

# Options for the realization of Farmers' Rights under the Plant Treaty: A European approach?

12th Let's Liberate Diversity! Forum  
Dublin, 26 – 28 October, 2023

Workshop organised by  
Riccardo Bocci and Regine Andersen

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Research Director / Research Professor



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# Objectives

- To inform about new developments under the Plant Treaty regarding Farmers' Rights, particularly a new set of options for their realization
- To discuss a European approach to the realization of Farmers' Rights
- If we have time, to discuss a position to the upcoming 10th Session of the Plant Treaty's Governing Body.





# This presentation

- Farmers' Rights in the Plant Treaty – a background
- Options for the realization of Farmers' Rights
- The 10th Session of the Plant Treaty's Governing Body
- New website on Farmers' Rights
- Questions for discussion





**Mkombezi CSB, Malawi: The diversity block**  
Photo: Regine Andersen

**Basically, realizing  
Farmers' Rights  
means...**

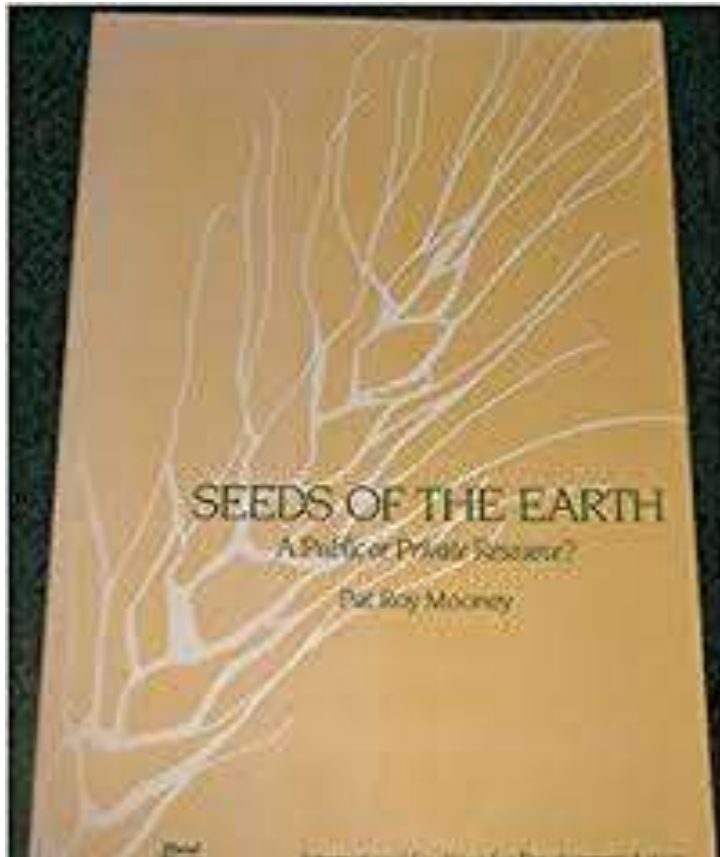
... enabling farmers to maintain and develop crop genetic diversity, and recognizing and rewarding them for this indispensable contribution to the global pool of genetic resources and to local and global food security.

# BRIEF HISTORY OF FARMERS' RIGHTS IN THE FAO



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# Roots of Farmers' Rights



- Accelerated collecting missions in the 1970's
- 85 percent of the collections were stored in industrialized countries
- Pat Roy Mooney, RAFI: 'Seeds of the Earth – a private or public resource?' (1979)
- Warned that collections would serve private interests
- Decisive push for FAO to take action



From the FAO  
Photo: FAO

## Roots of Farmers' Rights in the FAO

- Mexican delegation warned FAO, suggested to prepare elements of an international convention to solve the situation (1981)
- 1983: FAO International Undertaking on Plant Genetic Resources adopted (predecessor of the Plant Treaty). Objectives: To explore, preserve, evaluate and make available crop genetic resources
- Principle: Genetic resources a common heritage of mankind.
- Major problem: Central states backed off since this principle was not seen as compatible with plant breeders' rights

# Roots of Farmers' Rights in the FAO

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- The idea of Farmers' Rights came up in this context (1980's)
- A countermove to the increased demand for plant breeders' rights.
- Purpose to draw attention to the unremunerated innovations of farmers that were seen as the foundation of all modern plant breeding

