



**THE FRIDTJOF NANSEN INSTITUTE**

**The  
Farmers'  
Rights Project**



**Global Consultations  
on Farmers' Rights in 2010**

**Report compiled by  
Regine Andersen and Tone Winge  
with contributions from Bell Batta Torheim**

**FNI Report 1/2011**





## Global Consultations on Farmers' Rights in 2010

Report compiled by  
Regine Andersen<sup>1</sup> and Tone Winge<sup>2</sup>  
with contributions from  
Bell Batta Torheim<sup>3</sup>  
March 2011

The 2010 Global Consultations on Farmers' Rights were organized and led by the Fridtjof Nansen Institute, Norway, and the Global Consultation Conference was hosted by Institute of Biodiversity Conservation, Ethiopia.



Sponsors of the 2010 Global Consultations on Farmers' Rights:



**Copyright © Fridtjof Nansen Institute 2011**

**Title**

Global Consultations on Farmers' Rights in 2010

**Publication Type and Number**

FNI Report 1/2011

**Pages**

131

**Authors**

Regine Andersen and Tone Winge, with contributions from Bell Batta Torheim

**ISBN**

978-82-7613-610-4-print version  
978-82-7613-611-1-online version

**ISSN**

1504-9744

**Abstract**

This report presents the results and proceedings of the Global Consultations on Farmers' Rights carried out in 2010. Consisting of both an e-mail based survey and an international consultation conference with regional components held in Addis Ababa, Ethiopia, the consultations were organized as a response to Resolution 6/2009 of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture, which called for regional workshops on Farmers' Rights. In the two phases of the consultations, a total of 171 experts and stakeholders 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 institutions and other relevant groups participated. The participants shared their views and experiences and discussed obstacles and options to the realization of Farmers' Rights. The consultation conference resulted in recommendations from the regional groups as well as joint recommendations from the conference. The prime concern among most participants is the need for guidance, support and capacity building to develop or adjust national legislation, policies, strategies and programs for the realization of Farmers' Rights.

**Key Words**

Farmers' Rights, International Treaty on Plant Genetic Resources for Food and Agriculture, plant genetic resources, traditional knowledge, participation, benefit sharing, seed regulations, consultations, survey

**Orders to:**

Fridtjof Nansen Institute  
Postboks 326  
N-1326 Lysaker, Norway  
Internet: [www.fni.no](http://www.fni.no)

Tel: (47) 6711 1900  
Fax: (47) 6711 1910  
Email: [post@fni.no](mailto:post@fni.no)

The Farmers Rights Project: [www.farmersrights.org](http://www.farmersrights.org)

---

<sup>1</sup> Dr. Regine Andersen is a Senior Research Fellow at the Fridtjof Nansen Institute, Norway, and Director of the Farmers' Rights Project ([www.farmersrights.org](http://www.farmersrights.org))

<sup>2</sup> Tone Winge is a Research Fellow at the Fridtjof Nansen Institute, Norway, and works on the Farmers' Rights Project.

<sup>3</sup> Bell Batta Torheim is an Advisor at the Development Fund Norway, and specializes in Farmers' Rights issues. As a rapporteur at the Global Consultation Conference in Addis Ababa together with Tone Winge, she provided major contributions to Part III of this report.

## Contents

Preface	v
Acronyms and Abbreviations	vii
Part I Introduction	1
1 Farmers' Rights and consultation processes	3
1.1 Brief introduction to Farmers' Rights	3
1.2 Previous consultation processes on Farmers' Rights	3
1.3 Background of the present consultation process	6
1.4 Objectives of the 2010 Global Consultations on Farmers' Rights	7
Part II E-mail based survey	9
2 About the survey	11
2.1 The questionnaire and its structure	11
2.2 Overview of respondents	12
3 Summary of findings from the e-mail based consultations	15
3.1 General views and experiences	15
3.2 Farmers' Rights related to the protection of traditional knowledge	16
3.3 Farmers' Rights to participate in equitable sharing of benefits	17
3.4 Farmers' Rights to participate in decision-making	17
3.5 Farmers' Rights to save, use, exchange and sell farm-saved seed	18
3.6 Additional issues and concerns	20
3.7 Summary of recommendations to the Governing Body	20
Part III Global Consultation Conference in Addis Ababa, Ethiopia	23
4 Field trip	25
5 Introductory addresses and presentations	27
5.1 Welcome address	27
5.2 Opening address	28
5.3 Words from the Secretariat	28
5.4 Introduction to the conference	29
5.5 Expectations to the conference	31
5.6 Presentation of the results of the global e-mail survey on Farmers' Rights	32
5.7 Discussion with emphasis on key issues to take into account at the conference	35
6 The realization of measures to protect traditional knowledge (Art. 9.2)	37
6.1 Overview of typical national measures	37
6.2 The story of the Potato Catalogue from Huancavelica, Peru	38
6.3 Farmers' views	39
6.4 Discussion on obstacles and options	39

7	The realization of Farmers' Rights to fair and equitable benefit-sharing [Art. 9.2.b]	41
7.1	Overview of typical national measures	41
7.2	The Benefit-Sharing Fund of the Plant Treaty, and the results from the Bogor meeting on non-monetary benefit-sharing	43
7.3	Success stories from Nepal	45
7.4	Farmers' views	46
7.5	Discussion on obstacles and options	47
8	The realization of Farmers' Rights to participate in decision making [Art. 9.2.c)	49
8.1	Overview of typical national measures	49
8.2	Success stories from Southern Africa	50
8.3	A farmer's views	51
8.4	Discussion on obstacles and options	52
9	Rights that farmers have to save, use, exchange and sell farm-saved seed [Art. 9.3]	55
9.1	Overview of typical national measures and the 2009 e-consultation on Farmers' Rights	55
9.2	The EU Project <i>Farm Seed Opportunities</i>	57
9.3	Success stories from Norway	59
9.4	A farmer's views	60
9.5	Discussion on obstacles and options	61
10	Summarizing key findings	65
11	Regional consultations with presentations and discussions in plenary	67
11.1	African region	68
11.1.1	Rights of farmers to save, use, exchange and sell farm-saved seed	68
11.1.2	Realization of measures to protect traditional knowledge	69
11.1.3	Realization of Farmers' Rights to fair and equitable benefit-sharing	70
11.1.4	Realization of Farmers' Rights to participate in decision-making	71
11.1.5	Other issues	72
11.1.6	Questions and comments from plenary	73
11.2	Asia and the Near East	74
11.2.1	Rights of farmers to save, exchange, use and sell farm-saved seed	74
11.2.2	Realization of measures to protect traditional knowledge	75
11.2.3	Realization of Farmers' Rights to participate in benefit-sharing	76
11.2.4	Realization of Farmers' Rights to participate in decision-making	77
11.2.5	Questions and comments from plenary	78
11.3	Latin American and the Caribbean	78
11.3.1	General recommendation	79
11.3.2	Rights of farmers to save, use, exchange and sell farm-saved seed	79
11.3.3	Realization of measures to protect traditional knowledge	79

11.3.4	Realization of Farmers' Rights to fair and equitable benefit-sharing	80
11.3.5	Realization of Farmers' Rights to participate in decision-making	81
11.3.6	Questions and comments from plenary	81
11.4	Europe and North America	82
11.4.1	Preamble	83
11.4.2	General recommendations on implementation of Article 9	84
11.4.3	Rights of farmers to save, use, exchange and sell farm-saved seed	84
11.4.4	Realization of measures to protect traditional knowledge	85
11.4.5	Realization of Farmers' Rights to fair and equitable benefit-sharing	85
11.4.6	Realization of Farmers' Rights to participate in decision-making	86
11.4.7	Questions and comments by plenary	87
12	Joint recommendations	89
12.1	General recommendations	89
12.2	Rights of farmers to save, use, exchange and sell farm-saved seed (Article 9.3)	90
12.3	Realization of measures to protect traditional knowledge (Article 9.2.a)	90
12.4	Realization of Farmers' Rights to fair and equitable benefit-sharing (Article 9.2.b)	90
12.5	Realization of Farmers' Rights to participate in decision-making (Article 9.2.c)	91
13	Closing the conference	93
	Attachment 1: Excerpts from the Plant Treaty	95
	Attachment 2: Resolution 6/2009	97
	Attachment 3: Questionnaire	99
	Attachment 4: List of respondents	113
	Attachment 5: Consultation Conference Programme	121
	Attachment 6: Participants at the Consultation Conference	129



## Preface

The background for the Global Consultations on Farmers' Rights is a decision made by the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Plant Treaty) at its third session (Resolution 6/2009). Here the Governing Body recalls the importance of fully implementing Farmers' Rights, and requests the Secretariat to convene regional workshops on Farmers' Rights to discuss relevant national experiences, subject to agreed priorities and to the availability of financial resources.

Due to the lack of financial and human resources available to the Secretariat, the Fridtjof Nansen Institute (FNI) in Norway<sup>1</sup> offered to seek funding and organize the consultations, and the Bureau of the Governing Body encouraged countries that are Contracting Parties to the Plant Treaty to consider providing funding to the consultations. The regional workshops were merged into one global consultation process with regional components, to minimize funding requirements and workload.

The consultation process consisted of two phases: an e-mail based questionnaire survey from July to September 2010, and a consultation conference held in Addis Ababa in November 2010. Altogether 171 experts and stakeholders participated<sup>2</sup> and 46 countries in Africa, Asia, the Near East, Latin America and the Caribbean, North America and Europe were represented. The participants came from farmer organizations, government institutions, the seed industry, NGOs, IGOs, research and other relevant groups. The FNI would like to thank all respondents and participants for their contributions to the 2010 Global Consultations on Farmers' Rights.

The Global Consultations Conference on Farmers' Rights was hosted by the Institute of Biodiversity Conservation (IBC), Ethiopia, and organized by the FNI. The FNI wishes to thank the IBC for hosting the conference and for all collaboration in this regard.

The findings from the e-mail based questionnaire survey and a preliminary report containing these were presented at the Global Consultation Conference. The consultation conference resulted in regional recommendations from the participant groups from (1) Africa, (2) Asia, (3) Latin-America and the Caribbean, and (4) Europe and North America. Furthermore, a set of joint recommendations to the Governing Body were developed. In light of the broad participation of stakeholders and regions, the recommendations mark a major step forward in the development of a joint understanding of the importance of Farmers' Rights and what it takes to realize them. In addition to being presented here, the recommendations are presented in an input paper submitted by Ethiopia to the Secretariat of the Plant Treaty (IT/GB-4/11/Circ.1).

---

<sup>1</sup> [www.fni.no](http://www.fni.no)

<sup>2</sup> When the input paper from the Consultations (IT/GB-4/11/Circ.1) was prepared, we operated with a different number of participants (177). However, a final count shows that the total number should be 171. The difference is a result of previous uncertainties regarding how to count different respondent categories.

The consultations have been made possible with the financial support of 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). The FNI wishes to thank all of the above for their support and collaboration.

Lysaker, Norway, 7 March 2011

Regine Andersen and Tone Winge

Fridtjof Nansen Institute

## Acronyms and Abbreviations

ABS	access and benefit sharing
AECID	Spanish Agency for International Development Cooperation
AIAB	Italian Association for Organic Agriculture
ASARECA	Association for Strengthening Agricultural Research in Eastern and Central Africa
CBD	Convention on Biological Diversity
CBRs	community biodiversity registers
CBSP	community based seed production
CEPA	Centre for Environmental Policy and Advocacy, Malawi
CFS	UN FAO Committee on World Food Security
CGIAR	Consultative Group on International Agricultural Research
CGN	Centre for Genetic Resources, the Netherlands
CSBs	community seed banks
CSOs	civil society organizations
CTDT	Community Technology Development Trust, Zimbabwe
DNA	Deoxyribonucleic Acid
DUS	distinctness, uniformity and stability
EOSA	Ethio-Organic Seed Action
ESA	European Seed Association
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FNI	Fridtjof Nansen Institute, Norway
GEF	Global Environment Facility
GIAHS	Globally Important Agricultural Heritage Systems
GM	genetically modified
GMOs	genetically modified organisms
IAASTD	International Assessment of Agricultural Science and Technology for Development
IBC	Institute of Biodiversity Conservation, Ethiopia
IGOs	intergovernmental organizations
IPR	intellectual property rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture (Plant Treaty)

LI-BIRD	Local Initiatives for Biodiversity, Research and Development, Nepal
MLS	Multilateral System of Access and Benefit Sharing (under the ITPGRFA)
NFU	National Farmers Union, Canada
NGOs	non-governmental organizations
NORAD	Norwegian Agency for Development Cooperation
PGRFA	plant genetic resources for food and agriculture
Plant Treaty	International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)
PPB	participatory plant breeding
SEARICE	Southeast Asia Regional Initiatives for Community Empowerment
SwedBio	Swedish International Biodiversity Programme
TK	traditional knowledge
UPOV	International Union for the Protection of New Varieties of Plants
VDC	local administrative level in Nepal
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

## **Part I**

### **Introduction**

This part offers a brief introduction to Farmers' Rights and the consultation processes since the First Session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Plant Treaty) on the topic, which provides an important basis for the 2010 Global Consultations on Farmers' Rights. It further explains the background for this new consultation round, its objectives and structure.



# 1 Farmers' Rights and consultation processes

## 1.1 Brief introduction to Farmers' Rights

Plant genetic diversity is probably more important for farming than any other environmental factor, simply because it is the factor that enables adaptation to changing environmental conditions, such as climate change. As farmers are custodians and developers of crop genetic resources in the field, their rights in this regard are crucial for enabling them to maintain their vital role for local and global food security; thus these rights are also central means in the fight against poverty. Basically, realizing Farmers' Rights means enabling farmers to maintain and develop crop genetic resources as they have done since the dawn of agriculture, and recognizing and rewarding them for this indispensable contribution to the global pool of genetic resources. The realization of Farmers' Rights is a precondition for the maintenance of crop genetic diversity, which is the basis of all food and agricultural production in the world. For this reason, Farmers' Rights constitute a cornerstone in the Plant Treaty, as their realization is a precondition for achieving the Treaty objectives of conservation and sustainable use of crop genetic resources with the ultimate goal of sustainable agriculture and food security (Art. 1).

Farmers' Rights are addressed in Article 9 of the Plant Treaty. In addition, several other provisions (e.g. on the conservation and sustainable use of crop genetic resources, as well as on access and benefit-sharing, international co-operation, the role of the Governing Body and compliance) contribute to the realization of these rights.<sup>3</sup> Article 9 and a selection of relevant provisions of the Plant Treaty can be found in Attachment 1.

## 1.2 Previous consultation processes on Farmers' Rights

At the first session of the Governing Body of the Plant Treaty in Madrid in June 2006, Norway with the support of several other countries proposed that Farmers' Rights be put on the Working Agenda of the Governing Body. Thus, the Governing Body discussed Farmers' Rights at its Second Session, which was held from 29 October to 2 November 2007. Towards this end an informal international consultation was organized in Lusaka, Zambia, in September 2007. The consultation was co-hosted by Zambia Agricultural Research Institute, Ministry of Agriculture and Food, Norway, and the FNI, Norway, and resulted in a report.<sup>4</sup> On the basis of the findings, Zambia and Norway submitted an input paper on Farmers' Rights<sup>5</sup> to the Governing Body of the Plant Treaty for consideration at its second session.<sup>6</sup>

---

<sup>3</sup> For more information on Farmers' Rights see [www.planttreaty.org](http://www.planttreaty.org) and [www.farmersrights.org](http://www.farmersrights.org)

<sup>4</sup> The report is available at: [www.fni.no/doc&pdf/farmers\\_rights\\_lusaka\\_consultation\\_final\\_report.pdf](http://www.fni.no/doc&pdf/farmers_rights_lusaka_consultation_final_report.pdf)

<sup>5</sup> The input paper is available at: <ftp://ftp.fao.org/ag/agp/planttreaty/gb2/gb2c1e.pdf>

<sup>6</sup> The information document from the Secretary is available at: <ftp://ftp.fao.org/ag/agp/planttreaty/gb2/gb2i6e.pdf>

On the basis of the Lusaka consultation, the Governing Body was recommended to consider the following proposals on how to assist countries in the realization of Farmers' Rights:

- The Governing Body may wish to ask the Secretary to collect information on national action plans, programmes and legislation related to Farmers' Rights as well as information on how international bodies and institutions could assist Contracting Parties in implementing Article 9 and the other provisions of the Treaty through which Farmers' Rights can be realized.
- The Governing Body may wish to consider how to guide and assist Contracting Parties in their implementation of Article 9 and related provisions. In this regard, the Governing Body may wish to consider developing guidelines for national implementation of Article 9 on Farmers' Rights. The guidelines should also take into account how the related provisions of the Treaty will assist in the implementation of Article 9 and how Farmers' Rights can be beneficial for implementation of these related articles. The guidelines could include practical and technical advice on steps and measures that Contracting Parties could take, in accordance with their needs and priorities.
- The Governing Body may wish to consider establishing an *ad hoc* working group mandated to develop the above draft guidelines through a transparent, participatory and inclusive process.

The input paper was presented at the Second Session of the Governing Body,<sup>7</sup> which, following a lengthy discussion, adopted a resolution on Farmers' Rights<sup>8</sup> in which:

- contracting Parties and other relevant organizations were encouraged to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders.
- the Secretariat of the Governing Body was requested to collect these views and experiences as a basis for an agenda item for consideration by the Governing Body at its Third Session to promote the realization of Farmers' Rights at the national level.
- the commitment to continue to involve farmers' organizations in the work of the Governing Body – as appropriate and according to the Rules of Procedures – was affirmed.

Some countries and relevant organizations submitted reports to the Secretariat of the Treaty on their views and experiences with the implementation of Farmers' Rights, which the Secretariat published as information documents for the Third Session of the Governing Body. The countries were Australia, Canada, Italy, Pakistan, France and Norway. The organizations were La Via Campesina, the Global Community Biodiversity Development and Conservation Network, Centre for Genetic

---

<sup>7</sup> More information can be found at: [www.planttreaty.org/meetings/gb2\\_en.htm](http://www.planttreaty.org/meetings/gb2_en.htm)

<sup>8</sup> This resolution can be found at:

[www.farmersrights.org/pdf/Farmers\\_rights\\_resolution.pdf](http://www.farmersrights.org/pdf/Farmers_rights_resolution.pdf)

Resources (The Netherlands) together with the Community Technology Development Trust (Zimbabwe) (more about this document below), and the FNI (Norway).<sup>9</sup>

In order to facilitate the exchange of views and experiences, the Centre for Genetic Resources, The Netherlands (CGN) and the Community Technology Development Trust (CTDT, Zimbabwe) took the initiative to open an on-line conference platform to discuss legal options to facilitate the contribution of farmers to on-farm maintenance and development of plant genetic resources (titled *Options for Farmers' Rights*). The initiative was taken in a search for agreed principles shared widely between major stakeholder groups, and with the ambition of presenting to the Governing Body alternative options for the implementation of Farmers' Rights with their advantages and disadvantages. The outputs of the on-line consultation process, as well as the results of several farmers' workshops held in parallel to the internet-based discussion in Malawi, Zambia and Zimbabwe, were summarized in the above-mentioned information document to the Governing Body. It contained the following recommendations:

- A request to the Secretary to study, in collaboration with FAO, the options for provisions in the national seed legislation of Contracting Parties, with a view to providing recommendations and/or guidelines for the introduction of legislation that would allow for the unrestricted or less restricted sales of farmers' varieties.
- A request to the Secretary of the Treaty to study, in collaboration with UPOV, possible means and mechanisms for streamlining Article 9.3 into UPOV 78 and UPOV 91 regarding protected varieties, in particular regarding the options for provisions in national legislation based on UPOV 78 or 91 that would allow small-scale farmers in developing countries to save, use, sell and exchange protected varieties within their communities.
- A request to the Secretary of the Treaty to study, in collaboration with UPOV, possible means and mechanisms for developing ways to further define 'small-scale farmers' in the legal context of UPOV 78, UPOV 91 and the Treaty, for the benefit of implementing legislation as suggested above in paragraphs 1) and 2).
- An encouragement to donors to provide financial assistance to continue with the on-line conference group as a forum for further discussion and exchange of experiences on the implementation of Farmers' Rights at the national level, or to continue helping discussions on the implementation of Farmers' Rights through any other means and approaches.
- An encouragement to donors to provide financial assistance to help developing countries to organize farmers' workshops to gather inputs for policy decisions on the implementation of Farmers' Rights, seed legislation, and intellectual property rights legislation.

---

<sup>9</sup> All information papers are provided at [www.planttreaty.org/meetings/gb3\\_en.htm](http://www.planttreaty.org/meetings/gb3_en.htm) under the headings of 'Information Documents' and 'IT/GB-3/09/Inf. 6'

At its Third Session in Tunis, 2009, the Governing Body adopted a new resolution<sup>10</sup> on Farmers' Rights which marks a substantial step forward for the implementation of Article 9 of the Plant Treaty. This is not only due to the contents of the resolution, but also because of the broad consensus that was reached among the Contracting Parties at an early stage in discussions on the proposed text. The 2009 resolution was proposed by Brazil on behalf of Africa, Latin America and the Caribbean. In the following operational paragraphs, the Governing Body:

- (xi) *Invites* each Contracting Party 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.
- (xii) *Encourages* Contracting Parties and other relevant organizations to continue to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders;
- (xiii) *Requests* 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, aiming at discussing 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;
- (xiv) *Requests* the Secretariat to collect the views and experiences submitted by Contracting Parties and other relevant organizations, and the reports of the regional workshops as a basis for an agenda item for consideration by the Governing Body at its Fourth Session, and to disseminate relevant information through the website of the International Treaty, where appropriate; and
- (xv) *Appreciates* the involvement of farmers' organizations in its further work, as appropriate, according to the Rules of Procedure established by the Governing Body.

