end, initiatives may be undertaken to geo-reference and register farmers' genetic resources and traditional knowledge and share oral and written information through social networking.
7. **There is a need for greater understanding of the pressures hindering implementation of Farmers' Rights.** Agricultural stakeholders have varying degrees of economic and political power. Concern was expressed about the proliferation of trade agreements, the tying of financial support from government and philanthropic donors to particular policy measures, insofar as they reduce

the flexibility of countries to implement Farmers' Rights in a way that is context appropriate. IPR provisions in emerging trade agreements and in financial assistance provided by the G8 Alliance on Food Security and Nutrition were raised as troubling examples that limit the flexibility, and hence the role, of the public sector in making public policy to support Farmers' Rights;

8. The lack of a clear definition of Farmers' Rights does not have to be a problem. Though it may present a legal challenge, Farmers' Rights is a concept that extends beyond the provisions included in Article 9 and beyond the International Treaty with a scope that is limited to PGRFA. The broader set of rights articulated within international human rights law pertaining to peasants and other people working in rural areas are relevant. There is significant scope for creative initiatives to seek to realise Farmers' Rights, broadly defined. For instance, linking Farmers' Rights to the protection and promotion of cultural heritage and diversity can enhance the visibility of small-scale farmers, their value, and the challenges they face.

9. It is important to look to international legal frameworks beyond Article 9. While Article 9 represents a useful 'checklist' of measures to protect and benefit farmers, it is important to link it to other areas of the International Treaty – in particular Article 6, relating to sustainable use of plant genetic resources. Linking Article 9 to human rights law may have a utility for creating strategic alliances and beginning to address the broader constraints on the realisation of Farmers' Rights.

ANNEX I: CONSULTATION AGENDA

PRE-CONSULTATION ON FARMERS' RIGHTS

28th May, 2016. 14:30 – 17:30

Quaker House, Avenue du Mervelet 13, Geneva

Background

The session will focus on implementation of Article 9 of the International Treaty, with outcomes and information generated feeding into the Global Consultation on Farmers' Rights in September.

The following themes will be explored through a combination of informal presentations and discussion:

- How are Farmers' Rights being implemented at the national level by different states?
- What have been the key successes and challenges?
- Can any best practices be discerned?
- How can we address the relationship between Article 9 and the work at WIPO and UPOV?

Provisional Agenda

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| 14:30 – 14:45 | Coffee, welcome and introduction – <i>Susan H. Bragdon, QUNO.</i> |
| 14:45 – 15:00 | Briefing on Article 9 of the ITPGRFA – <i>MaryJane dela Cruz, International Treaty Secretariat</i> |
| 15:00 – 17:00 | Discussion structured around presentations by speakers – <ul style="list-style-type: none">• Isobel Lopez Noriega, <i>Bioversity International</i>• Chidi Oguamanam, <i>University of Ottawa, Canada, Nigerian delegation</i>• Biswajit Dhar, <i>Jawaharlal Nehru University, Indian delegation</i>• Beat Rösli, <i>Swiss Farmers' Union (TBC)</i> |
| 17:00 – 17:30 | Final discussion and conclusions |
| 17:30 – 18:30 | Drinks and refreshments |

ANNEX II: SLIDES AND SUBMISSIONS FROM PARTICIPANTS

ANNEX III: LIST OF ADDITIONAL REFERENCE MATERIALS