*Chairman of the FAO Council 1981-1985*



Prof. M.S. Swaminathan



# Roots of Farmers' Rights in FAO

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1989: First formal recognition of Farmers' Rights by the FAO Conference (Res. 5/89):

- Farmers' Rights 'defined' as **rights arising from the past, present and future contributions of farmers** in conserving, improving, and making available plant genetic resources
- Stating that these rights are **vested in the international community**, as trustee for present and future generations of farmers, for the purpose of **ensuring full benefits** to farmers, and **supporting the continuation of their contributions to the genetic pool**



Ethiopian farmer.  
Photo: Guenay Ulutuncok

# Influence of IPR regimes

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- 1991: FAO resolution established that the principle of common heritage of mankind is subject to the **sovereignty of states**. A ‘blow’ for the Undertaking.
- 1991: New version of the Convention of the Union for Protection of New Varieties of Plants (**UPOV**) –**stricter than ‘1978’**
- Negotiations leading to the establishment of the World Trade Organization in 1994 – with the Agreement on Trade-related Aspects of Intellectual Property Rights (**TRIPS**): WTO members to **protect plant varieties** by either patents or “effective *sui generis* systems” (not defined) or a combination



Signing of the Final Act of the GATT Uruguay Round 1994, leading to the WTO. Photo: WTO

# Convention of Biological Diversity (CBD) setting the stage

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- 1992: The Convention on Biological Diversity. Objectives: Conservation, sustainable use and equitable sharing of benefits derived from use
- Adopted together with it a resolution urging the FAO to negotiate a legally binding international regime on crop genetic resources – **including to solve outstanding issues on farmers' rights.**





# The International Treaty

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

**Adopted in 2001 (in harmony with the CBD)**

**Entered into force in 2004**

**Objectives: Conservation and sustainable use of crop genetic resources and fair and equitable sharing of benefits arising from their utilization – for sustainable agriculture and food security**

# FARMERS' RIGHTS IN THE PLANT TREATY



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Farmers in Malawi  
Photo: Regine Andersen

## Farmers as guardians of genetic diversity

*The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world (...) have made and will continue to make for the conservation and development of plant genetic resources, which constitute the basis of food and agriculture production throughout the world. (Plant Treaty, Art. 9)*