### 1.3 Background of the present consultation process

The 2010 Global Consultations on Farmers' Rights are based on Governing Body Resolution 6/2009 (above), and in particular on the formulation requesting the Secretariat to convene regional workshops on Farmers' Rights, subject to agreed priorities of the work programme and budget, and to the availability of financial resources.

Due to the lack of financial and human resources available to the Secretariat, it was unable to convene the regional consultations as requested by the Governing Body. Consequently, the FNI, Norway, offered to organize the consultations, and the Bureau observed that the Secretariat was constrained in terms of financial and human resources. It consequently

---

<sup>10</sup> Available at: [www.farmersrights.org/pdf/ResolutionFR-GB3.pdf](http://www.farmersrights.org/pdf/ResolutionFR-GB3.pdf)

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. It was decided that the consultation process should include an e-mail-based questionnaire survey to ensure the broadest participation possible, and a global consultation conference.

A draft concept note was developed and circulated in the Bureau of the Treaty, and among key stakeholders and potential donors. Comments were provided, and the concept further developed. The IBC, Ethiopia, kindly offered to host the consultation conference in Addis Ababa, which greatly helped bringing the process forward. As a highly diverse country in terms of plant genetic resources for food and agriculture and a central actor in terms of Farmers' Rights, Ethiopia would provide an excellent venue.

From June 2010 and onwards, commitments to support the consultation process were made 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). This allowed the initiation of the e-mail consultations. In August, the funding situation allowed us to start preparing for the consultation conference, and in November 51 participants gathered in Ethiopia to discuss national experiences and the way forward with regard to the realization of Farmers' Rights.

#### **1.4 Objectives of the 2010 Global Consultations on Farmers' Rights**

The overall goal of the 2010 Global Consultations on Farmers' Rights was to support the implementation of Farmers' Rights at the national level, as set out in Article 9 of the Plant Treaty. Its project objective was to fulfil the provision of Resolution 6/2009 on regional consultations on Farmers' Rights.

In particular, the consultations were aimed at the sharing of national experiences on the implementation of Farmers' Rights among Contracting Parties of each region, and the identification of gaps and needs at the national level with regard to the further implementation of Farmers' Rights.



## **Part II**

### **E-mail based survey**

This part of the report presents the findings from phase 1 of the Global Consultations on Farmers' Rights; the e-mail based survey which was carried out July – September 2010. It started out with the distribution of questionnaires (see attachment 3), in order to involve as many stakeholders as possible, in all parts of the world. All in all, 61 questionnaires were completed by a total of 124 participants. In addition, seven contributors chose to submit their views and experiences in the form of six position papers. This means that altogether 131 people participated in this part of the consultation process. These participants came from 36 different countries.

The questionnaire was designed to obtain information in the context of Resolution 6/2009 of the Governing Body and to facilitate discussions at the consultation conference.

The full report from the e-mail based questionnaire survey is available at the website of the Farmers' Rights Project at FNI.<sup>11</sup> Here, we present an extended summary of findings, after an introduction to the questionnaire and an overview of respondents.

---

<sup>11</sup> [www.farmersrights.org](http://www.farmersrights.org)



## 2 About the survey

In this chapter the questionnaire and its structure is presented and an overview of respondents is provided.

### 2.1 The questionnaire and its structure

The e-mail-based consultation was based on a questionnaire that has been distributed widely (see 2.2 below). The contents of the questionnaire build on Resolution 6/2009, which invites contracting parties to submit their views and experiences regarding the implementation of Farmers' Rights, and 'to consider reviewing and, if necessary adjusting, its national measures affecting the implementation of Farmers' Rights as set out in Article 9 of the Plant Treaty, to protect and promote Farmers' Rights'. The latter means not only national measures for the implementation of Farmers' Rights, but also other national measures that may affect the implementation of Farmers' Rights. On this background the questionnaire addressed main achievements and obstacles with regard to the realization of Farmers' Rights; national measures affecting the realization of Farmers' Rights; an evaluation of these measures; identification of gaps and needs for the realization of Farmers' Rights; recommendations to the Governing Body as to how it can support the implementation of Farmers' Rights; and any other views the respondents may wish to share.

The four elements of the Plant Treaty for the realization of Farmers' Rights at the national level provided the basic structure of the questionnaire:

- The protection of traditional knowledge relevant to plant genetic resources for food and agriculture (Art. 9.2.a)
- The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture (Art. 9.2.b)
- The right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture (Art. 9.2.c)
- Any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material (Art. 9.3)

The questionnaire included a mix of questions with answer categories, and open questions. The questions with answer categories were developed on the basis of previous research, and enabled us to quantify the response. The open questions were meant to invite the free sharing of views and experiences, and enable a more qualitative analysis of the response. The text of the questionnaire is attached to this report.

The questionnaire was translated into French and Spanish (from English), and answers in French and Spanish were translated back into English for this report. Whereas this report is only available in English (due to financial constraints), the input paper from the consultation process, submitted

to the Secretariat by Ethiopia and made available to the Governing Body as IT/GB-4/11/Circ. 1, is available also in French and Spanish.<sup>12</sup>

## 2.2 Overview of respondents

The e-mail consultation was open to all interested in participating. Invitations were sent to delegates from Contracting Parties, farmers' organizations, NGOs and seed industry organizations that have participated in the three sessions of the Governing Body, as well as to a mailing list of such stakeholders around the world who have not had the chance to attend Governing Body sessions. We asked recipients to forward the questionnaire in their networks. We also encouraged NGOs and farmers' organizations to visit farming communities without e-mail access, in order to bring their views and experiences into the consultations. In addition, the questionnaire was distributed via the websites of the Plant Treaty<sup>13</sup> and the Farmers' Rights Project.<sup>14</sup>

By the time the FNI began the analysis of the responses, altogether 61 questionnaires had been received from various relevant stakeholder groups,<sup>15</sup> along with 6 position papers from 7 other respondents.<sup>16</sup> As some of the questionnaires had been filled out by groups and some of the respondents had consulted with others and provided a list of their names, a total number of 131 participants (including those who sent in position papers) took part in this first phase of the consultations. Since the questionnaires from the Latin American region all were filled out by groups of people, we speak of 'respondent groups' when referring to these questionnaires.

The respondents came from 36 different countries.<sup>17</sup> Some were the sole representative of their countries, while others were one of many respondents from the same country. From the African region 11 countries were represented, while for Europe the number was 10. Five Latin American countries were represented, as were seven Asian, two North American and one country from the Near East.

Although only 11 African countries were represented among the participants, altogether 21 questionnaires were received from this region. From Latin America, altogether five questionnaires were received from respondent groups in five countries. The five questionnaires from North

---

<sup>12</sup> English version: [www.itpgrfa.net/International/sites/default/files/gb4c01e.pdf](http://www.itpgrfa.net/International/sites/default/files/gb4c01e.pdf),  
Spanish version: [www.itpgrfa.net/International/sites/default/files/gb4c01s.pdf](http://www.itpgrfa.net/International/sites/default/files/gb4c01s.pdf),  
French version: [www.itpgrfa.net/International/sites/default/files/gb4c01f.pdf](http://www.itpgrfa.net/International/sites/default/files/gb4c01f.pdf)

<sup>13</sup> [www.planttreaty.org](http://www.planttreaty.org)

<sup>14</sup> [www.farmersrights.org](http://www.farmersrights.org)

<sup>15</sup> One of these questionnaires arrived too late for the answers to closed-ended questions to be counted, but the answers to open-ended questions were analysed together with the other responses.

<sup>16</sup> Some position papers were provided by more than one respondent.

<sup>17</sup> Some of the participants who sent in position papers have not been included in this figure since they represented regional organizations, but the total number of countries would not have been any higher if they had, as the countries in question were already represented.

America were generally counted together with the 13 questionnaires from Europe<sup>18</sup>, while the six questionnaires from the Near East were counted with the 11 from Asia, to yield larger groups of respondents for the analysis.

A wide range of stakeholder groups were represented among the respondents. To make it possible to identify differences of opinion that might exist among stakeholders, respondents were sorted into five groups based on their own statements regarding affiliation. These five groups were as follows: 'farmers' (both farmers and representatives of farmer organizations), 'seed industry' (representatives from the seed industry), 'the public sector' (government officials, researchers from state universities and extension workers as well as other state representatives), 'NGOs' (representatives of various non-governmental and civil society organizations), and 'others' (students and other respondents with unclear affiliations).

The biggest stakeholder group in the survey was the NGO group: altogether 24 questionnaires came from representatives of various NGOs and CSOs.<sup>19</sup> The stakeholder group with the second highest number of respondents was the public sector, with 15 questionnaires. Thirteen questionnaires were filled in by farmers, while three seed industry representatives sent in questionnaires (questionnaires only, not including position papers). Six respondents were categorized as belonging to the 'others' category.

Some regional groups were more diverse with regard to stakeholder representation than others. The respondent groups from Latin America all represented various farmer groups, whereas the respondents from the Near East all came from the public sector. The group of respondents from Africa consisted mainly of NGO representatives, while five came from the public sector, two were farmer representatives and two were categorized as 'others'. NGO representatives also dominated the Asian respondent group, with seven respondents from this category, one farmer representative, two representatives from the public sector and one student (categorized as 'other'). The respondent group from North America and Europe was made up of five farmer representatives, three seed industry representatives, two representatives from the public sector, four NGO representatives and three 'other' respondents. This group had the most even distribution of respondents across stakeholder categories.

The contents of the four positions papers received from the seed industry related mainly to the question of Farmers' Rights to save, use, exchange and sell farm-saved seed and were therefore analysed in that context.

---

<sup>18</sup> These 13 questionnaires from Europe include the one that arrived late and whose answers to closed-ended questions were therefore not counted in the analysis.

<sup>19</sup> These 24 questionnaires include the one that arrived late and whose answers to closed-ended questions were therefore not counted in the analysis.



### 3 Summary of findings from the e-mail based consultations

In this chapter, the findings from the e-mail based survey on Farmers' Rights have been summarized. The full report from the e-mail consultations is available at the website of the Farmers' Rights Project.<sup>20</sup>

#### 3.1 General views and experiences

Certain general tendencies can be observed as to the views and experiences of the respondents, despite regional differences. Farmers' Rights are considered important by a clear majority of the respondents, and there is greatest consensus among the respondents regarding the importance of traditional knowledge. Traditional knowledge also stands out as the aspect of Farmers' Rights mentioned by most respondents in connection with achievements. As to achievements in general, NGO and IGO projects seem to dominate, but there are also examples of government-run projects, in addition to achievements with regard to improved legislation. Although some progress has been made, most respondents rate their own countries' performance in realizing Farmers' Rights as insufficient.

There is a strong connection between the obstacles and the measures noted by respondents:

- 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.

---

<sup>20</sup> [www.farmersrights.org](http://www.farmersrights.org)

- 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.

Some differences of opinion can be seen among the various stakeholder groups represented in the survey, especially in Europe between the representatives of the seed industry and the other respondents. In general, those from the seed industry rate rights related to farm-saved seed as less important than do the other respondent categories; furthermore, they tend to be more satisfied with the situation with regard to the realization of Farmers' Rights in their country, seeing fewer obstacles and suggesting somewhat different measures. On the other hand, the group of respondents from the European region is more divided along stakeholder lines than the other regional groups.

### **3.2 Farmers' Rights related to the protection of traditional knowledge**

The protection of traditional knowledge (Art. 9.2.a) is a less controversial subject than the other elements of Farmers' Rights, and there is substantial agreement among the respondents about the importance of such knowledge. While some respondents think that the most important aspect is to save this knowledge from misappropriation, the majority of respondents in all regions feel that saving what remains of traditional knowledge from becoming lost is most important in their countries.

Respondents generally agree about the problematic and increasing loss of traditional knowledge, and also about some of the reasons. Changing agricultural practices – including increased use of hybrid varieties – new dietary preferences, lack of interest among the young and the danger of losing even more traditional knowledge when the older generation dies out are mentioned as factors by many.

As to national measures in the various countries, measures like intellectual property laws tend to be more common than laws and policies on the protection of traditional knowledge. Measures to document traditional knowledge seem more widespread than legal measures to protect it. Many respondents opined that the effects of their country's seed laws and laws on intellectual property rights were negative. On the other hand, the effects of policies/programmes on traditional knowledge, measures to document traditional knowledge and projects encouraging the sharing of such knowledge were generally considered to be positive.

Law and policy are mentioned by the highest number of respondents in connection with gaps and the protection of traditional knowledge. In some cases it is a question of such measures not being in place, while

other respondents stress implementation, enforcement or reform of existing legislation and policies. The need to document remaining traditional knowledge, and to spread awareness about its importance, is also seen by many respondents as crucial.

### **3.3 Farmers' Rights to participate in equitable sharing of benefits**

According to the respondents in this survey the most common measures affecting equitable benefit-sharing (Art. 9.2.b) nationally are patent laws, agricultural policies and incentives in general, plant breeders' rights legislation, participatory plant-breeding projects and community seed banks. Among these, the last two were generally regarded in a more favourable light as to their effects than the first three, although some stakeholder differences could be seen in Europe.

The least common measures affecting benefit-sharing in the countries represented in this survey, according to the participating respondents, are national funds for benefit-sharing, benefit-sharing legislation, awards, capacity-building for Farmers' Rights and financial support to diversity farming. On the other hand, most of these measures were generally seen as having positive effects by respondents from countries that had such measures.

Also with regard to benefit-sharing, the lack of relevant legislation and policies and the lack of awareness and knowledge were mentioned as important shortcomings by the highest number of respondents across the various regions.

### **3.4 Farmers' Rights to participate in decision-making**

As for measures that affect farmers' participation in decision-making (Art. 9.2.c), the most common measures across regions were participation in relevant committees and hearing procedures involving farmers' organizations. More than half of the respondents said their countries have such measures. The measure fewest respondents said their countries had was 'decision-makers are trained in farmers' rights'. Only 10 respondents said their countries had this measure. Of the remaining three measures, legislation that covered the legal right to participation was cited by one third of the respondents as something their country had, while only 15 and 16 respondents, respectively, said their countries have capacity-building measures for farmer participation and facilitation of farmer participation in media.

The facilitation of participation in the media, capacity-building for farmer participation, and training of decision-makers in Farmers' Rights were regarded as having positive effects by a clear majority of respondents who indicated an opinion. Most respondents that gave their opinion also regarded participation in relevant committees as having positive effects, but for this measure the majority was smaller. It is worth noting, however, that more respondents considered the effects to be mixed or non-existent than negative. On the other hand, a majority of those indicating an opinion saw legislation covering the right to participate in decision-

making and hearing procedures involving farmers' organizations as having negative or mixed/no effects.

### **3.5 Farmers' Rights to save, use, exchange and sell farm-saved seed**

A basic question when it comes to "any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material" (Art. 9.3) is how to strike the best balance between the rights of farmers and of breeders in this regard. This is decisive for ensuring both that farmers can continue their crucial contribution to the conservation and sustainable use of crop genetic diversity to the greatest possible extent, and that the seed industry has the income required to continuing its pivotal work in providing agriculture with the best possible plant varieties. Both are crucial to future food security – neither can be sacrificed for the benefit of the other.

The survey shows that national legislation in most countries in the North limits Farmers' Rights to a substantially greater extent than in most countries in the South. All over the world, legislation on intellectual property rights (patents and plant breeders' rights) tends to develop in a more breeder-friendly way, by restricting farmers' practices of saving, using, exchanging and selling farm-saved seed of protected varieties. The extent to what these practices are restricted varies from country to country, depending on the coverage of intellectual property protection. This development is seen as positive by the seed industry and some state representatives, as it creates better incentives for innovations in plant breeding, for the benefit of farmers and for society as a whole. These respondents argue that small-scale farmers in developing countries may save and use farm-saved seed of protected varieties on their own land holdings, whereas farmers in the North may do so in certain cases, in return for remuneration to the breeder. They argue against the exchange and sale of seed from protected varieties among farmers.

However, this development is considered negative by most farmers and NGOs who responded to this survey, who mentioned that it impinges on their customary rights to freely save, use, exchange and sell any farm-saved seed, and in some countries even prohibits all these practices with regard to protected varieties. Some countries (Norway among them) seek to balance farmers' and breeders' rights by allowing farmers to save, use and exchange farm-saved seed from protected varieties, but not to sell it. Other countries (e.g. India) follow the same lines but allow farmers also to sell seed from protected varieties, as long as this is not done under the original brand name.

Regulations on variety release and seed distribution have been introduced in most countries covered by this survey. These regulations cover not only varieties that are protected by intellectual property rights, but all varieties and seed on the market, including land races and farmers' varieties. Again the rules are strictest in the North, where the exchange and sale of seed among farmers is prohibited in many countries, and where only approved conservation varieties can be sold from authorized seed shops – within certain limits. The European seed industry is largely

positive to such regulations, arguing that they support plant health and seed quality, whereas the issue was not mentioned by the seed industry in other regions. However, farmers, NGOs and state representatives are critical, on grounds that such regulations seriously limit the legal possibilities of farmers in the North to engage in the conservation and sustainable use of crop genetic diversity. Encouragement and incentives are what is needed.

Some European countries, like Norway, are searching for more liberal solutions to enable the on-farm conservation and sustainable use of crop genetic diversity, and allow farmers to exchange and sell seed of any variety on a non-commercial basis. In the South, the issue is not seen as that pressing, even though farmers and NGOs from some countries mentioned it as an increasing problem. It seems, however, that to the extent that such regulations are in place, they are hardly enforced, due to the informal character of the seed market in many developing countries. Also in Northern countries there are examples of farmers exchanging and selling seed, even when it is legally prohibited. The practice seems still to be tolerated in other countries, like Italy and Austria.

Seed fairs and informal seed exchange networks are found in many of the countries covered by this survey, in the South as well as in the North. They have often only local outreach, although some seed exchange networks have somewhat broader coverage. These activities seem to be carried out mainly by NGOs. Respondents generally saw them as positive to farmers' rights to save, use, exchange and sell farm-saved seed, even though a very few respondents from all categories felt that such effects could have negative, mixed or no effects at all. Other measures mentioned by respondents were mainly NGO activities to support and promote seed-saving and exchange practices as well as adding value to farmers' varieties.

The major gaps and needs mentioned from the various regions are more or less the same, although their order differs:

- The majority of respondents perceived the lack of adequate laws and regulations to provide for farmers' rights to save, use, exchange and sell farm-saved seed as a pressing shortcoming. The current development towards restricting farmers' rights with regard to protected varieties as well as land races and farmer varieties is seen as threatening the ability of farmers to contribute further to the on-farm conservation and sustainable use of crop genetic diversity. This stand was shared by farmers' organizations and NGOs, as well as some respondents from state authorities. A few representatives from the seed industry argued that breeders' rights should be strengthened instead, for the benefit of farmers and society as a whole, and one position paper from the seed industry argued that restrictive variety release and seed distribution regulations were required to ensure the quality of distributed seed.
- A major gap is the lack of awareness among farmers and decision-makers with regard to the consequences of legislation affecting farmers' rights to save, use, exchange and sell farm-saved seed, according to a majority of respondents: the more restrictive such legislation is,

the more it limits the ability of farmers to further contribute to the on-farm conservation and sustainable use of crop genetic diversity. Awareness-raising and capacity-building measures were suggested here.

- Several respondents stressed the need to support and promote informal seed systems, such as seed fairs, seed networks, and local seed banks, in order to encourage the work to conserve and sustainably use crop genetic diversity.
- Farmers from Latin America highlighted the need for adequate recognition of the contributions of local organizations and NGOs in promoting farmers' practices in terms of saving, using, exchanging and selling farm-saved seed.

### **3.6 Additional issues and concerns**

The most important additional issue to those taken up in the survey, and which was raised by many respondents, was the need to avoid the use of GMOs in order to avoid the contamination of the world's plant genetic heritage and ensure farmers' rights to choose what to grow.

Another issue addressed was the problem of de-registration of seed, i.e. that varieties were removed from the official catalogues once their plant variety protection period ended. This was described as a widespread practice that removes varieties from the market and reduces the diversity available to farmers.

Some respondents stressed that seed regulations were developed and adapted to the needs of the formal seed industry and therefore not suited to accommodate the requirements related to conservation and sustainable use of crop genetic diversity. One conclusion drawn was therefore that the legislation would need to be divided, and new regulations would need to be developed to promote rather than to limit the conservation and sustainable use of crop genetic diversity.

Other stakeholders addressed the need to create space for dialogues between the different stakeholders in Farmers' Rights issues in order to develop a joint understanding of needed measures.