*Affirming that this (contribution) is the basis of Farmers' Rights. (Preamble)*

A GLOBAL TREATY FOR FOOD SECURITY  
AND SUSTAINABLE AGRICULTURE

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

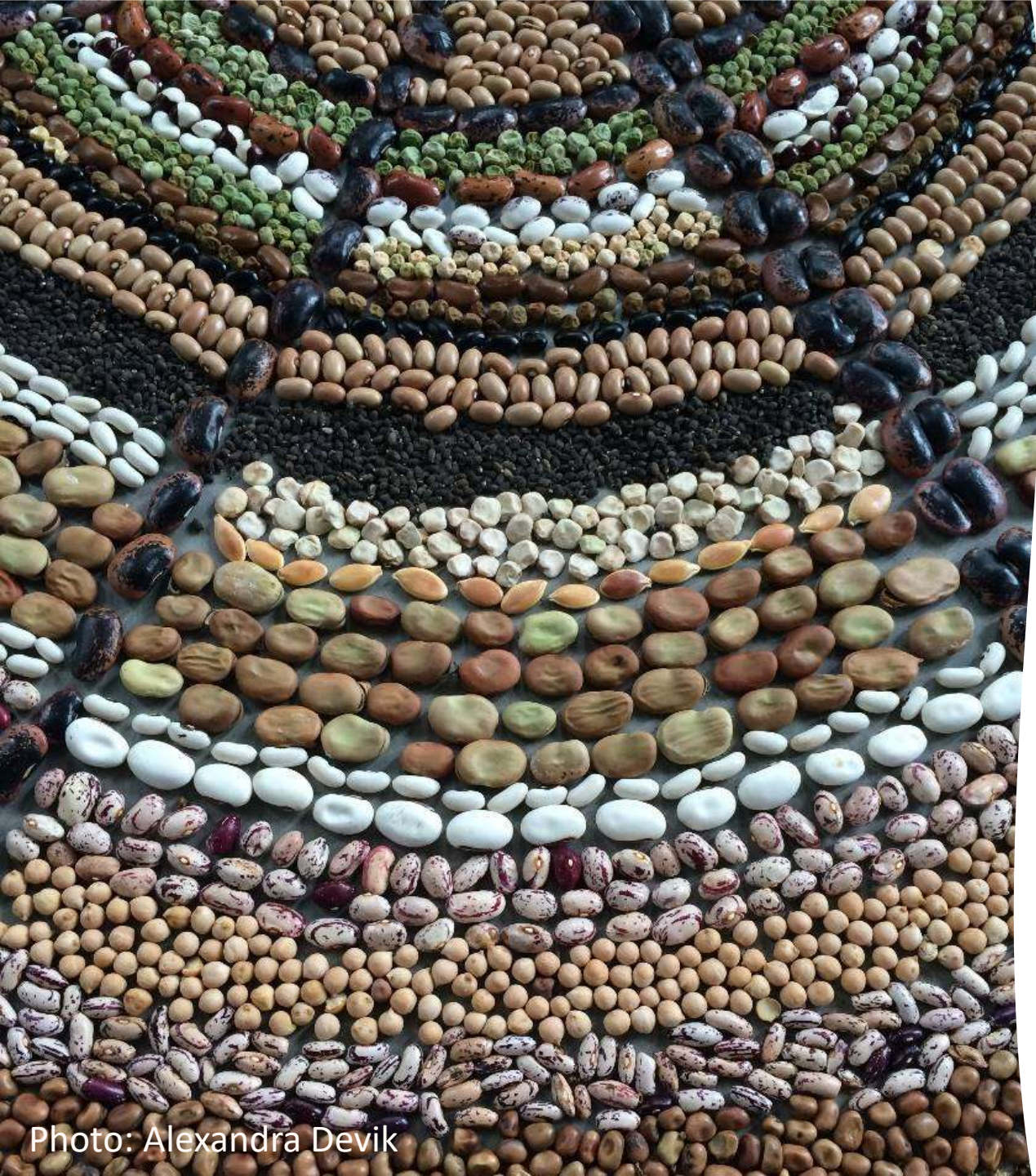


The Haldensborg Enigma: Bust of a Virtuous Man,  
by Giuseppe Arcimboldo, 1591,  
Skulpturpark Cisterne, Sweden



# Article 9: Farmers' Rights

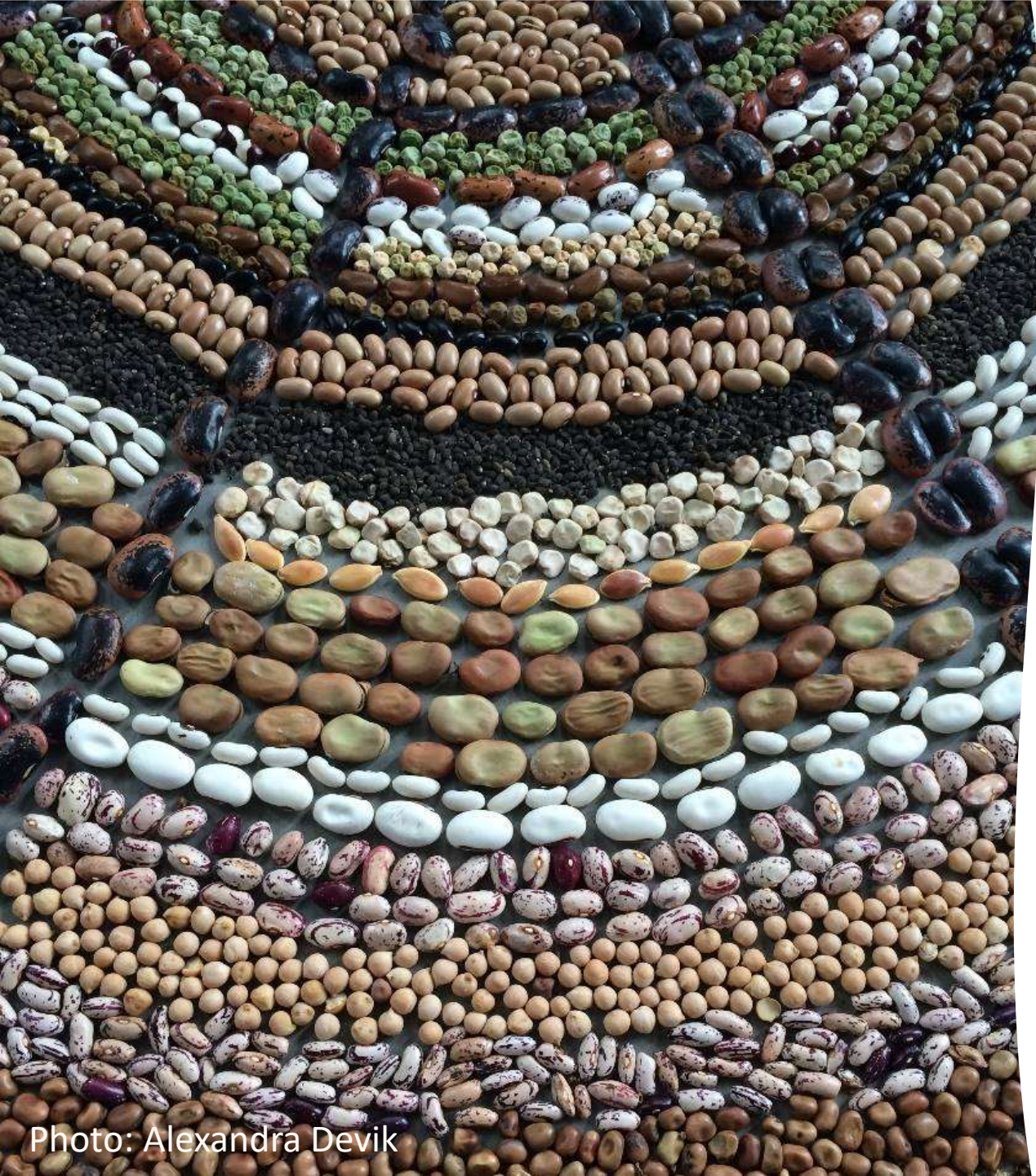
- The responsibility for realizing Farmers' Rights rests with national governments
- Possible measures to protect and promote Farmers' Rights include:
  - Protection of traditional knowledge relevant to PGRFA
  - The right to equitably participate in benefit sharing
  - The right to participate in national level decision making of relevance
- Addresses «any rights that farmers have to save use, exchange and sell farm-saved seeds»