### **3.7 Summary of recommendations to the Governing Body**

The responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments, according to Article 9 of the International Treaty. Nevertheless, the Governing Body of the Treaty, which consists of all contracting parties, is to promote the full implementation of the Treaty, including the provision of policy direction and guidance, and monitoring of implementation (Article 19). According to Article 21, the Governing Body is to ensure compliance with all provisions of the International Treaty. The Preamble highlights the necessity of promoting Farmers' Rights at the national as well as the international levels. A crucial question is thus how the Governing Body can promote compliance with the provisions of the Treaty that relate to Farmers' Rights.

The primary concern among most respondents who answered this question (27) is the need for support from the Governing Body to develop national legislation, policies, strategies and programmes for the realization of Farmers' Rights. In this context, also the establishment of adequate bodies and implementation practices was raised as an issue in need of support.

Technical and financial support is required. Respondents from Africa and Asia explicitly highlighted the need for financial support. However, some of these respondents also suggested that countries should establish financial mechanisms on their own, to ensure the realization of Farmers' Rights.

In Europe, the majority of the respondents were particularly concerned about the need to amend regulations on variety release and seed marketing, as well as plant breeders' rights and patent laws, in order to allow farmers to continue maintaining their practices of conservation and sustainable use of plant genetic resources for food and agriculture. Also, several respondents from Europe and North America wanted the marketing of seeds of genetically modified plants to be prohibited, due to the danger of GM contamination of local varieties.

The need to support awareness-raising and capacity-building was a particularly important concern among the African respondents, and was also raised by some respondents from Asia and Europe/North America (altogether 16 respondents). Other respondents saw it as implicit in other recommendations. Awareness-raising and capacity-building measures are required for farmers, government officials, researchers and the seed sector as such. The Governing Body has key role to play in this regard, to facilitate and ensure support for such activities. Print and electronic media should be utilized and national capacity-building programmes launched. Mass education and awareness programmes were also suggested.

From all regions, recommendations were provided on how to enable farmers' participation in decision-making at all levels. Awareness-raising and capacity-building were seen as important means to enable the development of such participation. The consulted farmers in Meso-America paid particular attention to this issue. Their recommendations: to acknowledge the contribution of farmers to the conservation and sustainable use of crop genetic diversity through disseminating information about this contribution; to create space for the active participation of farmers under the International Treaty; to take into account the opinions and situation of farmers in the decision-making process of the Governing Body; to open space through various channels/media in which farmers can express themselves and ensure recognition of their rights; and to put pressure on governments for greater openness in decision-making processes for farmers.

Several respondents from Africa, Asia, Europe and North America voiced the need to improve informal seed systems, whereas this concern was implicit in several other recommendations (about legislation, policies and capacity-building). Research, participatory plant breeding and seed banks/networks were mentioned as important measures. It was also suggested to develop a mechanism under the Treaty to allow for farmer-

to-farmer exchange of plant genetic resources without necessarily going through the current Multilateral System requirements. A conducive legal framework is a precondition for such activities (see above).

Two respondents from Europe highlighted the need to understand Farmers' Rights in the larger context of the International Treaty. It is important to focus on the main purpose of the Treaty and recognize the linkages between the provisions on Farmers' Rights and other sections of the Treaty, such as the parts on conservation, sustainable use, access and benefit-sharing. This is important for realizing the objectives of the Treaty and ensuring that it will not fail.

One respondent each from Africa, Asia and Europe voiced the need to develop minimum standards for Farmers' Rights on the basis of national and regional experiences, and bringing these to a level of international harmonization. Here the Governing Body would have a key role.

## **Part III**

### **Global Consultation Conference in Addis Ababa, Ethiopia**

The Global Consultation Conference on Farmers' Rights was held in Addis Ababa, 23–25 November 2010, with the participation of 51 experts and stakeholders from Africa, Asia, Latin America, the Caribbean, Europe and North America, and covering all major stakeholder groups. The conference was hosted by the Institute of Biodiversity Conservation (IBC), Ethiopia, organized by the Fridtjof Nansen Institute (FNI), Norway, and sponsored 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).



## 4 Field trip

One day prior to the consultation conference, a field trip was organized for those conference participants who had already arrived. The Institute of Biodiversity Conservation (IBC) had organized a visit to a rural area about 80 km south of Addis Ababa where a farmers' association runs a community seed bank with the assistance of Ethio-Organic Seed Action (EOSA) and is involved in an experimental plot with IBC researchers.

After the group of participants from the consultation meeting arrived in the field, they were met by 14 farmers from the farmers' association. This association is made up of altogether 538 farmers, and these members are entitled to access seed from the community seed bank run by the association. Membership has grown the last year; the association currently has 475 male and 63 female members. To join, it is necessary to have land and live in a nearby community. Anyone wishing to join must pay 25 kg seeds and ETB 20,- in registration fee. Those who receive seed are expected to give back a slightly bigger amount after harvesting; if, for example, a farmer receives 50 kg to sow he or she is expected to return 60 kg after harvest. In this way, the amount of seed available to the association grows every year, enabling them to distribute seed to more farmers. Nevertheless, the association has experienced some difficulty in multiplying large enough quantities of seed.

One farmer estimated that about 60% of the harvest in the area comes from local varieties, but the group of farmers could not specify the exact number of local varieties in use. Many of these are local varieties that were re-introduced to the communities after drought had caused them to disappear. The area suffered severe drought in the 1970s; famine was a big problem and many people left the area. As a result, many land races were lost and the farmers thought they would never see these varieties again. However, because Ethiopian researchers, many of them from the IBC, had collected local varieties from different regions in Ethiopia, these varieties could be restored to the communities and multiplied. Many of the trials with reintroduced varieties are performing better in this area than elsewhere, so their seed is in great demand. To meet the demand for seed the farmers at one point tried to collaborate with a seed company for the purpose of seed multiplication, but due to the company's concerns about seed quality the project failed. The farmers therefore underlined their need for increased support to be able to multiply the amount of seed required.

The farmers also showed the conference participants the community seed bank they run. This was originally initiated by the IBC as a GEF project, and the farmers now receive support from EOSA. In the seed bank they keep seeds from all the varieties grown in the field. The bank functions both as a seed bank and as a grain bank, but at the time of the visit it was empty because it was harvest season and the farmers had not yet deposited their contributions. In addition, the bank contains a germplasm reserve where small samples are kept of all varieties as a backup in case of loss due to, for example, disease or drought. The purpose of the community seed bank is to minimize risk.

Talking with the representatives from the farmers' association, various conference participants asked questions. The Ethiopian farmers were particularly interested in hearing more from and exchanging experiences with Mr. Surya Prasad Adhikari, a Nepalese farmer. They were also surprised to find that he spoke English.

Conference participants were also shown the experimental plots of an IBC project started in 2009 to select farmers' varieties of wheat and barley especially suited for meeting the challenges posed by climate change. Varieties are chosen which show adaptive qualities according to the criteria used by the local women. In this region, high-yielding varieties have performed poorly due to climate variability, but the experiment also includes some improved varieties for control purposes. The women use the local knowledge acquired through generations to assess the varieties. Among the factors taken into consideration are the number of spikes, performance, vigour, and stems. Green leaves are seen as an indication of adaptive qualities, while the plants with brown or dry leaves are not selected. They also consider cooking qualities and colour. Selection is done both of entire plots and of individual plants.

All in all, the conference participants were very interested in both the community seed bank and the experimental plots, as useful examples of how to approach sustainable use of crop genetic resources for the benefit of farmers.

## 5 Introductory addresses and presentations

The first day of the conference, 23 November, was devoted to plenary sessions. In this chapter the introductory addresses and presentations are presented.

### 5.1 Welcome address

The welcome address was given by **Dr. Kassahun Embaye, A/Director General of the Institute of Biodiversity Conservation (IBC), Ethiopia**, on behalf of the organizers. Dr. Embaye welcomed the State Minister of the Ministry of Agriculture, Mr. Ato Sileshi Getahun, and said that it was a great honor to have him there as he had always fought for Farmers' Rights. He then introduced the chairs, Dr. Regine Andersen from the Fridtjof Nansen Institute and Dr. Abera Deressa from the Ethiopian Ministry of Agriculture, and Mr. Kent Nnadozie who represented the Secretariat of the Plant Treaty, and welcomed the participants to Ethiopia and the conference on behalf of the hosts.

Dr. Kassahun then went on to talk about the diversity of ecosystems, species and genes that can be found in Ethiopia due to the great variety in climate, altitude range, landscape and geology. In his opinion farmers and biodiversity are inseparably linked. The livelihood of Ethiopian farmers is based on biodiversity, and this biodiversity had been continuously enriched through the selection and breeding undertaken by farmers since the beginning of agriculture. The traditional knowledge that has been accumulated through this process is very valuable and an essential input to further research and development. The rights of farmers in relation to biodiversity should therefore be promoted and realized.

The Institute of Biodiversity Conservation (IBC) was established 35 years ago to support the livelihood and environment of farmers through conservation and sustainable use of biodiversity. IBC uses *in situ* and *ex situ* approaches in its conservation work, and has so far established seven natural habitats and 12 community gene banks. The surrounding farmers participate in the process and are given user-rights as long as their practices do not affect diversity or sustainable development adversely. The IBC provided the conservation facilities and gave trainings when the community seed banks were started, but they are run by the farmers themselves. The general principle is that they can borrow seeds for sowing and then return seeds after harvest.

More than 65,000 crop accessions now reside in the institute's gene bank, as well as more than 10,000 accessions in ten field banks. They try to involve farmers in the diversity assessment, collection and conservation processes. The conserved material is used by researchers for the purpose of further exploring its potential, and most of the improved varieties released by Ethiopian researchers originate from the institute's genetic material.

The IBC feels that the legal instruments in place in the country fully recognize Farmers' Rights. More work is required in relation to implementation and realization, but in collaboration with national and international partners they hope to make progress as fast as possible. The institute is committed to Farmers' Rights, and in Dr. Embaye's opinion they

demonstrated this when offering to host the conference. In closing, Dr. Embaye thanked Dr. Regine Andersen for accepting their offer and Dr. Mohammed Kharrat from Tunisia who is a Member of the Bureau of the Plant Treaty's Governing Body, for facilitating contact in this regard.

## 5.2 Opening address

On behalf of H.E. Ato Tefera Deribew, the Ethiopian Minister of Agriculture, **H.E. Ato Sileshi Getahun, State Minister of Agriculture**, opened the conference by welcoming the participants. He then provided some background information on Ethiopia. Ethiopia was named one of the 12 centres of crop diversity in the world by Nikolai Vavilov, and the communal use of plant genetic resources has contributed to the existing diversity of farmers' varieties. As he sees it, Ethiopian farmers play a central role in the conservation, sustainable use and diversification of crop varieties. Variety selection and utilization of a wide variety of crops have been part of the culture in the country's farming communities for generations. However, even if farmers' varieties have been functioning as important sources for breeding and planting material, farmers have not benefitted from the commercialization of these resources. In addition, the very same traditional practices that have sustained genetic diversity through the ages are now eroding due to urbanization, industrialization of agriculture and the development of global markets.

The government sees the protection of the country's genetic resources as an important part of their efforts to achieve sustainable development. Towards this end it has enacted the Environmental Policy, the National Policy on Biodiversity Conservation and Research, the Plant Breeders' Rights Proclamation and policies on management of natural resources and agricultural development. Community rights in relation to biodiversity and the right to equitably participate in benefit-sharing are among the elements covered in these laws and policies. The state minister also emphasized that community rights and the rights of farmers are recognized in all relevant national policies. Although implementation remains insufficient, the Ethiopian government has made practical moves to improve agriculture, for example by choosing model farmers.

## 5.3 Words from the Secretariat

**Mr. Kent Nnadozie, Treaty Support Officer, represented the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture** (the Plant Treaty) at the conference and offered some words on its behalf. He underlined that the Plant Treaty recognizes the rights of farmers and their contributions to development, and that these rights should be realized by contracting parties. The role of farmers in centres of origin and diversity receives special recognition. He therefore saw it as symbolic that the conference should be held in Ethiopia, a country with such great diversity.

The concept of Farmers' Rights is about recognizing farmers' contributions and ensuring that they benefit from their work and these contributions. The Plant Treaty should be implemented in its entirety, including Article 9 on Farmers' Rights.

The third meeting of the Governing Body, in Tunis in 2009, adopted a resolution on Farmers' Rights that called for consultations. Mr. Nnadozie emphasized that he was looking forward to the input from the conference at the next session of the Governing Body, to be held in Indonesia in March 2011.

#### **5.4 Introduction to the conference**

**Dr. Regine Andersen, Senior Research Fellow of the Fridtjof Nansen Institute, Norway, and Director of the Farmers' Rights Project**, provided an introduction to the conference, its background and objectives. After thanking the minister for opening the conference, the IBC for hosting it, the funders for their contributions and the participants for taking part, Dr. Andersen noted that she trusted that the experience in the room would move the discussion on Farmers' Rights forward and contribute to the realization of these rights. She then underlined that the focus for the conference was on Farmers' Rights as they are recognized in the Plant Treaty, and that Farmers' Rights related to crop genetic diversity are basically about enabling farmers to continue contributing to the conservation and development of crop genetic diversity and about recognizing and rewarding their contributions to the global genetic pool.

Farmers are custodians of on-farm crop genetic diversity, and their ability to continue in conserving and developing this diversity depends on sufficient legal and political space, and on conducive incentive structures. The realization of Farmers' Rights also affects the prospects for poverty alleviation, as many of the world's poor live in rural areas and depend on agriculture for their livelihood. Crop genetic diversity can be seen as a life insurance, as it spreads the risks of crop failure due to diseases, pests and climate change. For these reasons, the implementation of the Plant Treaty's objectives on conservation and sustainable use depends on Farmers' Rights, and thus, Farmers' Rights can be seen as a cornerstone of the Plant Treaty, vital for global and local food security as well as for poverty alleviation.

Dr. Andersen emphasized that the Plant Treaty recognizes the enormous contribution of farmers to the world's genetic pool, and that the responsibility of implementing Farmers' Rights rests with national governments. The elements of Farmers' Rights mentioned in Article 9 of the Treaty are:

- protection of traditional knowledge (TK)
- the right to equitably participate in benefit-sharing
- the right to participate in decision-making
- any rights that farmers have to save, use, exchange and sell farm-saved seeds

The preamble and other articles of the Plant Treaty are also supportive of Farmers' Rights, for example by stressing the importance of promoting Farmers' Rights both at the national and international level. Articles 5 and 6 on the conservation and sustainable use of crop genetic diversity contain several provisions which contribute to the realization of Farmers' Rights. Article 18, on benefit-sharing in the Multilateral System, states

that the benefits should go primarily to farmers in developing countries and countries with economies in transition that conserve crop genetic diversity. The Governing Body also has a role to play in the realization of Farmers' Rights, since it is obliged to promote compliance with and full implementation of the Plant Treaty (Art. 19 and 21).

Dr. Andersen also offered a brief history of consultations on Farmers' Rights up until this point. In 2006, the first meeting of the Governing Body decided that Farmers' Rights should be on its working agenda. The following year, in September 2007, an informal international consultation on Farmers' Rights was held in Lusaka, Zambia, co-organized by the agricultural ministries of Norway and Zambia and the FNI. The main recommendations from this consultation meeting were that the Governing Body should collect information on national action plans and legislation; that international bodies could assist in the realization of Farmers' Rights; that an *ad hoc* working group should be established to develop voluntary guidelines on Farmers' Rights; and that technical assistance should be provided. The report and input paper from Lusaka were presented at the Second Session of the Governing Body in November 2007, and a resolution adopted. This resolution called on the Secretariat of the Plant Treaty to collect views and experiences from countries and organizations. The resolution also confirmed the Governing Body's commitment to involving farmers' organizations in its work. In the interim period, the Centre for Genetic Resource, the Netherlands, and the Community Technology Development Trust (CTDT), Zimbabwe, carried out an on-line conference on 'Options for Farmers' Rights' which focused on how to create legal space for Farmers' Rights<sup>21</sup>.

The third meeting of the Governing Body in 2009 adopted Resolution 6/2009 on Farmers' Rights. This resolution invites Contracting Parties to review/adjust national measures affecting the realization of Farmers' Rights. In addition, Contracting Parties and other organizations are encouraged to continue submitting views and experiences; the Secretariat is requested to convene regional workshops on Farmers' Rights subject to the agreed priorities of the programme of work and budget, and to the availability of funds; the Secretariat is requested to collect views and experiences and reports from the regional workshops as basis for an agenda item on Farmers' Rights at the Fourth Session of the Governing Body in 2011; and the Governing Body states its appreciation of the involvement of farmers' organizations in its work.

Due to the lack of capacity and financial resources of the Secretariat, the FNI carried out the consultation process. The regional consultations were merged into one global consultation process with regional components, to minimize funding requirements and workload. The consultation process has been made up of two components: an e-mail based survey (July–September 2010) to include as many participants as possible, and the conference in Ethiopia hosted by the Institute of Biodiversity Conservation (IBC) (Addis Ababa, 23–25 November 2010). The process has been

---

<sup>21</sup> More information on this can be found in the summary of Dr. Robin Pistorius' presentation below.

supported by the Swedish International Biodiversity Programme (Swed Bio), 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).

The objective of the consultation process is to implement Resolution 6/2009 on regional consultations, with the aim of sharing national experiences and identifying gaps and needs related to the realization of Farmers' Rights at the national level. A report will be submitted to the Secretariat as basis for an agenda item on Farmers' Rights at the fourth meeting of the Governing Body. This report will also be presented at a side-event at this meeting.

Dr. Andersen closed her introduction with a presentation of the conference programme, saying that all four elements of Farmers' Rights would be discussed with an emphasis on identifying progress, national measures, gaps and needs, recommendations from the regions, and ending, it was hoped, with joint recommendations to the Governing Body. She encouraged all participants to contribute to this process.

### **5.5 Expectations to the conference**

The participants were invited to share their hopes and expectations for the conference.

It was mentioned that the meeting would have achieved much, if, as a result, the Governing Body could get a clear message on how to include farmers in the decision-making processes of the Plant Treaty. Various roles for farmers' representatives could be looked into, and there might be other ways of organizing the meetings of the Governing Body besides having farmers' organizations as observers. The procedures of the Governing Body could be updated in line with developments in the Commission on World Food Security and other UN processes.

Without farmers, there can be no implementation of the Treaty on the ground. In this connection it was seen as important to accord farmers recognition for not only their conservation, but also development, of crop genetic resources. Another aspect mentioned in relation to farmers' participation was the need to look at the role of farmers when evaluating the progress of implementation. The challenges of the Treaty need to be identified by farmers. Concern was expressed about the role of farmers with regard to the implementation of deliberations around Farmers' Rights, and the lack of farmer participation.

One participant mentioned that a human rights perspective has been instrumental in improving access to medicine and healthcare in connection with the fight against patents, and thought that Farmers' Rights and the right to food should be a tool for farmers to access public support in the similar struggle against intellectual property rights related to agricultural biodiversity. Another participant spoke of the need to highlight the threats posed by the high number of patents on 'climate-ready crops' and emphasized that the impact of these patents on the functions and objectives of the Plant Treaty must be considered.

Another participant found ground-level implementation of the Plant Treaty lacking and wanted to give the Governing Body recommendations on how to achieve implementation in practice, suggesting that some sort of mechanism was needed. It was also mentioned that, as the realization of Farmers' Rights is subject to national legislation, seed laws functions as a barrier in many countries, and the Governing Body should look into how the Plant Treaty can serve as a support for adjusting such laws. It was mentioned that the major challenge with regard to Farmers' Rights is the confrontation with seed laws and plant variety protection laws, as well as laws on access and benefit-sharing and traditional knowledge.

It was highlighted that there are many relevant national experiences, not least from Vietnam, Norway, India and Italy, and that the various presentations and the sharing of experiences regarding implementation of Farmers' Rights would, it was hoped, provide useful tips for participants to take home. One participant wanted to look into what can be done to translate the plans and structures already in place for actually realizing Farmers' Rights in practice.

One representative from the seed industry expressed willingness to listen to the arguments from other conference participants, and expressed the wish to contribute with the messages from the European seed industry and make its views understood.

One participant hoped to get ideas on how to follow up Farmers' Rights at the national level to be fully prepared for the Fourth Session of the Governing Body, and expressed a wish for the conference to focus on legal measures and providing input to the Governing Body, perhaps developing recommendations to the Governing Body for actions to be taken at the national level.

In addition, one participant provided some background on Article 9 of the Plant Treaty on Farmers' Rights, and underlined the need to see this article in connection with the rest of the Plant Treaty, especially Articles 5, 6 and 13, and the importance of considering all of them together to create legal frameworks. Also other participants agreed on the importance of seeing Farmers' Rights in relation to Article 6 on sustainable use, and the Plant Treaty as a whole.

## **5.6 Presentation of the results of the global e-mail survey on Farmers' Rights**

Phase 1 of the consultation process consisted of a global survey on Farmers' Rights that was conducted by e-mail. The findings from this survey were presented to the plenary by **Dr. Regine Andersen, Senior Research Fellow at the Fridtjof Nansen Institute, Norway, and Director of the Farmers' Rights Project.**

The survey was conducted with the aim of enabling broad participation in the consultation process, and the questionnaire was developed in collaboration with various stakeholders and distributed in Spanish, French and English. In all, 61 questionnaires were received from 124 participants, while seven respondents chose to send in position papers as

their input to the process (six position papers in total). These 131 respondents came from 36 different countries and all regions except Australia and the Pacific were represented. NGOs were the stakeholder group that sent in the greatest number of questionnaires, followed by farmers' organizations, government officials, researchers, IGOs, the seed industry and 'others'.

For the purpose of gathering views on and experiences from the realization of Farmers' Rights the questionnaire focused on all four aspects of Farmers' Rights: the protection of traditional knowledge; equitable benefit-sharing; participation in decision-making; and rights of farmers to save, use, sell and exchange seed. Questions focused on national measures and gaps and needs for these four aspects. Respondents were also asked about how they perceived the importance of the various aspects of Farmers' Rights, the major national achievements in general, the most important obstacles to realizing Farmers' Rights, the general national performance with regard to Farmers' Rights, the most important measures needed, and what they would recommend to the Governing Body.

All aspects of Farmers' Rights were rated as 'very important' or 'important' by a majority of the respondents, but there were slight differences among stakeholders in their relative ratings. Achievements were reported for all four aspects of Farmers' Rights, but it was with regard to the protection of traditional knowledge (TK) that the highest number of respondents noted national achievements. In general, few achievements were noted with regard to law and policy, whereas many respondents noted achievements with regard to increased awareness and projects run by NGOs. A clear majority of respondents rated their country's performance in Farmers' Rights as 'insufficient', the most notable exceptions being three respondents from Europe (two from the seed industry and the third from the public sector) who rated the performance of their countries as 'very good'.

Issues related to law and policy were mentioned by a large number of respondents as obstacles to the realization of Farmers' Rights, but while respondents from the South were mostly concerned about the lack of relevant laws and policies, respondents from the North focused more on the adverse effects of existing legislation. In general, many respondents also noted the lack of awareness among farmers and policy-makers and the lack of farmer participation. As a logical continuation of this, the national measures mentioned by the highest number of participants as needed were the development and implementation of conducive legal frameworks and policies, awareness-raising measures and increased participation of farmers in decision-making. Among the interesting 'new' ideas brought forward by respondents were prevention of de-registration of varieties formerly protected by plant breeders' rights, division of the legislative framework into one arrangement for the formal seed system and one for the informal system, legal recognition of farmers engaged in diversity farming by granting them a specific legal status, making seed companies responsible for GMO contamination, and the creation of a space for dialogue involving various stakeholders.

With regard to the protection of traditional knowledge and how to approach this issue, the highest number of respondents regarded it as most important to save this knowledge from becoming lost, although this element is often taken to mean protection against misappropriation. However, measures focusing mainly on this might have negative effects on sharing practices, which in turn are important for keeping TK alive. Respondents gave few examples of misappropriation, and Dr. Andersen underlined that it is important to find a balance between protecting such knowledge from misappropriation and protecting the sharing practices that sustain it. Loss of TK was seen as major problem by many respondents, and changing agricultural practices and cultural changes were mentioned as reasons. In addition, intellectual property laws were seen as obstacles to free sharing. Suggested measures included the development and implementation of relevant legislation, as well as documentation and sharing of the remaining traditional knowledge.

According to the Plant Treaty, funding priority is to be given to farmers who contribute to maintaining crop diversity; the contracting parties are to provide technical assistance to developing countries to facilitate implementation. It is also worth remembering that, as regards benefit-sharing, the approach taken in the Plant Treaty differs from that of the Convention on Biological Diversity (CBD) in that all farmers engaged in diversity farming are meant to participate in benefit-sharing, not only those who provide genetic resources to commercial breeding. As to benefit-sharing measures in their own countries, participatory plant-breeding projects were mentioned by the highest number of participants, with community seed banks coming in second. Among the gaps and needs mentioned by respondents were agricultural policies, laws with no provisions on benefit-sharing, patent laws and plant-breeders' rights, lack of awareness, and the need for capacity-building.

The measure that most participants noted that their country had in connection with farmer participation in decision-making was participation in relevant hearings, while legislation covering the right to participate came second. However, some regional differences could be discerned here.

In the Plant Treaty, farmers' practices when it comes to saving, using, exchanging and selling seeds are termed as 'rights', but little direction is provided with regard to contents. This means that countries are free to define these rights nationally. The challenge in this context is to strike the right balance between the rights of farmers and the rights of breeders as both are crucial to food security. In general, intellectual property rights are most restrictive in the North, but there is a tendency for the legislation in the South to become more restrictive as well. While the respondents from the seed sector generally saw this as positive, most of the other respondents did not. Variety release and seed distribution legislation also affect farmer practices, and again the rules tend to be stricter in the North than in the South. Many respondents noted that their countries had seed fairs and seed exchange networks, but added that these mostly have local outreach only. In many countries the legal space needed for farmers to continue their practices related to seed saving and exchange is under threat. Many respondents also underlined the lack of awareness among decision-makers and farmers, and the need to support informal seed systems.

Respondents also offered recommendations to the Governing Body. A look at the various recommendations offered shows that participants emphasized these points:

- the Governing Body may guide and support the development of national legislation, policies, strategies and projects
- there is a need to amend legislation to ensure legal space for farmers' practices
- the Governing Body should facilitate and ensure support for measures aimed at increasing awareness and building capacity
- informal seed systems should be promoted and improved, marketing of genetically modified seed should be prohibited
- minimum standards for Farmers' Rights should be developed

### **5.7 Discussion with emphasis on key issues to take into account at the conference**

Participants were invited to discuss, based on the presentation of the e-mail based consultation process, what the key issues to be taken into account at the conference should be. Various issues were touched upon.

One of these issues was the importance of keeping in mind regional differences. Farmers in the different regions have different practices, as well as intra-regional differences, since there are different categories of farmers within each region as well. Also mentioned was the need to focus on capacity-building measures, including recommending the Governing Body to focus on this, as many are unaware of the issues related to Farmers' Rights, and lack of capacity is a problem in many countries.

One respondent mentioned the link between traditional knowledge and seed-saving practices and the controversy related to farmers' practices and rights. This was seen as a difficult issue for the Governing Body. It was suggested that one should examine 'what farming really is' and what rights should be in this connection. Another respondent suggested that the language used in relation to Farmers' Rights in the Governing Body negotiations should be looked at. If phrases like 'national measures and legislation restrict (for example Farmers' Rights)' are used, very little progress will be made: efforts should therefore be made to find another language and turn the argumentation around.

It was also underlined that more funding is needed for the realization of Farmers' Rights. The realization of Farmers' Rights was seen as related to livelihoods and justice, especially in developing countries, so the implementation of Farmers' Rights should be embedded in national development initiatives.

Another issue that was brought up was the importance of legislation and the effects legislation has on the realization of Farmers' Rights. Plant variety protection, patents and seed regulations were all mentioned in this connection as having negative effects on farmers. One respondent noted that his country does not have any provisions on Farmers' Rights in

national legislation and claimed that it is impossible to talk about implementing Farmers' Rights unless there is a legal framework in place. It was suggested to approach FR in a conceptual way, keeping in mind the fact that they are called 'rights' and the rationale behind Article 9. A supportive legal framework was regarded as necessary if farmers are to be able to continue their practices. The issue of UPOV was also raised. It was mentioned that there is a need for balance when it comes to Farmers' Rights and plant-breeders' rights. One participant emphasized the breeders' exemption in UPOV, seeing this as a form of benefit-sharing that applies to everybody.

Capacity-building was seen as necessary at both the national and local level, especially as farmers are not familiar with the Plant Treaty and farmer participation is necessary to achieve actual progress. Without capacity-building this was seen as difficult. To enhance participation, one respondent underlined the necessity of well-functioning farmer organizations both at the national and international level.

As it can be difficult for the Contracting Parties to produce measures, it was also suggested that mainstreaming is necessary. The relationship with other Treaty articles and the necessity of establishing the relationship between Article 9 on Farmers' Rights and other articles was also touched upon.

One respondent stressed that the issue of Farmers' Rights is a difficult issue globally, and that there is a need to focus on farmers' varieties and the registration of these. Special technologies might be used to characterize such varieties and facilitate registration. One respondent also mentioned the need for technical and financial support as outlined in the Plant Treaty.

The need to change policies to increase the focus on small-scale agriculture and reform national agricultural policies to take small-scale farmers into account to a greater degree was also underlined.

## 6 The realization of measures to protect traditional knowledge (Art. 9.2)

### 6.1 Overview of typical national measures

An overview of typical measures (laws, regulations, policies, programs) relevant for the protection of traditional knowledge in the context of Farmers' Rights and a brief on international developments in this regard was given by **Dr. Juliana Santilli, Lawyer/Public Prosecutor, Instituto Socioambiental/Federal Prosecutor's Office, Brazil.**

The first national measure address by Dr. Santilli was seed laws. Seed laws regulate the use, production and sale of seeds, and tend to favour 'formal' seed systems. In relation to the protection of traditional knowledge it is important to see whether they recognize such knowledge as an important part of seeds and whether they provide legal space the use of seeds from local varieties. The impact of seed laws on TK depends, among other things, on whether traditional varieties are exempt from the rules. It varies from country to country to what degree these regulations apply to such varieties, whether they must be registered and to what extent the rules are the same as for other varieties. Some countries have separate systems for farmer varieties that do not meet the DUS requirements. This can be an important tool to create legal space for farmer practices, farmer breeding and local varieties.

Some countries have policies and programmes that encourage dialogue and cooperation between formal 'scientific' knowledge and traditional knowledge, such as participatory plant breeding. Initiatives to document TK, such as catalogues, inventories and registries, are being implemented in some countries. Community gene banks and exchange networks are other relevant measures.

Many countries have signed UPOV '78 or '91 and, as Dr. Santilli sees it, this might have an impact on the protection of traditional knowledge. Intellectual property laws might restrict exchange practices and farmers' rights to use commercial varieties for breeding.

There are various ways of implementing access and benefit-sharing nationally, and local practices might be different from regulations. In many circumstances one problematic issue might be how to identify the provider of traditional knowledge and genetic resources. Dr. Santilli mentioned the CBD and the newly adopted Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and the relevance to Farmers' Rights and the protection of TK. The Nagoya Protocol recalls the relevance of Article 8j of the CBD and notes the interrelationship between genetic resources and traditional knowledge; it recognizes the diversity of circumstances in which traditional knowledge is being held by communities, and says that it is the right of communities to identify the rightful holders of their traditional knowledge. It applies to TK associated with genetic resources within the scope of the CBD and to the benefits arising from the utilization of such knowledge.

National measures to implement Article 5 and 6 of the Plant Treaty may also have an impact on Farmers' Rights and the protection of TK. These measures include initiatives targeting *in situ* conservation.

Cultural heritage laws were presented as another type of legislation that might affect traditional knowledge. Brazil is an example of how such laws can be used to protect this knowledge by regarding crops as 'cultural artifacts'. Agriculture and the associated TK can be seen as part of the cultural heritage. In this connection, cultural landscape is also an important concept, and focusing on this can be one approach to protecting plant genetic resources and the related traditional knowledge.

Another approach to protecting traditional knowledge that was mentioned by Dr. Santilli was protected areas. This measure can be used to protect agricultural areas that are rich in agricultural biodiversity, and the Potato Park in Peru can be seen as an example. Finally, Dr. Santilli noted the Globally Important Agricultural Heritage Systems (GIAHS), which are at the centre of a FAO project aimed at supporting and safeguarding the world's agricultural heritage systems.

## **6.2 The story of the Potato Catalogue from Huancavelica, Peru**

Dr. Maria Mayer de Scurrah, President of Grupo Yanapai in Peru, gave a short presentation of the potato catalogue from the Huancavelica region in Peru. This was the first catalogue of indigenous potato varieties, and the goal was to create a publication that explicitly recognized the communities and farmers maintaining the diversity, included local ethnobotanical knowledge and DNA fingerprinting for the purpose of protection and future identification and re-identification. In addition, the catalogue contains text in Quechua, a major local language, and presents farmer families and communities, as well as pictures, taxonomic and agronomic data. The catalogue also contains a clause that protects the content against misappropriation.

The first step taken by Stef de Haan (the coordinator of the catalogue) in the creation of the catalogue was to identify communities and farmer families maintaining potato diversity that could participate in the project. Morphological characterization and ethno-botanical inquiries were then conducted on farm, and pictures were taken. In the lab, molecular characterization, ploidy count and species identification were carried out. Legal issues were also dealt with. Finally, the catalogue could be written, designed and printed.

After the completion of the catalogue, a survey showed that the farmers were proud of the catalogue and proud to share their knowledge and varieties. The catalogue had also given them the opportunity to see what varieties other farmers in the area grow. There were also some controversial issues. Some farmers, for example, said their varieties were missing from the catalogue, but it would have been impossible to include all varieties. The use of Quechua was also contested, as it is a language that is mainly oral and seldom used in writing. As the farmers did not understand the molecular markers, they did not see the use of them. In addition, the issue of names came up: people use different names for the same varieties, and only some names were included in the catalogue.

Dr. Scurrah underlined that a catalogue like this one from Peru both preserves traditional knowledge and creates new knowledge. It makes diversity visible, prevents illicit appropriation and saves the traditional knowledge for future generations.

As a result of the potato catalogue, other catalogues have been created. Dr. Scurrah illustrated the inspiration many has drawn from it by showing a video clip of farmers in Peru planting potatoes in their traditional fashion as part of a communal gene bank project and who started to collect their own varieties because they were inspired by the potato catalogue.

### **6.3 Farmers' views**

**Mr. Regassa Feyissa, Director of Ethio-Organic Seed Action (EOSA) in Ethiopia**, presented farmers' views on what should be done to protect traditional knowledge and the challenges that exist. He underlined that the issue is how farmers view such knowledge, and that in his experience farmers see their traditional knowledge as generational wealth gained through the testing and practice of former generations. As a result, this knowledge is associated with various types of values by farmers: identity value, nutritional value, medicinal value, agronomic value and cultural value. This means that when farmers describe traditional knowledge related to plant genetic resources they say that the knowledge is linked to their family identity, that the knowledge regarding nutritional aspects and healing effects of various local varieties is valued, and that the knowledge regarding special agronomic traits such as resistance to pests is seen as very important. Such TK often contains specific knowledge about how to collect medicinal plant and how to select for specific agronomic traits.

The main challenges to maintaining TK, in many farmers view, are the intergenerational gap, misappropriation, changing lifestyles, and the opinion held by some that traditional knowledge is backward. They also fear that if diversity is lost the knowledge will disappear together with it, as they see crops and knowledge as linked. To protect this knowledge, Mr. Regassa Feyissa said, the farmers need documentation and distribution of traditional knowledge, as well as increased recognition of its value, and they need support to mechanisms for enhancing intergenerational sharing of knowledge and practices.

### **6.4 Discussion on obstacles and options**

Based on the introductions, the participants of the conference were invited to identify major obstacles to, and options for, realizing Farmers' Rights related to the protection of traditional knowledge.

One issue discussed was the question of balancing protection against misappropriation with the need to document and share traditional knowledge. One participant asked Dr. Scurrah what means the farmers in Peru have to protect their varieties from being taken away and patented, and how farmers can protect themselves from misappropriation of traditional knowledge. The participant went on to note that she herself would not like to share her knowledge with Monsanto, and she is afraid that such catalogues will make it easier for big companies to take the knowledge.

In response, Dr. Scurrah said that there are laws protecting the knowledge, and that a clause in the catalogue is meant to protect it against misappropriation, but that those ready to disregard the law might use the knowledge illegally. It is also possible to obtain the varieties legally from the international potato centre. She admitted that these are difficult questions and that she is not in a position to give sufficient answers.

Another case from Peru, the Potato Park, was also brought up, and it was mentioned that the park also catalogues its varieties and traditional knowledge. However, this is done internally and distribution is not involved. Farmers in the park see their role as custodians of the resources on behalf of all the communities: they do not regard themselves as owners of the resources in question. They try to find a balance with regard to restricting access when this is seen as necessary.

As an example of how to approach documentation of traditional knowledge, the regional laws in Italy protecting such knowledge were mentioned. The goal is to have regional catalogues that recognize the knowledge and varieties. There are also efforts to get the government to allow traditional varieties to be shared. In Italy, misappropriation of names is seen as the biggest problem: cataloguing can protect against this.

Also other participants said that they saw cataloguing as a useful approach. Linking science and traditional knowledge was viewed as important and something that should be done more often.

Mention was also made of an example of traditional knowledge in Angola. Some Angolan farmers use a particular plant for disease control. Research conducted on this has confirmed the properties of this plant.

One participant mentioned that in his experience traditional knowledge is related to coping strategies and survival strategies. Food security is important in this context, and diversity is used as a risk-aversion strategy. It was also mentioned that TK can have a significant role in providing input to modernized agriculture, and that the agricultural practices of farmers have a role to play in this connection.

The last issue to be brought up was rapidly-changing technologies and how they affect the nature of the Plant Treaty. Long-term seed storage is now possible, and this points the way for a bigger role of farmers in conservation. On the other hand, technological development happens so quickly in terms of genetic mapping that national sovereignty over plant genetic resources for food and agriculture might not be possible; moreover, electronic databases of genetic material are now so cheap that national protection might become an issue.

Summarizing the discussion, Dr. Andersen said that catalogues might be one way of balancing the needs for sharing and protection against misappropriation, as well as a way to combine science and traditional knowledge. Although there are very few examples of misappropriation of traditional knowledge related to crop genetic diversity, it is useful to look more into these aspects of cataloguing practices. She expressed her hope that the issues mentioned could be further discussed during the regional consultation.

## 7 The realization of Farmers' Rights to fair and equitable benefit-sharing [Art. 9.2.b]

### 7.1 Overview of typical national measures

An overview on typical national measures (laws, regulations, policies and projects) relevant for the realization of Farmers' Rights to fair and equitable benefit-sharing was given by **Ms. Wilhelmina Pelegrina, Executive Director of Southeast Asia Regional Initiatives for Community Empowerment (SEARICE) in the Philippines.**

Ms. Pelegrina said that a simplified value creation chain for genetic resources could be described as a chain from primeval ecosystems via conservation, selection, and exchange by indigenous and local populations, the adding of associated knowledge on use and management of genetic resources, further research and development and processing, to commercial products based on genetic resources that reach end-consumers. She said that there is a link between conservation, genetic resources, traditional knowledge, innovation and sharing in relation to farmer innovation. Exclusive intellectual property rights are granted to the identifiable 'inventors' in this chain, most often professional breeders from the formal sector. Establishing equitable benefit-sharing is thus a question of how benefits can reach the local communities further down the value chain.

When farmers utilize plant genetic resources they utilize traditional knowledge in order to innovate and create improved and better adapted varieties. However, in their innovation cycle it is difficult to pinpoint exactly when one variety was developed. Benefit-sharing mechanisms should support this process, to ensure that these dynamic, customary processes continue. Such traditional innovative processes often continue without intellectual property rights. In some instances, benefit-sharing comes in the form of being able to sell the new varieties to other farmers. Intellectual property rights might in some circumstances actually hinder innovation instead of promoting it. When examining benefit-sharing mechanisms, one crucial point is therefore to assess whether the arrangements provide incentives for the continuation of farmers' innovation system.

Ms. Pelegrina divided existing legislation on benefit-sharing into four types: laws on prior informed consent which assume that communities and companies will enter into a contractual benefit-sharing arrangement but without any clear requirement in the law (e.g. the Philippines); creation of national benefit-sharing funds which farmers can directly access but which are subject to government approval (e.g. Thailand, India); mandatory bilateral benefit-sharing arrangements with users (e.g. Costa Rica, India, Bhutan); and national incentives and awards.

In some instances, as in the Philippines, there is a benefit-sharing mechanism with regard to bioprospecting agreements, but no clear rule on how the communities will benefit. The law only establishes the communities' right to prior informed consent before bioprospecting activities take place. The reason for this might be that the law assumes that communities

will give prior informed consent only if there is a benefit-sharing arrangement. There is no mention in the law of the concept of benefit-sharing with farmers. The Philippine law also creates a wildlife fund, but the fund does not specify that communities can access the fund.

In the case of national benefit-sharing funds in Thailand and India, the question of who benefits from the fund is a government decision. In this contest Ms. Pelegrina raised several questions: can Farmers' Rights be left to the government in this way? who controls the funds? and are farmers included in the decision-making process? The Indian law also has a direct benefit-sharing arrangement with communities, but only in reference to local varieties that the community has proven that they have conserved.

As Ms. Pelegrina sees it, the question is whether farmers are better off with these benefit-sharing mechanisms than without. She also sees it as important to see what kind of transfer of technology has taken place and what kind of capacity-building has been achieved.

Benefit-sharing can also take place without specific legislation in place. Another option is upstream-focused benefit-sharing such as democratization of agricultural research and extension, by mainstreaming farmers' participation in the form of, for example, participatory plant breeding. Transfer of technology and skills, information exchange and capacity-building among farmers and plant breeders/researchers is an important part of this. Another way to approach benefit-sharing is through public support and funding for on-farm conservation and biodiversity management at local/community level. Examples of this are community seed banks and seed-saving networks initiated by civil society organizations and farmers and receiving government support, as well as community-based seed production with funding and institutional support. Further examples of benefit-sharing include public support and funding to community-developed seeds for disaster relief response in the Philippines and Thailand, price incentives for varieties developed by farmers and support to capacity-building for farmers for the purpose of seed production including on-farm conservation and participatory plant breeding.