# Supportive provisions

- **Preamble**
  - Addressing the importance of Farmers' Rights and the importance of promoting them at national and international levels;
- **Article 5: Conservation**
  - Providing for Contracting Parties to promote/support farmers and local communities' efforts to manage and conserve on-farm their crop genetics;
- **Article 6: Sustainable use**
  - Providing for Contracting Parties to enhance sustainable use, promote participatory plant breeding, the use of local varieties, on-farm diversity; and to review and adjust regulations on variety release and seed distribution.





# Supportive provisions

- **Article 13 on benefit-sharing in the MLS**
  - Benefits to be fairly and equitably shared include access to PGRFA, exchange of information and technology, capacity building, and sharing of monetary and other benefits
  - The benefits should flow primarily, directly and indirectly, to farmers in all countries, especially in developing countries, and countries with economies in transition, who conserve and sustainably utilize plant genetic resources for food and agriculture.



Photo: LI-BIRD

## A core challenge – and opportunities

- The Treaty does not define Farmers' Rights or oblige countries to specific measures of implementation
- As an international regime, the Treaty provides an arena to develop international norms
- Global Consultations and other processes (including regional) have been organized towards that end.

# NEGOTIATIONS ON FARMERS' RIGHTS AND GLOBAL CONSULTATIONS



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# The 2007 Lusaka informal international consultation



Organised by governments of  
Zambia and Norway and FNI

Around 30 participants, not  
all were there for the photo

# On-line consultations on Farmers' Rights

Centre for Genetic Resources, The Netherlands (CGN) and the Community Technology Development Trust (CTDT, Zimbabwe) organized an online consultation 2008 – 2009.

They recommended processes towards *inter alia*:

1. Developing **guidelines** for the introduction of legislation that would allow for the **unrestricted or less restricted sales of farmer varieties**.
2. Streamlining Article 9.3 into UPOV 78 and UPOV 91 to allow small-scale farmers in developing countries to save, use, sell and exchange protected varieties within their communities.