Some of the benefit-sharing mechanisms under the Nagoya Protocol might support Farmers' Rights. These include the fees to be paid to funds supporting conservation and sustainable use of biodiversity; research funding; participation in product development; institutional capacity-building; contributions to the local economy; research directed towards food security, taking into account domestic uses of genetic resources in the party providing genetic resources; food and livelihood security benefits; and social recognition.

As the examples show there are success stories with regard to benefit-sharing. The measure of success for the various benefit-sharing mechanisms, as Ms. Pelegrina sees it, should be to what extent the situation for farmers has actually improved after the measures in question were implemented.

## **7.2 The Benefit-Sharing Fund of the Plant Treaty, and the results from the Bogor meeting on non-monetary benefit-sharing**

A brief was given by **Mr. Kent Nnadozie, Treaty Support Officer at the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture**, on the Benefit-Sharing Fund of the Plant Treaty and the results of the meeting on non-monetary benefit-sharing held in Bogor, Indonesia, in 2009.

The Benefit-Sharing Fund is part of the Multilateral System (MLS) of the Treaty. The resources come either from payments from the commercialization of products using plant genetic resources listed in Annex 1 or from voluntary contributions (so far Spain, Italy, Norway and Australia have contributed). According to Article 13.3 of the Treaty, '[t]he benefits arising from the use of plant genetic resources shared under the MLS 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 use plant genetic resources for food and agriculture.'

The first call for proposals to the Benefit-sharing Fund was opened in 2008. The Governing Body's Bureau selected and approved 11 small-scale benefit-sharing projects that address food security through support to conservation and sustainable use of plant genetic resources. Some of them focus on climate change, while others mainly concern agricultural biodiversity. The components are technology transfer, capacity-building and information exchange; management and on-farm conservation; and sustainable use. These projects have a duration of two years and are awarded a maximum of USD 50,000. Research institutions, gene banks, universities and/or NGOs are responsible for their implementation. The first results are now coming in from the countries and project sites.

The Governing Body Bureau and the Ad Hoc Advisory Committee on the Funding Strategy of the Plant Treaty make all decisions regarding the benefit-sharing fund. For the first round, the regional distribution of project grants was as follows: five from Latin America (Cuba, Nicaragua, Costa Rica, Peru, and Uruguay), five from Africa (Morocco, Egypt, Kenya, Tanzania, Senegal) and one from Asia (India).

Within one year, the Benefit-sharing Fund was up-scaled from 500,000 USD to 13.5 million USD. The Ad Hoc Advisory Committee on the Funding Strategy and the Bureau have together developed a multi-year 'Programmatic Approach' for the Fund. The focus in the coming years will be on financing the adaptation of plant genetic resources in order to help farmers to stay ahead of climate change. The second round of benefit-sharing from the benefit-sharing fund of the Plant Treaty will invest more than 10 million USD globally. The focus was announced as to 'help ensure sustainable food security by assisting farmers to adapt to climate change through a targeted set of high-impact activities on the conservation and sustainable use of plant genetic resources for food and agriculture'.

The second call for proposals took place from 30 June to 20 September 2010, and 402 pre-proposals were received. These were then screened by the Ad Hoc Advisory Committee on the Funding Strategy and the Bureau. This screening resulted in 136 pre-proposals being invited to submit full project proposals by 27 January 2011. Of these 136 pre-proposals, 51% are government-run projects, 32% are NGO projects, 10% come from regional or international organizations and 7% from the academic sector. Regional workshops are being held in the various regions for the selected participants, to assist them in further developing their proposals.<sup>22</sup>

Two different types of projects are funded: strategic action plans and immediate action projects. The size of projects will range from USD 300,000 to USD 400,000 and their duration range from one to two years. The full project proposals will be appraised by a Roster of Experts in February 2011 and the Bureau will then approve the chosen projects in March 2011. It is estimated that some 30 to 34 projects will be awarded funding. The announcement will be made at the Fourth Session of the Governing Body in 2011.

The criteria for project selection are set by the Bureau, which has decided that the following categories of activities are to be funded: participatory plant breeding; capacity-building and technology transfer regarding *in situ* conservation; improvement of information systems, including local and indigenous knowledge; on-farm evaluation; selection and management of local and introduced genetic diversity; adding value to local crops; and dissemination of improved varieties to local farmers.

According to Resolution 3/2009, plant genetic resources listed in Annex 1 of the Plant Treaty resulting from projects funded by the benefit-sharing fund shall be made available according to the terms and conditions of the multilateral system, and information generated by projects funded through the benefit-sharing fund shall be made available within one year of project completion.

In March 2009, a meeting was held in Bogor, Indonesia, which aimed to provide an informal arena for discussions on the implementation of non-monetary benefit-sharing in relation to the Plant Treaty. Non-monetary benefits include facilitated access, exchange of information, access to and transfer of technology and capacity-building. At the meeting three key challenges were identified:

- *Facilitated access to plant genetic resources*: sufficient and appropriate germplasm is not available to all stakeholders
- *Capacity-building*: there is insufficient capacity to manage germplasm and a need to strengthen plant-breeding capacity and build farmers' capacity related to germplasm management
- *Exchange of information and technology transfer*: there is inadequate access to information and technology and a need to improve access to information, including through participatory plant breeding, and to promote cooperation between stakeholders

---

<sup>22</sup> Further information on the Call for Proposals 2010 can be found at the website of the Plant Treaty: [www.planttreaty.org/funding\\_en.htm](http://www.planttreaty.org/funding_en.htm)

To meet these challenges, the meeting recommended the following: to strengthen access to appropriate plant genetic resources, to improve access to information and promote active distribution of appropriate information about materials with relevant characters, to strengthen plant-breeding capacity at all levels including through participatory approaches, and to promote cooperation between stakeholders to promote effective use of genetic resources.

### 7.3 Success stories from Nepal

**Dr. Shreeram Prasad Neopane, Executive Director of Local Initiatives for Biodiversity, Research and Development (LI-BIRD) in Nepal,** presented examples of successful benefit-sharing from Nepal. He said that the realization of fair and equitable benefit-sharing is the most important aspect of Farmers' Rights. In his opinion, the benefit-sharing fund of the Plant Treaty is very difficult to access for farming communities and even for civil society organizations. However, there are some practices of on-farm agro-biodiversity management where the actual benefits have been shared fairly and equitably, and there is an opportunity to assist those farmers' initiatives through indirect benefit-sharing.

Benefit-sharing can be divided into two categories: monetary and non-monetary. LI-BIRD works together with regional partners and mostly with non-monetary, indirect benefit-sharing through various projects.

As to direct monetary benefit-sharing, Nepal has established a community biodiversity management fund through the mobilization of 32 local institutions that together have collected 4 million Nepali rupees. This fund supports biodiversity conservation and the funds are awarded to farmers involved in conservation. Supported activities include cultivation of local varieties, management of diversity blocks, and planting trees.

The most common type of benefit-sharing in Nepal is non-monetary benefit-sharing. Various projects implemented in the country by LI-BIRD fall under this category.

Community Biodiversity Registers (CBRs) are among those projects. Such registers provide the basis for ownership and benefit-sharing of local varieties. They serve to protect genetic resources and associated traditional knowledge from disappearing and from misappropriation through defensive publication. So far, about 20 CBRs have been established at local administrative (VDC) level and 180 at ward level in Nepal. CBRs are also included in the national programme of the Ministry of Forests and Soil Conservation.

LI-BIRD is also involved in participatory plant breeding (PPB). Dr. Neopane explained that such projects provide benefits that are distributed fairly and equitably, with no restriction for farmers. As he sees it, PPB protects the right to local and farmers' varieties and adds value to local genetic resources, respecting the choices and knowledge of farmers. In PPB projects, access to source seed is easy. So far, PPB projects managed by LI-BIRD have resulted in three rice varieties being released nationally, and several varieties of rice, maize and kidney bean are in the pipeline.

Community Seed Banks (CSBs) improve farmers' access to local and improved seed, and are especially useful to poor farmers. These seed banks provide access to local seed and are a way to link *in situ* and *ex situ* conservation by linking farmers to ex-situ collections. About 16 CSBs have been established by LI-BIRD in Nepal and they have started to use prior informed consent. The Ministry of Agriculture and Cooperatives has also included CSBs in its national programme.

Value addition and marketing of local genetic resources generate direct benefits from the conservation of the agricultural biodiversity to those who maintain genetic resources and associated traditional knowledge. In Nepal, value addition and marketing is on-going for more than 20 species and involves about 700 farming households.

LI-BIRD is also involved in Community Based Seed Production (CBSP), which recognizes farmers' as producers as well as consumers of seed. CBSP reduces farmers' dependency on outside sources of seed and provides for the seed production and marketing of local varieties. At the moment there are more than 25 such projects in LI-BIRD's network, producing more than 300 tons of rice and more than 20 tons of maize seed.

Dr. Neopane also underlined that farmers' organizations are important for benefit-sharing, documentation and management of genetic recourse, to ensure access to genetic resources, and for farmers' participation in decision-making. To promote farmer participation, more than 32 village biodiversity conservation and development committees have been established in Nepal with the assistance of LI-BIRD. At the national level, there is also an Agriculture Development and Conservation Farmers' Committee.

In conclusion, community biodiversity management practices can provide the basis for the realization of Farmers' Rights, such as the element fair and equitable benefit-sharing. However, in Dr. Neopane's view, realizing Farmers' Rights cannot be done solely through the practices mentioned, and a broader framework and funding might be needed. The various measures listed are important for empowering communities: if the communities are to truly benefit, they must be involved.

#### 7.4 Farmers' views

Farmers' views on what needs to be done and challenges regarding Farmers' Rights to participate equitably in benefit-sharing as seen by La Via Campesina were presented by **Mr. Tejo Pramono, Staff member of La Via Campesina in Indonesia**. Members of La Via Campesina are typically small-scale farmers and the organization now has member organizations in all regions. At the core of the organization's work is 'peasants' rights', a much broader concept than Farmers' Rights. Land rights is perhaps the most important element because land is crucial to farming, and if farmers do not have access to land they will disappear. The organization also works on water rights and has begun to focus on issues related to seeds. As La Via Campesina sees it, farmers are losing the capacity to continue their practices, for example related to seed

production, and this issue is regarded as important. Mr. Pramono underlined that the Green Revolution eroded the capacity of farmers since the use of modern varieties was promoted. In addition, it is difficult for farmers to protect their varieties by using plant variety protection, because farmers' varieties usually do not fulfil the requirements when it comes to genetic homogeneity.

The response of many La Via Campesina farmers to the current seed situation is to shift to agro-ecology. One decisive factor is that they usually cannot afford the type of seed that the Green Revolution brought with it, and the related input like chemical fertilizers. The organization is therefore initiating training centres on agro-ecology in several countries. It has also started seed-bank projects where farmers collect their own seed for collective storage: this creates a ready mechanism for seed distribution and also facilitates exchange of knowledge. They have found that the seed from these banks is of better quality than the seed the farmers would otherwise buy; moreover, it is a cheaper option.

In closing, Mr. Pramono stressed the need to change policies. Today they mostly benefit companies, and not farmers. La Via Campesina wants governments to include farmers and stop the promotion of industrial agriculture, and holds that successful implementation of Farmers' Rights depends on farmers having access to the seed they themselves want, which is usually the seed of farmer varieties.

## **7.5 Discussion on obstacles and options**

Following the presentations on the subject of benefit-sharing, the participants were invited to identify obstacles to, and options for, benefit-sharing. Many of the participants had questions for the presenters.

The first question was about the source of funds for the community biodiversity management fund in Nepal, and who takes part in deciding the distribution of the funds. In response to the question about the Nepalese fund, Dr. Neopane answered that LI-BIRD has contributed some resources to the fund, as have other organizations. Some resources have also been generated by the farmers themselves. Decisions regarding the distribution of financial support are taken by farmers, and the main point is that the fund is intended to contribute to sustainable use of biodiversity in the communities.

One participant brought up the question of how to compensate communities and conduct benefit-sharing when the same varieties can be found in various communities. One approach, as is the case in Indonesia, is for the local government to have the right to decide on how to share benefits. In Indonesia, the government consults the two main farmers' organizations in decision-making. Since Indonesia is a big country and it is impossible to consult everybody, it was underlined that in this context the question is who to consult. Many participants were concerned about which organizations and types of farmers should be consulted in decision-making on issues related to the management of genetic resources.

One participant asked La Via Campesina how the various member organizations in more than 70 countries link up and how they share benefits, since each country has its own legislation. In response it was explained that the organization is divided into regional groups and that information is shared at meetings. Meetings are organized in each of the country's nine regions on the subject of agro-ecology, and the issue of seed is then included as one of the topics.

The Indonesian branch of the organization is made up of various organizations for small-scale farmers. It was explained that in Indonesia it is the organizations with best access to the media that have most political influence, and that some organizations might claim to represent farmers without being legitimate representatives. Some farmers' organizations consist solely of former government officials. It was added that is important to bear in mind that there are different kinds of farmers.

A question about the agro-ecology movement and the definition of the term in this context was also raised. Mr. Pramono replied that what he meant was a type of agriculture that employs diversity, as opposed to monoculture systems. The seed issue is important in the agro-ecology model, and, in his opinion, this is how it is linked to benefit-sharing.

LI-BIRD was asked by one participant about misuse of information and whether there are any legal clauses that protect the community biodiversity registers from misappropriation. It was mentioned that in India, such registers are not recommended because of the danger of misappropriation and misuse of information. In response, LI-BIRD said that most seeds are not in the gene bank in Kathmandu and that the organization tries to make genebank accessions accessible to farmers. Without these initiatives, several species and varieties would have disappeared.

Another participant noted that a draft law is currently being developed in Nepal with input from NGOs and CSOs. It was also mentioned that the Benefit-Sharing Fund of the Plant Treaty mostly supports activities that farmers have carried out for years, and that the Governing Body should both ensure that communities benefit from multilateral access and use the Fund to support local initiatives that contribute to sustainable use of plant genetic resources for food and agriculture. It was also reiterated that there are at least two different types of monetary benefit-sharing, bilateral benefit-sharing through agreements and the Benefit-Sharing Fund. It was suggested that more national funds should be established; further, that instead of bilateral contracts, it could be useful to build on the idea of setting aside a percentage of all seed sales, as Norway does in its contribution to the Benefit-Sharing Fund under the Plant Treaty.<sup>23</sup>

Summarizing the session, Dr. Andersen noted that many ideas regarding the implementation of benefit-sharing had been shared that could be brought into the regional discussions, and that would, she hoped, prove useful for developing the recommendations to be shared on the third day.

---

<sup>23</sup> Norway pays annually an amount to the Benefit-Sharing Fund under the MLS that is equivalent to 0.1% of the seed sale in the country.

## 8 The realization of Farmers' Rights to participate in decision making [Art. 9.2.c)

### 8.1 Overview of typical national measures

**Mr. Patrick Mulvany, Senior Policy Advisor at Practical Action (UK)**, gave a presentation on national measures relevant to the realization of the rights of farmers to participate in decision-making and a brief on the state of farmer participation worldwide.

In Mr. Mulvany's opinion, the UK is not a good example of what needs to be done to realize the rights of farmers who conserve, develop and sustainably use plant genetic resources on-farm. The country abolished the peasantry as a category in the 14th century and was the first in Europe to develop seed laws in 1920. These laws were initially benign and defended the interests of the farmers and gardeners against rogue traders. Then, in the 1960s the UK developed plant variety protection laws that served as a basis for UPOV provisions. Currently, the country is promoting biotechnology and GM crops internationally. In the UK, the National Farmers' Union of England participates in decision-making, but Mr. Mulvany underlined that this organization is dominated by the interests of industrial commodity farmers and is wholly unrepresentative of the farmers who conserve, sustainably use and develop agricultural biodiversity.

On the other side, he also emphasized that in the UK there is also a rich diversity of organic seed breeders and increasing numbers of organic gardeners and farmers who treasure and develop local varieties. A Heritage Seed Library, run by Garden Organic, has a collection of 800 delisted varieties of vegetables kept alive by 400 seed guardians. Furthermore, there is an exciting network of more than 60 'Seedy Sundays', a concept introduced to the UK from Canada. The original Seedy Sunday in Brighton, now in its 10th year, attracts about 2000 people on the first Sunday in February each year to swap seeds.

Mr. Mulvany stressed that he mentioned these examples to highlight that either there needs to be proper provision for doing all the things we know are necessary for farmers and gardeners to be able to develop, save, exchange and sell their seeds, or else people will take matters into their own hands and will carry out activities outside the legal framework.

He also underlined that it is important to remember that the concept of Farmers' Rights was developed without farmer participation. In his opinion the result of this is an article that is insufficient and inadequate, especially because it leaves everything up to national governments.

Subsequent to the entry into force of the Treaty, La Via Campesina has participated in meetings of the Governing Body, but still has no opportunity to participate in the decision-making processes, and nor do its members at national levels. Although he has been asked to talk about decision-making at the national level, Mr. Mulvany finds that it is with regard to international implementation it is most important to get governments and contracting parties to think about what should be done to promote a type of agriculture that maintains biodiversity.

Bringing up the e-mail survey about the implementation of Farmers' Rights, Mr. Mulvany noted that about a third of the respondents had said there was some kind of legal right to participation in their countries. However, he questioned whether there had actually been any 'effective' participation in decision-making by biodiversity-conserving farmers who develop, save and use a wide range of plant genetic resources. He also mentioned that about half the respondents had said that farmers could participate in committees, hearings and so on, but felt that an important question in that context is *which* farmers, and whether the farmer representatives are legitimate representative of those farmers who conserve and develop plant genetic resources. As noted in the report, some efforts are being made to train decision-makers in the importance of Farmers' Rights but clearly more needs to be done.

As to exactly what should be done, Mr. Mulvany referred to Mr. Pramono from La Via Campesina, who said that farmers are looking for protection from the industrial production model and, as mentioned by Dr. Vanaja Ramprasad from India, intellectual property rights and diversity-reducing seed laws. He emphasized that small-scale diversity farmers are calling for the promotion of a more diverse and ecological food system; for recognition of their collective rights to seed, land, water; and for protection of their resilient production systems that can adapt to climate change and other threats.

With respect to participation in decision-making, Mr. Mulvany therefore felt that it is important that the Governing Body should set an example and start by including legitimate representatives of relevant farmers in its decision-making process, including decisions regarding the allocation of the Benefit-sharing Fund. He suggested that one way to do this could be to adopt similar procedures to those of the UN FAO Committee on World Food Security (CFS) that after its reform has a more open, transparent and effective mechanisms for the inclusion of all stakeholders. Concluding his presentation, Mr. Mulvany suggested that the meeting should think about presenting a recommendation to the Governing Body about the participation of farmer representatives and how they can be effectively involved in decision-making.

## 8.2 Success stories from Southern Africa

**Mr. Nyasha Chishakwe, Head of Policy and Advocacy at the Community Technology Development Trust (CTDT) in Zimbabwe**, presented success stories from Southern Africa. He underlined that it is important to examine what is meant by the right to participate and why it is important, as well as what constitutes a success story.

Mr. Chishakwe emphasized that it is important for small farmers to have a procedural right to participate in decision-making, particularly due to the legal duality in Southern Africa. Most of these countries have both customary laws and a legal system inherited from the colonial age, and, although they are on equal footing in theory, the former is in practice usually subordinated to the latter. Participation also facilitates compliance as a result of democratic and legitimate decision-making processes.

The right to participate can entail several different aspects: farmers' access to information so they can make informed contributions to decisions at all levels; the existence of institutional frameworks/platforms at all levels where their views can be expressed; and the ways and means for farmers to raise objections to decisions that affect their interests.

Of the four examples of farmers' participation in Zimbabwe mentioned by Mr. Chishakwe, three relate to law and policy. The first example is the National Budget Consultation Processes. Most governments in the region consult national stakeholders, including farmers, for the purpose of developing national budgets. Although such consultations tend to be general in nature and restricted to the issue of allocation of public funds, they provide farmers with the opportunity to bring up issues that affect their way of life, including their traditional farming practices

The next example mentioned was the Parliamentary Portfolio Committee on Agriculture. This committee hears concerns of all stakeholders involved in agricultural activities, including local farmers. Such hearings are an important platform for farmers to raise issues that concern them. In practice, however, the committees do not meet as often as they should; and they usually give preference to stakeholders from commercial agriculture.

Public Hearings in matters of bioprospecting and access and benefit sharing (ABS) constitute the third example mentioned by Mr. Chishakwe. Some countries, among them Zimbabwe, have legislation on ABS that provides for public hearings for communities on matters of bioprospecting and other ABS-related issues. As a result of civil society participation in the hearing process, the Act S 31-36 of SI in Zimbabwe addresses the issue of access to genetic resources and indigenous genetic resource-based knowledge.

The last example mentioned in the presentation was civil society-led consultations. Mr. Chishakwe called such consultations the most important case of farmer participation currently existing in southern Africa. These consultations are *ad hoc* in nature and not supported by law, but have had important effects. For example, together with like-minded NGOs such as CEPA from Malawi, CTDT have been organizing forums at national and regional levels where farmers' views on Farmers' Rights have been collected. These consultations have led to both capacity enhancement of farmers and increased awareness of Farmers' Rights among policy-makers. The output of these consultations has also influenced policy, for example the SI 61 of 2009 on ABS in Zimbabwe, which contains various aspects related to Farmers' Rights.

### **8.3 A farmer's views**

**Mr. Terry Boehm, President of the National Farmers Union (NFU) in Canada**, spoke of what needs to be done and the challenges regarding Farmers' Rights to participate in decision-making.

Although by some standards he can be considered a large-scale farmer, Mr. Boehm said that he saves his own seed and stressed that farm-saved seeds are important for him as a farmer in Canada. He also claimed that

his country is one of the worst players both globally and nationally when it comes to Farmers' Rights.

In Canada, there are only about 200,000 farmers left, less than 1% of the population. The average age of the remaining farmers is 60 and they have about 64 billion dollars in debt. There is a strong plant variety protection act in place. The country is a member of UPOV 1978, but there is strong pressure for Canada to join UPOV 1991. In general, the legal system is seen by Mr. Boehm as curtailing Farmers' Rights.

In Mr. Boehm's view, a major challenge in ensuring the rights of farmers to participate in decision-making is the systematic manipulation of the consultation processes. Surveys are conducted by private firms, but the use of the results is often arbitrary. The consultations processes are often announced on an obscure webpage with a short deadline and the responses are weighed in a specific way. Mr. Boehm related that he has been told that inputs from breeders are given more weight than those from farmers. Sometimes the National Farmers Union manages to get the deadline extended, but the process is difficult. All the same, government representatives describe the system as 'participatory'.

As he sees it, those farmer organizations that are supportive of the government's views tend to get invited to consultations. The participation of organizations in favour of GMOs is facilitated, whereas the consultation process structure is negative for farmers engaged in maintaining agricultural biodiversity.

In general, Canadian farmers are unaware of their rights in this context and policy-makers are unaware of the importance of Farmers' Rights and plant genetic resources for food and agriculture. Mr. Boehm also said that issues related to taxes, intellectual property rights and court rulings all affect farmers' willingness and capacity to participate in a negative way.

Due to the debt burden of Canadian farmers (on average USD 300,000), farmers rely on seed credits. In Mr. Boehm's view this is because farmers will grasp at anything to continue as farmers. Most believe what they are told by the industry regarding the need for strict intellectual property rights. The industry also presents the farmers as dependent on their varieties. This is part of the reason why, as Mr. Boehm sees it, Canadian farmers do not stand up against those who are putting them into debt.

Summing up, Mr. Boehm concluded that farmers' effective participation in his country is being systematically eroded.

#### **8.4 Discussion on obstacles and options**

Following the presentations, participants shared views on the major obstacles to and options for realizing Farmers' Rights to participate in decision-making.

One of the issues that were raised was the situation of farmers in Europe, Russia and North America. One participant pointed out that the majority of participants at the consultation meeting represent developing countries

or farmers from these countries, but that they should also be concerned about the farmers in the North who seem to have been enslaved. The participation of these farmers in decision making processes is only theoretical and they are not taken seriously. Most countries are also experiencing generational challenges, with children who move away to get education often not wanting to go back to the farms. In addition, many farmers want a different life for their kids than what farming can offer them. The important thing, as this participant saw it, would therefore be to get small-scale farmers from different countries together to fight the WTO-driven agendas.

It was also mentioned that a major obstacle to the maintenance of agricultural biodiversity is that some governments want their farmers to shift from subsistence farming to commercial farming, but that this usually causes erosion of agricultural diversity. Many farmers are resistant to start growing modern varieties, although the big multinational seed companies and many governments promote such varieties. As an example of why many farmers prefer their own varieties it was mentioned that high-yielding varieties cannot be stored long compared to farmers' varieties, and that there are quality differences. Some civil society organizations still believe in traditional varieties, but in general it was felt that the concerns of farmers were not being listened to.

One of the participants from Europe mentioned that at a recent meeting on seeds and GMOs in the European Union, La Via Campesina had only one representative present, whereas Copa-Cogeca had ten. This participant felt that the latter organization usually say what the EU Commission want to hear and speak the language of the seed industry, and that they are therefore the ones being listened to.

In response, a representative from the seed industry in Europe pointed out that just as there are different types of farmers there are also different types of seed companies. It was suggested that rather than saying that the seed industry and the government are the problem, farmers should first settle their internal differences, and that perhaps the reason the seed industry is being heard to a larger extent is that they speak with one voice despite their diversity. This participant also underlined that Monsanto, which is often criticized, is only one of the many members of the European Seed Association (ESA).

As a continuation of this discussion it was suggested to stop using the terms 'stakeholders' and 'level playing field' in the discussions of the Governing Body, as the big differences within various groups does not justify the use of the term 'stakeholder', and broad participation does not necessarily level the playing field, since the groups are so different. One participant said that he did not think the seed industry spoke with one voice, not even in Europe, and that he did not expect that either they or farmers would ever really manage to do so. It was pointed out that the differences among stakeholders are evident in the Governing Body's budget, as farmers do not benefit from time and budget allocations.

There was agreement by other participants as well that there are different categories of farmers and that creating consensus among them might be

difficult. One participant gave an example from Canada regarding the EU-Canada free trade agreement that is being negotiated. The draft agreement includes a precautionary procedural right for companies in cases of alleged infringements of their intellectual property. If this is implemented, a farmer that is accused of infringement might get his bank account frozen and harvest confiscated even before any verdict is delivered. The National Farmers' Union in Canada is the only farmers' organization to speak up against this component and the agreement in general. The other farmers' organizations are in favour of the agreement, hoping that it will enable them to sell their GMO crops to Europe. Even though the Canadian government also suggests that the farmers should come together and speak with one voice, this was seen by the participant as difficult in the current context. It was also underlined that such diversity of views and organizations is an asset.

## 9 Rights that farmers have to save, use, exchange and sell farm-saved seed [Art. 9.3]

### 9.1 Overview of typical national measures and the 2009 e-consultation on Farmers' Rights

An overview over typical national measures, like laws, regulations, policies, programmes and projects, relevant to the realization of Farmers' Rights to save use, exchange and sell farm-saved seed was given by **Dr. Robin Pistorius, Advisor to the Centre for Genetic Resources in the Netherlands (CGN)**, who re-visited relevant aspects of the 2009 e-consultation on Farmers' Rights.

Dr. Pistorius started his presentation by saying that Europe is exporting its legal system to developing countries, and that a good understanding of this system is therefore essential to actors outside the region as well. He underlined that it is difficult to understand the concept of community rights unless one has been raised in a system where the concept is practised. The seed industry, with a few of the bigger companies leading the way, is in his opinion forcing patent laws wherever they can. However, he also underlined that it is important to remember that there is diversity within the seed sector. For instance, in the Dutch seed sector there are independent companies, often family-run, that are fighting the patent system, and this has created interesting dynamics. In his opinion, patents are a true evil in countries where farmers and breeders rely on informal seed systems.

The online conference on the options for Farmers' Rights organized by CGN and CTDT in 2009<sup>24</sup> included 55 invited participants and altogether 138 contributions from all over the world, although it was difficult to achieve true geographical representation. Summaries of these discussions were provided in six newsletters, as well as presented to the Third Meeting of the Governing Body as an information document written by Robin Pistorius, Eng Siang Lim, Huib Ghijsen and Bert Visser. In addition, a farmer support document was developed.

The online conference was organized into three discussion rounds on these topics: objectives to be reached by creating legal space; current experiences with legal space; and future options for legal space. There are various categories of farmers, from subsistence farmers without access, to farmers who are commercial producers, and every category in between, so how the term 'farmer' is defined is important. The consultation round in 2009 focused on poor farmers.

During the consultations it was discussed that the main motivations for Farmers' Rights are recognition of efforts and compensation for contributions in the form of monetary and non-monetary benefit-sharing. Seed management was presented as an open system that could be compared to open software, and Plant Breeders' Rights were seen as having implications for ensuring that the system remained open. In this context, the

---

<sup>24</sup> <https://groups.google.com/group/optionsforfarmersrights?hl=en-GB>

effects of free trade agreements, which often include provisions on stronger protection of intellectual property rights, were also touched upon.

Participants in the online conference agreed that farmers can be regarded as breeders, and there was also widespread recognition of the importance of participatory plant breeding. In addition, there was general recognition of Farmers' Rights as communal rights, and it was warned against individualization of these rights. Another issue brought up was the impact of seed acts, particularly for the marketing of traditional varieties. Seed laws are generally older than plant variety protection and have severe impacts on seed practices through DUS certification and marketing requirements.

The online conference facilitated a specific discussion on Article 9.3 regarding Farmers' Rights to save, use, exchange and sell farm-saved seed. The first conclusion of the discussion was that national seed acts negatively affect these rights due to their marketing requirements. Secondly, exchange and sale at the community level is negatively affected by plant variety protection laws that are in line with UPOV 1991, since the options for farm-saved seed are limited to 'private use' and only to the extent that it still takes into consideration the interest of the breeder. However, Article 15.2 in UPOV 1991 is not very clear, and this creates some room for national interpretations.

During the specific discussion on Article 9.2 on traditional knowledge, India's act on plant variety protection and Farmers' Rights was referred to as an example of how to protect traditional knowledge because of its focus on farmers' registries and geographic origin protection. When addressing the issue of benefit-sharing and farmers' contribution, participants in the online conference dealt with the significance of non-monetary benefits as well as monetary benefits. The need for prior informed consent from local farmers was also mentioned by many. In order to implement effective participation of farmers in decision-making it was agreed that there is a need for awareness-raising and training of farmers' organizations, as many farmers and organizations are not aware of the Plant Treaty.

The consultation also sought to address the questions of which laws that should be revised to realize Farmers' Rights, how to protect traditional knowledge, which type of benefit-sharing is best and how to involve farmers and their organizations.

The online conference concluded with two recommendations to the Secretariat of the Treaty, and two to the donor community. The first recommendation to the Secretariat was a request for it to study the options for provisions in the national seed legislation of Contracting Parties with a view to providing recommendations and/or guidelines for the introduction of legislation to allow for the unrestricted or less restricted sales of farmer varieties. The second recommendation to the Secretariat requested it, together with UPOV, to study the possible means and mechanisms to streamline Article 9.3 into UPOV 78/91 regarding protected varieties, in particular regarding the options for provisions in national legislation based on UPOV 78 or 91 that would allow small-scale farmers

in developing countries to save, use, sell and exchange seed of protected varieties within their communities.

The first recommendation to the donor community was an encouragement to continue with the online conference group as a forum for further discussion and exchange on the implementation of Farmers' Rights, and to continue helping discussions on the implementation of Farmers' Rights through any other means and approaches. The last recommendation encouraged donors to provide financial assistance to help developing countries organize farmers' workshops to gather inputs for policy decisions on the implementation of Farmers' Rights, seed legislation, and intellectual property rights legislation.

The recommendation regarding seed legislation and the discussions that ensued at the side event in at the Third Meeting of the Governing Body held in Tunis contributed to Resolution 6/2009 stating that the Governing Body 'invites Contracting Parties 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'. As a consequence, Contracting Parties should now consider reviewing their seed regulations and other measures affecting Farmers' Rights, particularly if these affect Farmers' Rights to save, use, exchange and sell farm-saved seed.

## **9.2 The EU Project *Farm Seed Opportunities***

Results from the EU project Farm Seed Opportunities were presented by **Mr. Riccardo Bocci, Coordinator of the Italian Association for Organic Agriculture (AIAB)**. Together with Véronique Chable, Guy Kastler and Niels Louwaars he has been responsible for compiling recommendations for on-farm conservation in Europe based on the experiences from the project.

Mr. Bocci said that the seed laws in Europe, which are based on the DUS requirements and mandatory inclusion in seed catalogues in relation to sale and distribution of seed, are spreading to other regions, so it is important to look at what is happening in Europe. He underlined that two major processes are currently taking place in the EU with regard to seeds: a process of reviewing the seed laws where farmers should participate, and a process of implementing the EU Directive on 'conservation varieties'.

The EU Directive on conservation varieties states that 'whereas it is essential to ensure that plant genetic resources are conserved; whereas a legal basis to that end should be introduced to permit, within the framework of legislation on the seed trade, the conservation, by use *in situ*, of varieties threatened with genetic erosion'. For the first time in the EU, there is now a link between seed laws and the need for conservation of plant genetic resources for food and agriculture.

The project 'Farm Seed Opportunities - Opportunities for Farm Seed Conservation, Breeding and Production' ran from January 2007 until March 2010. The background for the project was the difficulties related

to the implementation of the 98/95 directive on conservation varieties and the 6th Framework Programme of EU calling for scientific support to policies. The project was made up of a consortium of 11 partners, including farmers' organizations and research institutions, and set out to examine what type of regulations that should be in place for different types of varieties. A farmers' forum was set up to exchange ideas and to get feedback from farmers on their participation. One of the recommendations was to improve the means of farmer participation in similar projects in the future.

The degree of distinctiveness, uniformity and stability differ among registered varieties, conservation/amateur varieties, organic varieties, farmers' varieties and land races. The Convention on Biological Diversity, the Plant Treaty, EU directives and the EU catalogue all have implications for the maintenance of such varieties. Farmers' varieties not listed in the Common Catalogue cannot be exchanged or sold. Mr. Bocci stressed that a major question is whether there should be different regulations for various types of varieties. He said that the situation with regard to seed in Europe is more complex than the picture drawn by the EU Commission. In addition to formal varieties produced by commercial seed companies, there are also activities in participatory plant breeding producing farmers' varieties. Land races and conservation varieties still exist and constitute a valuable inheritance. In his opinion, the current seed laws and intellectual property rights (IPR) are blocking the seed flow between the formal and informal elements of the seed system.

One of the recommendations from the 'Farm Seed Opportunities' project concerns the need for a new approach to seed conservation. In their view, the seed system should focus on sustainable use of plant genetic resources as requested by the Plant Treaty; furthermore, it must recognize that farmers not only cultivate seeds, but also conduct on-farm research, and allow marketing and exchange of seeds for this purpose.

Mr. Bocci went on to emphasize that there is a need to go beyond the debate on conservation varieties since more is needed to legalize the informal seed system. He noted the following challenges: that the varieties produced by participatory plant breeding are not in conformity with DUS requirements; the old varieties no longer registered in the Common Catalogue and without a precise geographical area of origin; local varieties used in reintroduction programmes for the purpose of cultivation in areas different from their area of origin; populations that have no historical link with a given territory or that have been bred by innovation methods capturing the advantages of diversity and which cannot be registered in the Common Catalogue due to lack of correspondence with the DUS criteria.

Mr. Bocci also emphasized that the new EU directive only puts in place a system for breeding and marketing of conservation varieties, but that it should also be possible to exchange and sell farmers' varieties legally.

The main recommendation to the EU Commission is that finding the right balance between formal and informal seed systems within the European context should be one of the objectives of a regional strategy for on-farm conservation of plant genetic resources for food and agriculture. Such a strategy would deal concretely with the implementation of both Article 6

and Article 9 of the Plant Treaty. Mr. Bocci stressed that implementation of Article 6 is mandatory for Contracting Parties; further, that it concerns all crops and not only those listed in Annex I.

As to developing regulations for the seed sector, Mr. Bocci suggested that several questions should be taken up: how to finance participatory plant breeding in a situation of decreasing public investment in agricultural research; how to promote an informal seed system with high-quality seeds without opening for unfair competition in the seed industry, and how the directive on conservation varieties will be interpreted and implemented by member states. He also underlined the importance of recognizing the quality and contributions of the informal seed system in Europe. Such a system and Farmers' Rights are important in Europe as well, and not only in the South, as he felt some governments seemed to think. In his opinion, it is essential to find a balance between the formal and informal seed systems.

Mr. Bocci ended his presentation by citing the Second State of the World Report on Plant Genetic Resources (FAO, 2009) for food and agriculture, saying that 'it is impossible to replace farmers' seed systems completely and it would be unwise to try. Farmers' seed systems provide an important component of food security, a vital haven for diversity and space for further evolution of plant genetic resources'.

### **9.3 Success stories from Norway**

**Ms. Bell Batta Torheim, Advisor at the Development Fund, Norway,** presented success stories from Norway. She explained that two legal processes have been important for the realization of farmers' rights to save, use, exchange and sell farm-saved seed in Norway in recent years. The first process involved reform of the seed legislation and the other has been about plant variety protection.

In 2004, the Norwegian seed regulation was changed in order to implement an EU directive on seeds. The main objectives of these regulations were to ensure farmers seeds of good quality and to avoid the spread of disease. This amendment of the regulations defined very strictly who was to be allowed to sell what kind of seeds. In brief, only authorized seed shops were allowed to distribute sealed packages of certified seeds from varieties approved for release. In order to be approved for release, the variety had to fulfil the DUS criteria. Also exchanging and giving away seeds for free was considered as distribution, and was prohibited for those not registered as seed shops; also prohibited if the varieties were not DUS, or if the package of certified seeds had been opened.

After this law had been in force for a few years, views on the prohibition of seed exchange among farmers became clear in dialogue between researchers, farmers and the food authorities in charge of implementing these laws. In 2007, a broad civil-society coalition, including all Norwegian farmers' organizations, gardeners and environmental organizations, launched a campaign demanding the right to give away seeds. The authorities started a process of reviewing the seed legislation due to new EU directives, this time with a focus on the need for conservation. In a

2009 public hearing in Norway, researchers and civil society provided comprehensive inputs on necessary measures for meeting the need to implement Farmers' Rights to save, use, exchange and sell farm-saved seed. In spring 2010, Norway's seed legislation was again amended. Farmers are now allowed to exchange and sell any varieties on a non-commercial basis. They may also, through a simplified process, register themselves as 'seed shops', and are then allowed to sell seed of conservation varieties on a commercial basis.

In 1993, Norway joined UPOV, adhering to the 1978 Act of the Union. One decade later, Norwegian state breeding activities were merged in a private company with partly state ownership. The conservative government wanted to reduce public spending on breeding and suggested in 2004 that Norway should join UPOV 1991 so that breeding companies could collect more revenues from the market, by demanding licenses from farmers who use farm-saved seeds of protected varieties. The ensuing public hearing engaged the farmers' organizations, researchers and others, and the debate was well covered by the media. When a Red/Green government was elected in autumn 2005, the idea of Norway's applying to join UPOV 1991 was already known as a controversial issue. One of the very first decisions of the new minister of food and agriculture was to declare that Norway would retain its existing legislation on plant variety protection because the UPOV 1978 was seen as providing a better balance between plant-breeders' rights and farmers' rights. Farmers in Norway are today allowed to save, use and exchange farm-saved seeds of protected varieties, but not to sell them commercially.

The issue of farmers' rights to seeds has a North–South dimension: most of the wealth of plant genetic resources for food and agriculture has its origin in the South, whereas the systems of seed regulation and IPRs on plants tend to originate in the North. However, the issue of farmers' rights to seeds is more strongly linked to various models of agriculture, regardless of socio-geographical location. Ms. Torheim underlined that diversity farmers in North and South alike face challenges in keeping up with environmentally-friendly agricultural methods for sustainable use and in further developing plant genetic resources – in sharp contrast to the monocultures promoted by the model of industrial agriculture.

#### **9.4 A farmer's views**

**Ms. Heike Schiebeck, Small-Scale Farmer from Austria and a Board Member of La Via Campesina Austria**, presented her views on challenges with regard to the rights of farmers to save, use, exchange and sell farm-saved seed.

She introduced her organization, La Via Campesina, by explaining that it was established in 1993 and now has 24 European members. It focuses on small-scale and organic farming producing primarily for the local food market rather than export. Ms. Schiebeck underlined that both in Austria and elsewhere in Europe many farmer are abandoning farming. Indeed, if today's trend continues in her country, there will be no farmers left in 50 years, except perhaps for a few who maintain the landscape so that tourists will keep coming. As she sees it, current agricultural policies promote industrial agriculture, hybrid seeds and GMOs, and there is a need for

promotion of small-scale farming. Ms. Schiebeck mentioned that there is a broad coalition campaign against GMOs in Europe and noted the sixth regional conference on GMO-free regions held in Brussels in September 2010.

Relatively few European farmers save seeds, as most use hybrid seed, but to a certain extent Ms. Schiebeck felt that there is increasing awareness of seed-saving practices. However, she thinks European seed legislation makes it difficult for farmers to use farm-saved seeds, and underlined that the rights of farmers to save, use, exchange and sell farm-saved seed are common to all farmers in all regions. She did not regard this as an issue relevant solely to farmers of the South, stressing the need for food sovereignty in Europe and North America as well. At the national level it is necessary to work in relation to seed legislation, since the exchange of seeds is prohibited in many countries. The case of Kokopelli in France, the seed exchange network that maintains a broad diversity of vegetable varieties, was mentioned as an example of the consequences this type of legislation has, as this network was taken to court and fined for its activities.