2 IT/GB-3/09/Inf. 6 Add.2

Results of an Online conference on **'Options for Farmers' Rights'**

*Initiated by the Centre for Genetic Resources, The Netherlands (CGN) and the Community Technology Development Trust (CTDT, Zimbabwe).*

*Jointly funded by the Directorate General of Development Cooperation (DGIS) of the Netherlands Ministry of Foreign Affairs and by OxfamNovib, the Netherlands.*

May 2009

1. Introduction

In 1989 for the first time, Farmers' Rights were formally recognized by the FAO Conference. In May 1992 the Convention on Biological Diversity was agreed in Nairobi, and with it a resolution stating by which approach the CBD would deal with the promotion of sustainable agriculture. In this resolution, the FAO was requested to explore ways and means to develop complementarity and cooperation between the CBD and the work of the FAO on plant genetic resources for food and agriculture. In addition, the FAO was invited to seek solutions to some outstanding matters in particular, including the question of implementation of Farmers' Rights. Agenda 21 also featured this request. This request to the FAO to address the specific requirements of plant genetic resources for food and agriculture marked the start of lengthy negotiations which finally led to the International Treaty on Plant Genetic Resources for Food and Agriculture (here referred to as "the Treaty").

In 1996 the Global Plan for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture was adopted by the International Technical Conference on Plant Genetic Resources in Leipzig. It, too, addressed the issue of Farmers' Rights. With the adoption of the Treaty in 2001, a legally binding international agreement for the management of plant genetic resources for food and agriculture was established. Article 9 of the Treaty specifies that the Contracting Parties to the Treaty are obliged to protect and promote Farmers' Rights, but at the same time are free to choose the measures they deem appropriate. Article 9 was the result of long and complex negotiations. The text of the Treaty does not offer a definition of Farmers' Rights, but simply describes the measures that are needed to promote and protect them (see box, p 3).

**Farmers' Rights are about recognition and compensation**

Recognition in the context of Farmers' Rights refers to the notion that farmers who maintain and develop their own farmers' varieties have been and continue to be major stewards of plant genetic diversity. Recognition is strongly reflected in Articles 9 of the Treaty.

Compensation in the context of Farmers' Rights refers to the idea that tangible benefits should be generated in order to facilitate continuing conservation and development of plant genetic resources by farmers.

**Farmers need 'freedom to operate'**

For farmers to maintain and develop their plant genetic resources, the legal environment needs to be optimally conducive. Adoption of seed legislation and of laws on intellectual property rights often served to regulate commercial agricultural production, but may also affect practices and livelihoods of small-scale farmers. The 'freedom to operate' has thus become a major issue in the context of Farmers' Rights.

**Farmers as breeders**

The notion of *farmers as breeders*, which was broadly recognized in the online conference is based on the idea that farmers as well as professional plant breeders have important knowledge and skills that can complement one another. In line with this idea, Participatory Plant Breeding (PPB) can be defined as a range of approaches that involve a **collaboration of different actors (including scientists, breeders, farmers and other stakeholders) that can effectively complement each other.**

# Global Consultation on Farmers' Rights in Addis Abeba, Ethiopia, 2010



Organised by **FNI, Norway** and **Institute of Biodiversity Conservation, Ethiopia**

E-mail consultation and conference: **160 participants**



# FARMERS' RIGHT GLOBAL CONSULTATION

27 - 30 SEPTEMBER 2016, BALI - INDONESIA



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The International Treaty  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



Indonesian Ministry of Agriculture



Norwegian Ministry  
of Agriculture and Food

# Kigali 2017 – Governing Body Session 7 :

## A breakthrough for Farmers' Rights





# Kigali 2017 (GB7): Res. 7/2017

## A breakthrough for Farmers' Rights

**“THE GOVERNING BODY (...) *Decides*** to establish an *Ad Hoc* Technical Expert Group on Farmers' Rights, with the Terms of Reference contained in the *Annex* to this Resolution (...)

**(Para 7)**

1. The *Ad-Hoc* Technical Expert Group on Farmers' Rights will:

- a. Produce an inventory of national measures that may be adopted, best practices and lesson learned from the realization of Farmers' Rights, as set out in Article 9 of the International Treaty;
- b. Based on the inventory, develop options for encouraging, guiding and promoting the realization of Farmers' Rights as set out in Article 9 of the International Treaty;

2. In the development of its work, the *Ad-Hoc* Technical Expert Group may consider the proceedings from the Global Consultation on Farmers' Rights from Bali 2016, as well as other relevant consultations. (...)" **(Annex:ToR)**