UPOV 1991 and patents were seen by Ms. Schiebeck as major obstacles to Farmers' Rights related to seed-saving, and she proposed a campaign against the signing of UPOV 1991. In her view, the IPR agenda is being pushed in the WTO, and La Via Campesina does not agree with the idea of discussing agriculture in the WTO at all. A further problem is that the IPR laws of industrialized countries are being exported to developing countries through 'free trade' agreements. La Via Campesina does not want Europe's seed regulations to be exported to the rest of the world; Ms. Schiebeck opined that free trade agreements are negative to the realization of Farmers' Rights.

Ms. Schiebeck is convinced, along with La Via Campesina, that small-scale and ecological agriculture can feed the world, citing the International Assessment of Agricultural Science and Technology for Development in support of this view. She deems it better both for the environment and for the equitable distribution of food to have many small-scale farms and more people employed in agriculture, and she urged change in this direction.

## **9.5 Discussion on obstacles and options**

Following the presentations the participants were invited to share their views and experiences regarding obstacles to, and options for, realizing Farmers' Rights to save, use, exchange and sell farm-saved seed. One participant agreed with Ms. Schiebeck that the International Assessment of Agricultural Science and Technology for Development (IAASTD) can be useful for understanding the issues at hand, and also underlined that there is no point of talking about Farmers' Rights without also talking about the other articles in the Plant Treaty. He underlined that all Contracting Parties are obliged to implement Article 6 on sustainable use, and that no Contracting Party can therefore support a type of agriculture that destroys biological diversity. According to the first State of the World Report on Plant Genetic Resources for Food and Agriculture

(FAO, 1998), the replacement of native genes with elite genes is the major drive for loss of agricultural diversity, and this finding was strengthened in the Second State of the World Report (FAO, 2010).

One of the participants from Africa said that he was impressed by how Europe was expanding the legal space for traditional varieties through the adoption of the directive on conservation varieties, and brought up the issue of GMO contamination and the Monsanto vs Schmeiser case. It was suggested that the right to protection from pollution and GMO contamination should be included in the concept of Farmers' Rights. Another participant mentioned the possibility of farmers suing companies for lost value as they often have a right of action when value is destroyed, although there are limitations in some jurisdictions. It was also mentioned that when intellectual property laws are taught in Africa, plant variety protection is usually not included, and that there is very limited awareness and knowledge about this issue among the general public there. On the subject of genetic contamination, one participant asked why there were no cases of farmers actually suing for damages as a result of such contamination; in response it was said that the legal system might not be the appropriate tool for addressing this issue, as the financial resources differ so much between the involved parties. As an example, mention was made of the case of organic canola (rapeseed) farmers in Canada who wanted to sue Monsanto and Bayer in a class action after they were hindered from growing organic canola as a result of genetic contamination from genetically modified canola, but were denied the possibility to sue as anything other than individuals. That was not something any of them had the resources to undertake. In addition, the Monsanto vs Schmeiser case has frightened farmers from taking legal action against companies, because of the ruling that it did not matter *how* the patented material appeared in the field as long as the farmer had Monsanto's property in his field without having paid for it. In this way, the companies are allowed to define contamination.

In response to the presentations from Norway and Austria, one participant asked for a clarification of the term 'non-commercial' in relation to the sale and distribution of seed. Dr. Andersen and Ms. Torheim explained that although Norway's seed laws now permit the sales of seed from conservation varieties on a 'non-commercial basis', the term has not been clearly defined – precisely so as to ensure flexibility. The same is the case with 'conservation varieties', where the definition has been made somewhat unclear to allow flexibility in terms of implementation while remaining in compliance with the EU directive.

In Ethiopia 95% of the seed supply comes from farm-saved seeds, with local varieties dominating. However, one respondent felt that Ethiopia is losing its focus on Farmers' Rights, and that, due to the pressure to change laws, local varieties are not being protected. As a result there is degeneration.

Also raised was the question of the motivation behind legislation prohibiting use of farm-saved seed and the export of such legislation. Here it was noted that farmers in the South constitute a big market for Western seed companies, and that they are in danger of losing their own varieties.

Continuing the discussion about the regulatory framework in the EU, it was noted that when it comes to the EU mandatory seed catalogue the EU Commission has suggested the inclusion of genetically modified varieties, while excluding local varieties. It was mentioned that there is a need for formal authorization before seeds are put on the market, and that each country should provide input to the EU Commission on the subject of conservation varieties. With respect to the region of origin of the conservation varieties, individual countries have the possibility to define this in their own legislation, thereby adjusting the directive to serve their own purposes.

Mention was made of the limitations with regard to seed quantity in the EU directive, and it was suggested that there should be more flexibility. It was also said that seed laws are being exploited by commercial interests and that civil society organizations, including farmers, should share their experiences to a greater extent. Some participants felt that the seed industry is travelling the world, declaring with one voice that UPOV 1991 is perfect, and so are the seed laws.

In response to this it was argued that the EU legislation on conservation varieties was created for the purpose of conservation of crop genetic resources and that it came about as a result of involvement from farmers and civil society. It was also argued that the possibilities for participating in decision-making are the same for farmers and for the seed industry. Further, it was stressed that the exemptions for further breeding and research in UPOV are obligatory, whereas other exemptions are voluntary: thus, countries can decide for themselves, for example, what type of regulations they want regarding seed-saving practices. Whereas farm-saved seed is subject to payment of royalties, this does not apply to small-scale farmers; and the same exemption is included in EU patent law.

Other participants agreed that UPOV 1991 indeed contains optional exemptions that to some degree allow farmers to save and use seeds, but they questioned the degree to which farmers can actually exercise these exemptions. It was felt that it is the breeders who define the conditions and influence the process of cleaning and stocking seeds. It was pointed out that, since seed cleaning is restricted, farmers have hardly any rights here, as no one wants to plant unclean seeds.

It was again underlined that Farmers' Rights to save, use, exchange and sell farm-saved seeds are linked to the need for conservation and sustainable use of crop genetic resources; and that, for many farmers, farm-saved seed is the most important source of seed. One reason is that the formal seed system in many countries is unable to provide the amounts and variety of seed needed by farmers.

Coming back to the issue of catalogues of local varieties, one participant wanted to know whether molecular markers were seen as a useful tool in connection with the catalogue mentioned from Italy. In response to this it was said that they would like to use methods that are less expensive and that the farmers themselves know how to distinguish among varieties.

Summarizing the discussion, Dr. Andersen underlined that this aspect of Farmers' Rights has long been a controversial issue, but that there now might be a move toward a more common understanding.

## 10 Summarizing key findings

To provide some input for the next day's discussions, Dr. Andersen ended the first day of the consultation meeting by providing a summary of the key findings from the day's presentations and discussions. She noted that the session on traditional knowledge had discussed catalogues and how to find a balance between protection against misappropriation and the need for sharing, and that the plenary had discussed how to bring traditional knowledge and formal science together. With regard to benefit-sharing, many examples were offered, among them the benefit-sharing fund of the Plant Treaty, and it was mentioned that one challenge is to scale up promising local projects, like those in Nepal. Looking back at the session on farmer participation, Dr. Andersen said that despite what might be seen as depressing developments there are examples of progress as well. One important issue that was discussed during the session on seed rights was how to create legal space and dialogue between different groups. Dr. Andersen also offered an overview of the major questions raised during the day, under the various elements of Article 9 of the Plant Treaty:

- 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 scaled up 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?



## 11 Regional consultations with presentations and discussions in plenary

Following the exchange of views and experiences and the preliminary discussions on obstacles and options the previous day, the entire second day (24 November) was devoted to regional consultations. The participants were divided into four groups and the goal was for these groups to discuss regional experiences related to all four elements of Farmers' Rights with a focus on national measures, achievements, and challenges, as well as to agree on regional recommendations. Each of the four groups had one chair and one co-chair, and was also appointed one secretary each:

1. **African Region:** Chair: *Dr. Kassahun Embaye*, A/Director General, Institute of Biodiversity Conservation, Ethiopia. Co-chair: *Mr. Zachary Muthamia*, Head, National Genebank of Kenya, Kenya Agricultural Research Institute, Kenya (Secretary: *Dr. Gemedo Dalle Tussie*, Director, Genetic Resources Transfer and Regulation Directorate, Institute of Biodiversity Conservation (IBC), Ethiopia)
2. **Asia and Near East Regions:** Chair: *Mr. Lim Eng Siang*, Honorary Fellow, Bioversity International, Regional Office for Asia, the Pacific and Oceania, Malaysia. Co-chair: *Dr. Muhamad Sabran*, Head of Collaboration and Public Relation Division, Indonesian Agency for Agricultural Research and Development, Indonesia (Secretary: *Mr. Kamallesh Adhikari*, Research Director, South Asia Watch on Trade, Economics & environment (SAWTEE), Nepal)
3. **Group of Latin American and Caribbean Countries:** Chair: *Ms. Maria Cecilia Vieira*, Environment Division, Ministry of Foreign Affairs, Brazil/ITPGRFA Bureau. Co-chair: *Dr. Modesto Fernandez Diaz-Silveira*, Senior Officer for Environment, Ministry of Science, Technology and Environment, Cuba. (Secretary: *Mr. Robert Lettington*, Legal advisor, Asociación Quechúa-Aymara para Comunidades Sostenibles (ANDES)/Lecturer, Kenyatta University School of Law, Peru/Kenya)
4. **Europe and North American Regions:** Chair: *Ms. Pernilla Malmer*, Senior Advisor, Swedish Biodiversity Centre (SwedBio). Co-chair: *Mr. Patrick Mulvany*, Senior Policy Advisor, Practical Action, UK. (Secretary: *Ms. Tone Winge*, Researcher, Fridtjof Nansen Institute, Norway)

On the third day of the consultation meeting (15 November), the various groups presented their findings and recommendations to the plenary, and the other participants were given the opportunity to ask questions and provide comments.

As most groups wanted more time to finalize the wording and organization of their recommendations, it was agreed that this would be done by e-mail communication and that all groups would submit the final versions of their recommendations to the FNI within one week.

In the following sections the work of the different regions is presented. With regard to all recommendations, the final wordings of these have been used, and not the initial versions presented during the conference.

A summary of the recommendations is provided in the input paper submitted to the Secretariat of the Governing Body of the Plant Treaty by Ethiopia, for consideration at its Fourth Session in Bali, March 2011 (IT/GB-4/11/Circ.1).

## 11.1 African region<sup>25</sup>

### 11.1.1 *Rights of farmers to save, use, exchange and sell farm-saved seed*

When it comes to the situation in the countries represented at the conference, various factors and trends were mentioned. Improved varieties are in many countries taking over from farmers' varieties and there is a bias in the favour of varieties developed for large-scale agriculture. In Western Africa there is a lack of legal space for traditional seed practices and a need for capacity-building of farmers with regard to seed production. In Zimbabwe there is no legal system for the sale of local seeds on a commercial basis and registration is a prerequisite. It was also reported that in Malawi farmers are not seen as breeders, and that in Zambia there is both a formal and an informal system in place. While some countries have Farmers' Rights incorporated into legislation also encompassing other areas, no countries in the region have yet adopted any legislation specifically on Farmers' Rights. Participants felt that the legal systems of the region do not address or protect these rights sufficiently.

The group could, however, also report on regional achievements in Farmers' Rights to exchange, use and sell farm-saved seed. In Ethiopia farmers can produce farmers' varieties legally, and in Kenya farmers can

---

<sup>25</sup> The African group consisted of the following individuals, all participating in their personal capacity: 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) Programme, 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.

pack leafy vegetables for sale at supermarkets to promote farmers' production systems. Various projects, such as farmers' field schools, community seed banks and seed fairs, often initiated and organized by NGOs, can be found in different countries.

The participants from Africa agreed that there is a great need to convince policy-makers about the importance of Farmers' Rights, as well as a need to support the informal seed system. It was also mentioned that there is a need to formalize the seed systems of small-scale farming. The major challenges to the realization of this element of Farmers' Rights were identified as being the limited capacity of farmers, the bias favouring improved varieties and the lack of supportive policies.

The group agreed on the following recommendations to the Governing Body:

*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:*

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

#### ***11.1.2 Realization of measures to protect traditional knowledge***

When it comes to the protection of traditional knowledge (TK) in the region, the discussion in the African group showed that there are some legal measures in place, but that most of these have not been effectively implemented yet. In many countries there are no specific legal instruments for the protection TK, and in most there is a need to recognize and

accept the role it plays. However, efforts have been made to include TK in policy, and some countries have put in place laws and regulations which aim to protect this knowledge.

The most important challenges noted by the group regarding the protection of traditional knowledge in African countries were the implementation of legislation and the limited capacity for implementing existing laws, documentation of TK and institutional arrangements for this, establishing a mechanism to help farmers value and appreciate their TK, and lack of coordination and information exchange.

The group agreed on the following recommendations to the Governing Body:

*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:*

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

### ***11.1.3 Realization of Farmers' Rights to fair and equitable benefit-sharing***

Legislation and regulations on access and benefit-sharing aimed at ensuring fair and equitable sharing of benefits are in place in some countries, such as Ethiopia, Zimbabwe and Kenya. There have also been cases of involvement of farming communities in identifying research agendas. However, the group identified a lack of willingness to share benefits from the commercial sector.

The most important challenges related to the realization of benefit-sharing related to crop genetic resources were identified by the group as being the lack of mechanisms to ensure the direct flow of benefits to

farmers, the lack of actual benefit-sharing, lack of adequate policy frameworks and low level of actually existing policies, lack of institutions able to create such frameworks, lack of information difficulties related to accessing information, the nature of the ABS arrangement under the Plant Treaty (which was regarded as not functioning) and the difficulties for farmers in coming up with proposals to the benefit-sharing fund.

The following recommendations to the Governing Body were agreed on by the group on the subject of benefit-sharing:

*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:*

- developing guidelines for the implementation of the benefit-sharing mechanism under the Treaty;
- studying the relationship between benefit-sharing and fair-trade systems with a view to improving the benefit-sharing mechanism under the Treaty;
- reviewing the efficiency and effectiveness of the flow of resources under the International Treaty;
- strengthening the arrangement for access and benefit-sharing under the Multilateral System of the International Treaty;
- supporting Contracting Parties in developing capacity-building measures for farmers, to enable them to benefit from the various existing opportunities (at all levels);
- supporting Contracting Parties in institutionalizing and mainstreaming benefit-sharing measures;
- facilitating access to information and technology transfer.

#### ***11.1.4 Realization of Farmers' Rights to participate in decision-making***

With regard to the last element of Farmers' Rights, participation in decision-making, the African group noted that various national measures, such as the establishment of Agricultural Research and Development Councils at the district level in Ethiopia, the establishment of a national farmers' day in Burkina Faso when farmers can meet the president and government officials and the representation of East African Farmers' Federation in ASARECA (Association for Strengthening Agricultural Research in Eastern and Central Africa) with regard to both planning and decision-making, have been implemented. Farmers' unions, farmer cooperatives and associations and federations of farmers' unions can also be found in the African region, as well as farmers' field schools, on-farm conservation projects directly involving farmers and associations of farmers and conservators. Among the most notable regional achievements

when it comes to the participation of farmers in decision-making, the involvement of farmers in decision-making at the commission level in Burkina Faso and participation of farming communities in decision-making at the national level were mentioned.

The group also discussed challenges to the participation of farmers in decision-making in the region. Relevant factors mentioned include the lack of farmer representation in relevant, international meetings, the low level of farmer participation in debates on policy development, the lack of communication between the national Plant Treaty focal points and existing government structures, the diversity of interests among farmers, ineffective consultations, ineffective farmer representation, lack of clear communication and in general a lack of effective participation of farmers in discussions and processes.

The following list of recommendations to the Governing Body was agreed on by the group on the subject of farmer participation:

*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:*

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

#### **11.1.5 Other issues**

In addition the group took up other issues, such as GMOs, and wanted the Governing Body to provide guidance to the Secretariat to assess the impact of GMOs on crop diversity and the livelihood of African farmers. The African group also wanted more focus on capacity-building of farmers in relation to climate change adaptation and were concerned with the issue of UPOV and farmers' rights to keep and improve their varieties. Also discussed was the need for harmonization of international agreements, as the issue of Farmers' Rights was seen as not only a

national issue. UPOV was considered especially relevant in this context. The group also discussed the African Model Law and its relevance to Farmers' Rights, especially with regard to farmer varieties.

The group of participants from Africa agreed on the following recommendations on other issues of relevance to Farmers' Rights:

- 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.
- 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.
- 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.

#### *11.1.6 Questions and comments from plenary*

One participant brought up the issue of specific ABS cases and whether the group had come up with any recommendations for how to deal with these, and received the response that the countries in question will try to address these within the CBD framework. It was also noted that the system is not working with regard to some crops, and that this should be brought to the attention of the Governing Body; since African countries often lack the capacity to follow up on infringements this is an issue the Governing Body needs to address.

## 11.2 Asia and the Near East<sup>26</sup>

### 11.2.1 *Rights of farmers to save, exchange, use and sell farm-saved seed*

The group of participants from the Asian and Near East regions conducted a review of national measures, such as the seed acts and plant-breeders' rights acts, which revealed the prevalence of several policy-related, legal and technical barriers to the realization of the rights farmers have to save, exchange, use and sell farm-saved seed. Informal seed systems are vital in this part of the world, and greater recognition for such systems was therefore deemed important. In most countries there are national measures in place regulating seed, most have seed legislation and some also have plant-breeders' rights, although most of the countries represented have not joined UPOV. National policies on agricultural biodiversity are also being developed in some of the countries. The participants agreed on the need for a review of national measures, and many were concerned about the use of the DUS criteria in relation to farmer varieties.

As to achievements, it was noted that in India the interests of all stakeholders are taken into account; in Bhutan a process has been initiated for the recognition of farmers' varieties and public research institutions still dominate plant breeding; in Nepal a separate system for registration of local varieties is being introduced under the Seed Regulations; and local government institutions in Vietnam support and encourage the sale of un-certified seed. Further, in Sri Lanka, exchange of seeds among farmers is allowed as long as it is done for the purpose of sowing: the import of varieties with terminator genes is discouraged in the agricultural policy.

Among the challenges to farmers practising their rights to save, use, exchange and sell farm-saved seed, mention was made of implementation of existing laws, limitations to the distribution of un-certified seed posed by seed laws, contradictions within the system and the lack of provisions protecting local varieties and farmers' varieties.

---

<sup>26</sup> The Asian and Near East group consisted of the following individuals, all participating in their personal capacity: 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, Bhutan; Ms. Wilhelmina R. Pelegrina, Executive Director, Southeast Asia 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.

The following recommendations were agreed on by the group:

- 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.
- 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.

#### ***11.2.2 Realization of measures to protect traditional knowledge***

During the discussion on the status of the realization of efforts to protect traditional knowledge (TK) in countries in the region, the group of Asian and Near East countries found that even though most countries have some sort of national measures, for example provisions in biodiversity laws stipulating documentation of this knowledge, there are no comprehensive acts on TK knowledge in relation to crop genetic resources. Moreover, there is a general lack of policy and legal measures to implement Article 9.2.a in the region. The group also agreed that there is reason for concern regarding the misappropriation as well as the erosion of TK. It was felt that customary rights should be respected.

Participants also concluded that there is a lack of documentation of such knowledge at the local and national levels, and that there is a need to develop a mechanism to protect traditional knowledge at both levels. Whereas the biodiversity law in India provides for the documentation of TK at the community level and the central government has also established a TK digital library at the national level, many of the other countries represented had no legislation on the subject.

The group agreed on the following recommendations:

- 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.
- There is a lack of documentation of traditional knowledge at the local and national levels. Defence mechanisms to protect traditional know-

ledge 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.

### ***11.2.3 Realization of Farmers' Rights to participate in benefit-sharing***

Some countries could report on progress in the realization of benefit-sharing related to crop genetic resources, mostly in the form of legislative measures such as the fund established under the Plant Variety Protection and Farmers' Rights Act and Biological Diversity Act of India and other laws that provide for prior informed consent, mutually agreed terms or the creation of funds. However, mechanisms are lacking to ensure benefit-sharing for the conservation and sustainable use of plant genetic resources for food and agriculture, in particular by farmers and farmers' organizations. It was concluded that such mechanisms need to be established to ensure that benefits flow primarily, directly and indirectly, to farmers, and it was suggested that the funds from the Plant Treaty should go through national benefit-sharing funds to make it easier for farmers to access their resources. In this connection it was also deemed necessary to initiate national systems that enable farmers to access such funds. It was also pointed out that, as the benefit-sharing fund of the Plant Treaty funds more and more projects, the Secretariat cannot be expected to administer it: a new system will be needed that, in addition to solving the challenges with regard to the distribution of funds, also takes care of monitoring the funded projects and their impact on farmers.

Participants also found that there is an opportunity for greater use of farmers' varieties currently kept in international and national gene banks, in particular varieties capable of adapting to emerging conditions and climate change.

Registration, release and marketing of farmers' varieties are still a problem in the region, even though informal use, exchange and sale of such seeds represent some 60 to 80% of the total use and sale of seeds in the region.

There are examples of indirect benefit-sharing in the region, especially at the community level, for example in the form of participatory plant-breeding projects and community seed banks. Such projects can be a way to transfer information, technologies and capacities.

The following recommendations were agreed on by the group of participants from the Asia and Near East regions:

- 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.

- 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.
- 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.
- 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.