# Inventory of national measures, best practices and lessons learned from the realization of Farmers' Rights

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# OPTIONS FOR THE REALIZATION OF FARMERS' RIGHTS



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# Options for encouraging, guiding and promoting the realization of Farmers' Rights

Developed by the AHTEG-FR

Governing Body took note and  
requested the Secretariat to  
publish

**11 categories**

**32 options**

With explanations

With examples

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# Options for realizing Farmers' Rights

## Category 1: Measures for recognition of farmers

**Option 1A:** Establish **prizes and awards** to honour custodian/guardian farmers, farming communities and their organizations who contribute to the conservation and sustainable use of PGRFA in an outstanding manner

**Option 1B:** Highlight the role and expertise of farmers, farming communities and their organizations in the conservation and/or development of PGRFA by **mentioning their names and further details in official records**

**Option 1C:** Designate locally, nationally or Globally Important **Agricultural Heritage Systems sites for the conservation and sustainable use** of PGRFA and support farmers and their organizations in the sustainable management and governance of such sites



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# Options for realizing Farmers' Rights

## Category 2: Financial contributions

**Option 2A: Provide funds** for farmers, farming communities and their organizations who conserve, develop and sustainably use PGRFA, including for capacity development

**Option 2B: Contribute voluntarily to the Benefit-sharing Fund (BSF)** of the International Treaty

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# Options for realizing Farmers' Rights

## Category 3: Approaches to encourage income-generating activities

**Option 3A:** Conduct and/or support **promotional activities** to strengthen sustainable consumption for products derived from the conservation and sustainable use of PGRFA

**Option 3B:** **Develop value-chains** for local crops, varieties and evolutionary populations with specific adaptation, nutritional value, uses or other benefits

**Option 3C:** Create and support **markets for products** issued from farmers' varieties/farmers' seed systems

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# Options for realizing Farmers' Rights

## Category 4: Catalogues, registries and other forms of documentation of PGRFA

**Option 4A:** Recognize, collect and document traditional knowledge on PGRFA, including knowledge relating to cultivation and use

**Option 4B:** Conduct and/or support activities for conserving, sharing and disseminating traditional knowledge relating to PGRFA

**Option 4C:** Support farmers and farming communities to develop instruments to govern access to PGRFA over which they have established rights and traditional knowledge associated with PGRFA based on their local practices, procedures and community protocols



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# Options for realizing Farmers' Rights

## Category 5: In situ on-farm conservation and management of PGRFA

**Option 5A:** Support and safeguard **community biodiversity management** and/or other practical activities of farmers and farming communities for in situ/on-farm management of PGRFA

**Option 5B:** **Strengthen the role and identity of custodian/guardian farmers** and communities through social and cultural activities

**Option 5C:** Conduct and disseminate **studies on the participation of farmers and communities** in in situ/on-farm conservation, management and sustainable use of PGRFA, including technological, ecological, socioeconomic and cultural aspects

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# Options for realizing Farmers' Rights

**Category 6: Facilitation of farmers' access to a diversity of PGRFA through community seed banks, seed networks and other measures improving farmers' choices of a wider diversity of PGRFA.**

**Option 6A:** Establish and/or support **community seed banks, seed clubs, seed houses, seed-saver networks** or similar approaches

**Option 6B:** Organize and/or support **farmers' seed festivals and fairs**

**Option 6C:** Facilitate **farmers' access to material from genebanks**, research institutes, universities and the private sector

**Option 6D:** **Support farmers' seed systems and innovation**



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# Options for realizing Farmers' Rights

**Category 7: Participatory approaches to research on PGRFA, including characterization and evaluation, participatory plant breeding and variety selection.**

**Option 7A:** Involve farmers in the **characterization, evaluation and selection** of PGRFA, including landraces/farmers' varieties, and/or new varieties, populations and genebank accessions

**Option 7B:** Develop **participatory plant breeding** programmes or projects

**Option 7C:** Conduct **participatory research** on other aspects of PGRFA



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# Options for realizing Farmers' Rights

**Category 8: Farmers' participation in decision-making at local, national and sub-regional, regional and international levels.**

**Option 8A:** Ensure representation and effective participation of farmers and/or their organizations in **national advisory committees, commissions, councils or working groups** addressing issues relating to the conservation, management and sustainable use of PGRFA

**Option 8B:** Organize **policy dialogue processes** with participation of farmers and/or their representative organizations

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# Options for realizing Farmers' Rights

**Category 9: Training, capacity development and public awareness creation.**

**Option 9A:** Promote **understanding and raise awareness** of the importance of Farmers' Rights

**Option 9B:** Strengthen farmers' and their organizations' **capacities to effectively participate** in policy dialogue and decision-making processes

**Option 9C:** Enhance farmers' and their organizations' **technical and/or organizational capacities**, systems of knowledge and management that foster biodiverse systems, conservation and sustainable use of PGRFA

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# Options for realizing Farmers' Rights

**Category 10: Legal measures for the implementation of Farmers' Rights, such as legislative measures related to PGRFA (Co-chairs proposal)**

**Option 10A:** Realize Farmers' Rights within the **national legislation, administrative and policy framework** relevant for the conservation and sustainable use of PGRFA

**Option 10B:** Realize Farmers' Rights through reviewing and, as appropriate, adjusting, **intellectual property law** and/or related procedures

**Option 10C:** Realize Farmers' Rights through reviewing and, as appropriate, adjusting **seed laws and/or related procedures**

**Option 10D:** Realize Farmers' Rights through reviewing and, as appropriate, adjusting **national laws for access and benefit-sharing** and/or related procedures

**Option 10E:** **Study** national and international policies and laws regarding their contributions to the realization of Farmers' Rights

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# Options for realizing Farmers' Rights

## Category 11: Other measures/practices

**Option 11A:** Support farmers' conservation, management and sustainable use of PGRFA through targeted **emergency assistance**



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# Options for encouraging, guiding and promoting the realization of Farmers' Rights

**A NEW PLATFORM**

**FOR PROMOTING THE  
REALIZATION OF FARMERS'  
RIGHTS**

**HOW DO WE WANT TO USE IT?**

**A EUROPEAN APPROACH?**



# THE 10th SESSION OF THE GOVERNING BODY



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# Global Symposium on Farmers' Rights

12 - 15 September 2023

Organized by  
Secretariat of the ITPGRFA, FAO

Hosted by  
Ministry of Agriculture &  
Farmers Welfare, Govt. of India

ICAR Convention Centre  
NASC Complex, New Delhi, India



## Global Symposium on Farmers' Rights in New Delhi 12-15 September 2023



# पादप जीनोम संरक्षक पुरस्कार समारोह Plant Genome Saviour Awards Ceremony

12 सितम्बर, 2023 | 12 September, 2023

आईसीएआर कॉन्वेंशन सेंटर,  
एनएफएससी कॉम्प्लेक्स, नई दिल्ली-110012  
ICAR Convention Centre,  
NASC Complex, New Delhi-110012

पौधा विज्ञान और कृषक अधिकार संरक्षण प्राधिकरण  
कृषि एवं किसान कल्याण विभाग,  
कृषि एवं किसान कल्याण विभाग, भारत सरकार  
एन-2, ए ब्लॉक, एनएफएससी परिसर,  
नई दिल्ली-110012

Protection of Plant Varieties and  
Farmers' Rights Authority  
Ministry of Agriculture and Farmers Welfare,  
Government of India  
N-2, A-Block, NASC, DPS Marg,  
New Delhi-110012

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# Suggestions from India:

- Carry out inter-sessional work to develop guidelines and promote the Inventory
- Promote regional and South-South-cooperation
- Promote national implementation
- Boost outreach and capacity building
- Take measures to safeguard Farmers' Rights against intellectual property rights
- Strengthen benefit-sharing mechanisms
- Strengthen international collaboration

# NEW WEBSITE ON FARMERS' RIGHTS



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[www.farmersrights.org](http://www.farmersrights.org)

# Supporting the realization of Farmers' Rights with research based guidance

- A tool for decision makers, practitioners and stakeholders involved in the realization of Farmers' Rights
- An information source for researchers, journalists and other interested individuals
- Hosted by the Fridtjof Nansen Institute
- Funded by the Research Council of Norway
- Building on a previous website (since 2005)



[www.farmersrights.org](http://www.farmersrights.org)



[www.farmersrights.org](http://www.farmersrights.org)

# QUESTIONS FOR DISCUSSION



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# Questions

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- What could be a European approach to the realization of Farmers' Rights?
- How to follow up on that?
- What do we wish to achieve for Farmers' Rights at the 10th Session of the Governing Body of the Plant Treaty in November?

Thank you for  
your attention!