#### ***11.2.4 Realization of Farmers' Rights to participate in decision-making***

Participants concluded that farmers' participation in national decision-making process relating to plant genetic resources in the regions is weak, and that farmers' institutional representation and participation in decision-making bodies and processes have to be strengthened.

The final set of recommendations agreed on by the group of participants from the Asian and Near East regions were the following:

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

#### *11.2.5 Questions and comments from plenary*

Two issues for further debate were suggested by one of the participants: the role of gender, as that had not been mentioned; and finding a mechanism for funding. In relation to this last point it was mentioned that perhaps the Governing Body could have a dialogue with the Global Crop Diversity Trust, seeking to learn from their experiences. Another participant wanted clarification regarding the global library on traditional knowledge that had been suggested and how this would solve the issue of protecting the rights of the communities where the knowledge originated. In response to this it was said that the basis for the global library should be national libraries, and then it would be up to the governments to deal with this issue. It was also noted that sharing this knowledge in the public domain can be one way to protect it, as it cannot be misappropriated in the same way then, and that the question is how to document and characterize such knowledge.

### **11.3 Latin American and the Caribbean<sup>27</sup>**

The group of participants from Latin American and Caribbean countries underlined that Farmers' Rights and the Multilateral System are equally important cornerstones of the Plant Treaty, and that the Governing Body should prioritize, and request the assistance of FAO and other relevant international organizations in, the provision of technical and financial support to national governments in the realization of Farmers' Rights in a manner that reflects this equality. It was also noted that Contracting Parties need assistance with regard to capacity-building. It was felt that without increased capacity-building the various stakeholders and countries will not know how to proceed with the realization of Farmers' Rights, and that capacity-building should therefore be central in the next few years. In their presentation the group noted that their suggestions are in line with those of the Asian and African groups. They also referred back to the first day of the consultation conference, with the point made about Farmers' Rights not being restricted to Article 9 and that the

---

<sup>27</sup> The Latin American and Caribbean group consisted of the following individuals, all participating in their personal capacity: Dr. Maria Cecilia Vieira (Chair of the group), Environment Division, Ministry of Foreign Affairs, Brazil, and member of the ITPGRFA Bureau; Dr. Modesto Fernández Diaz-Silveira (Co-chair of the group), Senior Officer for Environment, Ministry of Science, Technology and Environment, Cuba; Dr. Juliana Santilli (Rapporteur of the group), Lawyer and Public Prosecutor, Federal Prosecutor's Office, Brazil and Instituto Socioambiental; Dr. Patricia Goulart Bustamante, Researcher, Embrapa – Brazilian Agriculture Research Corporation, Brazil; Mr. Juan Fernando Terán Jijon, Researcher, Institute of National High Studies, Ecuador; Dr. Maria Mayer de Scurrah, Project Coordinator, Grupo Yanapai, Peru; Dr. Robert Lettington, Legal Advisor, Asociación Quechúa-Aymara para Comunidades Sostenibles – ANDES, Peru.

consultation meeting should try to broaden the understanding of the Governing Body in this respect.

### ***11.3.1 General recommendation***

The following general recommendation was agreed on by the group of participants from the Latin American and Caribbean region:

- 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 organizations in the provision of technical and financial support to national governments in the realization of farmers' rights in a manner that reflects this equality.

### ***11.3.2 Rights of farmers to save, use, exchange and sell farm-saved seed***

The group found that the national experiences varied, and sought to identify what the Governing Body should prioritize. During their discussion of challenges, the group noted that the various countries had different experiences, but that legal space was a relevant issue in most countries. It was agreed that governments should consider Article 9.3 broadly, and that formal and local seed systems should be regarded as complementary. Farmers were seen as central to the agricultural system and they based their suggestions on this recognition.

The following recommendations were agreed on by the group of participants from the countries in the Latin American and Caribbean region:

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

### ***11.3.3 Realization of measures to protect traditional knowledge***

Some of the countries represented in the region have legislation covering protection of traditional knowledge, but it was noted that use of traditional knowledge related plant genetic resources for food and agriculture might be in need of further assistance. As part of their discussion on traditional knowledge the groups found that it is important to have a chain of confidence and that was their main rationale for including the last recommendation under this point. The group of participants agreed

on the following recommendations regarding how to protect traditional knowledge:

- 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.
- 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.
- 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.

#### ***11.3.4 Realization of Farmers' Rights to fair and equitable benefit-sharing***

In some countries in the region, legislation on benefit-sharing is lacking; moreover, those countries with such legislation often find implementation difficult due to, for example, lack of resources and funds.

The group agreed that national focal points are central to achieve benefit-sharing. These could promote farmers' access to material under the Multilateral System and provide assistance with writing proposals to the benefit-sharing fund under the Plant Treaty. It was also suggested that it should be taken into consideration whether the measures actually benefit small-scale farmers or not.

The group agreed on the following recommendations related to benefit-sharing:

- National Focal Points should actively: promote farmers' access to material under the Multilateral System, and assist farmers to formulate and submit proposals to the benefit-sharing fund of the Treaty.
- 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.
- National governments should explore the possibility of establishing national benefit-sharing funds to support and promote the conservation and sustainable use of agricultural biodiversity among small-holder farmers.
- In the allocating of funds and formulating national policies relating to agricultural biodiversity, national governments should promote equality between formal scientific and local community knowledge.

### ***11.3.5 Realization of Farmers' Rights to participate in decision-making***

Farmer participation was found to be challenging in most countries. In some places it is a question of farmers not being organized into farmers' organizations, while in others they might be excluded due to technical bias despite their organization. However, there are also countries where farmers are organized and to a certain extent heard. It was suggested that specifying how and in what processes farmers should participate, for example in setting the research agenda and in the variety release process, might increase the likelihood of farmer participation being implemented.

The group of participants from Latin American and Caribbean countries agreed on the following recommendations to ensure farmer participation:

- 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.
- 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: the complementary nature of formal and local seed systems, the provision of information related to the Treaty, how forms of organization affect decision-making

### ***11.3.6 Questions and comments from plenary***

One of the participants said that he found national focal points to be a weak link in relation to the realization of Farmers' Rights, while another asked about the status and treatment of farmers' varieties. It was mentioned that the informal and formal seed systems are seen as complementary, not in opposition to each other, and that legal space is needed. However, the group did not reach consensus on whether the best solution was to have a separate system for farmers' varieties, for example in the form of a special registry, or to keep these varieties out of the system and unregulated by seed laws.

## 11.4 Europe and North America<sup>28</sup>

This group consisted of participants from many different stakeholder categories, and struggled somewhat more than the other groups in reaching consensus on a text to present to the plenary. After careful discussion of the issues, the participants in the group managed to agree on a list of recommendations. Suggesting that the joint recommendations should have a preamble which places the results of the consultations in context, the group identified elements to be included in such a preamble. Among the elements they wanted to be acknowledged was the broad range of farming practices using agricultural biodiversity across all regions, that the diversity of plant genetic resources for food and agriculture requires diverse seed systems and different legislation, that the conservation and sustainable use of agricultural biodiversity are inseparable from farmers' knowledge and practices, the concept of farmers as breeders and the complementary nature of farmers' knowledge and specialized plant breeders' knowledge, and the necessity of linking the full realization of Farmers' Rights as addressed in Article 9 of the Plant Treaty with implementation of the Treaty as whole and especially Article 6 as well as aspects of Articles 5, 7, 12, 13, 15, and 18.

The group also declared their awareness that the European and North American regulatory systems, despite their differences, in general have an impact on legislation in other countries of the world as they have contributed heavily to how such standards are viewed internationally. Because of this, the group wished to offer information about how these regions cope with their systems in relation to the maintenance, development and sharing of plant genetic resources. The group also underlined that all their suggested recommendations are of course subject to the availability of funds.

---

<sup>28</sup> The European and North American group consisted of the following individuals, all participating in their personal capacity: 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 Affair 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 in farming systems and legal frameworks between Europe and North America.

#### *11.4.1 Preamble*

The following paragraphs were agreed on by the participants from Europe and North America:

- 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,
- 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,
- 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,
- 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,
- 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,
- 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,
- 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 realization 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.
- Recognizing 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:

#### **11.4.2 General recommendations on implementation of Article 9**

The group of participants from Europe and North America agreed on the following general recommendations:

- 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.
- 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.
- The Governing Body should, through the Secretariat, facilitate the exchange of information relevant to the realization of Article 9 and related provisions.
- 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.
- 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.

#### **11.4.3 Rights of farmers to save, use, exchange and sell farm-saved seed**

Related to the rights of farmers within the area of seed practices and distribution, the groups noted that there is diversity within the seed industry both within and between Europe and North America, that there are also differences between the European and North American systems, and that these should be borne in mind. One of the subjects discussed was European legislation and the reform of the system represented by the legislation on conservation varieties.

The following recommendations were agreed on by the participants from Europe and North America regarding seed practices:

- 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.
- 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.

#### ***11.4.4 Realization of measures to protect traditional knowledge***

The group of participants from Europe and North America did not agree on any recommendations regarding protection of traditional knowledge, but the issue was taken up during the regional discussions and the participants shared national experiences. In some countries there are initiatives related to the collection, documentation and use of traditional knowledge. One tendency seemed to be that while some governments have not come very far yet, work is being done at the grassroots level, for example with regard to the sharing of seeds and knowledge.

#### ***11.4.5 Realization of Farmers' Rights to fair and equitable benefit-sharing***

During the regional discussion on benefit-sharing, participants from Europe and North America shared national experiences and debated issues such as incentive structures for diversity farming, non-monetary benefit-sharing and the benefit-sharing mechanism. The seed industry representatives said that the sector is opposed to mandatory payments as they feel that would encourage increased use of patents and primarily benefit the biggest seed companies, but indicated that voluntary measures are being considered. The seed industry also sees access to improved varieties as an important benefit. It was noted that there are different types of benefit-sharing. Of important non-monetary types of benefit-sharing, mention was made of participatory plant breeding and information sharing.

The group of participants from Europe and North America agreed on the following recommendations on the subject of benefit-sharing:

- 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.
- Noting the CBD/COP10 decision on agricultural biodiversity (CBD/COP10/Decision X/34), 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.
- Recognizing 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 realization 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.

- 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 decentralized 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.
- 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.
- 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.

#### ***11.4.6 Realization of Farmers' Rights to participate in decision-making***

Most of the participants could report that in their countries farmers were involved in decision-making through consultative bodies or hearing processes. However, it was also underlined that capacity and resources often act as a barrier to participation. In Europe, the increasing number of EU directives also puts pressure on the system and on various stakeholder groups, including farmers and seed companies. The group also touched upon how to measure the effects and effectiveness of participation, and to what degree farmer participation as currently practised is truly representative. Participation at the international level and ways to ensure effective participation of farmers in the Plant Treaty system were also discussed.

The following recommendations were agreed on by the participants from Europe and North America on the subject of realizing farmer participation in decision-making:

- 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' organizations 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.
- 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 World's 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.
- 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, prioritizing other means of mediation that will help farmers defend themselves.

- 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.

#### *11.4.7 Questions and comments by plenary*

One participant wanted to know more about the relationship between the Plant Treaty, WIPO, UPOV and WTO and to what degree there was any communication, as one of the suggestions related to this. In response it was said that UPOV has observer status in relation to the Plant Treaty and FAO has the same in UPOV, but that communication is still not as good as perhaps it should be. It was also underlined that the preamble of the Plant Treaty states that Farmers' Rights should be promoted at both the national and international level and that the Secretariat has a role to play in this respect. As UPOV is not a UN agency, streamlining is not easy; to ensure communication, it is important to have representatives present in the UPOV bodies.

One participant mentioned that the work of the CGIAR centres has not been completely in line with the Plant Treaty. In response to this it was underlined that the Plant Treaty is now guiding the work of the centres.

It was also mentioned as a positive aspect that the contribution of Europe and North America notes that seed systems have impacts beyond national borders. In connection with this, one participant questioned the need for reviewing and national measures in countries outside Europe and North America. To this it was answered that the reason for bringing up the experience with seed laws in Europe and North America is that these laws to a large extent are being exported to countries in other regions. The group wanted to communicate that the European system is undergoing change and that it is important to adapt laws and policies to national circumstances.



## 12 Joint recommendations

After the presentation of the regional recommendations, it was agreed that the conference should seek to produce a document containing joint recommendations. To prepare the groundwork for the plenary session on joint recommendations, a small group consisting of Dr. Regine Andersen, Mr. Lim Eng Siang, Ms. Maria Cecilia Vieira, Dr. Kassahun Embaye and Mr. Robert Lettington went through the regional presentations to find overlapping proposals. This group suggested that the plenary use the recommendations from the Latin American and Caribbean group, supplemented by a few recommendations from other regions, as a starting point for the plenary discussion, and this was agreed. The plenary then went through the suggested recommendations one by one with the goal of agreeing on substance and language, but due to time constraints the entire list of regional recommendations was not dealt with. Thus, the list of joint recommendations is not exhaustive, nor does it cover specific needs identified in the regions. To get the full picture of the issues, the joint recommendations and the regional recommendations should therefore be seen as complementary. It is important to note that participants at the consultation conference were attending in their personal capacities and not as representatives of their countries. In all, 18 joint recommendations were agreed on at the Global Consultations on Farmers' Rights in Addis Ababa, 25 November 2010:

A summary of the recommendations is provided in the input paper submitted to the Secretariat of the Governing Body of the International Treaty by Ethiopia, for consideration at its Fourth Session in Bali, March 2011 (IT/GB-4/11/Circ.1).

### 12.1 General recommendations

1. Farmers' Rights is a cornerstone of the Treaty. The Governing Body should prioritize and request the assistance of FAO and other relevant international organizations in the provision of technical and financial support to national governments in the realization of Farmers' Rights.
2. 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.
3. Recognizing 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.
4. 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 realization of Farmers' Rights.
5. 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.

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

### **12.2 Rights of farmers to save, use, exchange and sell farm-saved seed (Article 9.3)**

1. 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 farmers' livelihoods and other social, economic and environmental issues.
2. 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.
3. National governments should promote understanding and awareness of Farmers' Rights at all levels, including decision-makers and farmers.

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

1. National governments should protect and promote, as a matter of urgency, traditional knowledge that is relevant to PGRFA; recognizing its dynamic nature and the need for a holistic approach that considers factors including livelihoods, cultures and places.
2. National governments should, in developing mechanisms to protect and promote traditional knowledge relevant to PGRFA, consider Articles 5.1(c) and 5.1(d).
3. 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.

### **12.4 Realization of Farmers' Rights to fair and equitable benefit-sharing (Article 9.2.b)**

1. National governments should, including through their Focal Points, actively: promote farmers' access to PGRFA, including material under the Multilateral System; assist farmers and farmers' organizations in formulating and submitting proposals to the benefit-sharing fund of the Treaty.
2. 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.

3. 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.
4. In allocating funds and formulating national policies relating to agricultural biodiversity, national governments should promote equality between formal scientific and local community knowledge.

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

1. 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.
2. 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: the complementary nature of formal and local seed systems; the provision of information related to the Treaty; how types of farmer participation affect decision-making.



### **13 Closing the conference**

After agreeing on the joint recommendations and how to proceed with the results, concluding that both the regional and the joint recommendations would be presented in an input paper from the consultation process and that a report from the meeting would also be produced, Dr. Andersen asked for feedback and advice for future meetings. Many participants expressed their satisfaction with the conference and gave their thanks to the organizers. It was stated that the conference had achieved as much progress as could be hoped for on what is probably the most contentious issue in the Plant Treaty, and that the results would provide useful input to the Governing Body.

Some participants also expressed their wish for broader participation, and especially more representatives from the seed industry of different regions, at similar meetings in the future. Dr. Andersen informed that more representatives had been invited, but were not able to attend. It was also noted that it is important to keep the issue of Farmer' Rights on the agenda of the Governing Body.

The conference was closed by the organizers thanking the participants for their participation and contributions.



## **Attachment 1: Excerpts from the Plant Treaty**

### **PROVISIONS PERTAINING TO FARMERS' RIGHTS IN THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE**

#### **From the *Preamble***

*The Contracting Parties,*

(...) *Affirming* that the past, present and future contributions of farmers in all regions of the world, particularly those in centres of origin and diversity, in conserving, improving and making available these resources, is the basis of Farmers' Rights.

*Affirming also* that the rights recognised in this Treaty to save, use, exchange and sell farm-saved seed and other propagating material, and to participate in decision-making regarding, and in the fair and equitable sharing of the benefits arising from, the use of plant genetic resources for food and agriculture, are fundamental to the realisation of Farmers' Rights, as well as the promotion of Farmers' Rights at national and international levels.

#### **Article 9 – *Farmers' Rights***

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

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

- d. protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
- e. the right to equitably participate in the sharing of benefits arising from the utilisation of plant genetic resources for food and agriculture; and
- f. the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

9.3 Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seeds/propagating material, subject to national law as appropriate.

**From Article 13 – *Benefit-sharing in the Multilateral System***

13.3 The Contracting Parties agree that benefits arising from the use of plant genetic resources for food and agriculture that are shared under the Multilateral System 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 utilise plant genetic resources for food and agriculture.

**From Article 18 – *Financial Resources***

18.5 The Contracting Parties agree that priority will be given to the implementation of agreed plans and programmes for farmers in developing countries, especially in the least developed countries, and in countries with economies in transition, who conserve and sustainably utilise plant genetic resources for food and agriculture.

In addition, several other provisions are relevant, in particular the ones on conservation (Art. 5), sustainable use (Art 6) and on the multilateral system (Part IV).

## Attachment 2: Resolution 6/2009

Third Session of the Governing Body of the ITPGRFA, Tunis

Agenda Item 14, 4 June 2009

### RESOLUTION ON FARMERS' RIGHTS

#### The Governing Body,

- (i) **Recalling** the recognition in the International Treaty of the enormous contribution that 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 as the basis of food and agriculture production throughout the world;
  
- (ii) **Recalling** the importance of fully implementing Article 9 of the International Treaty;
  
- (iii) **Recalling** also that according to Article 9 of the International Treaty, the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national Governments and is subject to national law;
  
- (iv) **Acknowledging** that there is uncertainty in many countries as to how Farmers' Rights can be implemented and that the challenges related to the realization of Farmers' Rights are likely to vary from country to country;
  
- (v) **Recognizing** that exchange of experiences and mutual assistance between Contracting Parties can significantly contribute to making progress in the implementation of the provisions on Farmers' Rights in the International Treaty;
  
- (vi) **Recognizing** the contribution the Governing Body may give in support of the implementation of Farmers' Rights;

(vii) **Recalling** Resolution 2/2007 adopted by the Second Session of the Governing Body, in which Contracting Parties and relevant organizations were encouraged to submit their views and experiences on Farmers' Rights as set out in Article 9 of the International Treaty;

(viii) **Recalling** also that the Governing Body through Resolution 2/2007 decided to consider these views and experiences as a basis for an agenda item on its Third Session to promote Farmers' Rights at the national level;

(ix) **Noting** that the number of contributions on views and experiences received by the Secretariat has been limited;

(x) **Based** on the received views and experiences from Contracting Parties and other organizations;

(xi) **Invites** each Contracting Party 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.

(xii) **Encourages** Contracting Parties and other relevant organizations to continue to submit views and experiences on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers' organizations and other stakeholders;

(xiii) **Requests** 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, aiming at discussing 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;

(xiv) **Requests** the Secretariat to collect the views and experiences submitted by Contracting Parties and other relevant organizations, and the reports of the regional workshops as a basis for an agenda item for consideration by the Governing Body at its Fourth Session, and to disseminate relevant information through the website of the International Treaty, where appropriate; and

(xv) **Appreciates** the involvement of farmers' organizations in its further work, as appropriate, according to the Rules of Procedure established by the Governing Body.

## Attachment 3: Questionnaire



### Invitation to global consultations on Farmers' Rights

We herewith invite you to participate in global consultations on Farmers' Rights as these are addressed in Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture (also called the Plant Treaty; see [www.planttreaty.org](http://www.planttreaty.org)). The background for these consultations is a decision made by the Governing Body of the Plant Treaty at its third session (Resolution 6/2009). Here the Governing Body recalls the importance of fully implementing Farmers' Rights, and, among other things, requests the Secretariat to convene regional workshops on Farmers' Rights to discuss relevant national experiences. The Fridtjof Nansen Institute ([www.fni.no](http://www.fni.no)) in Norway is assisting the Secretariat in carrying out this task. Funding is limited, so we begin by carrying out consultations via e-mail, in order to involve as many stakeholders as possible, in all parts of the world. The e-mail consultations have been made possible thanks to support from SwedBio of Sweden and the Development Fund, Norway. We are still trying to raise the funds necessary to hold a consultation conference towards the end of the year, which will then be global, with regional components. The results of the global consultation process will be presented to the Governing Body of the Plant Treaty at its Fourth Session in 2011, as a basis for its deliberations on promoting the realization of Farmers' Rights at the national level.

The following questionnaire is designed to obtain information in the context of Resolution 6/2009 of the Governing Body and to facilitate discussions at the consultation conference. The Secretariat will follow this process and provide information to Contracting Parties accordingly.

We hope that you can distribute this questionnaire to organizations and individuals engaged in plant genetic resources for food and agriculture and Farmers' Rights – in your own country and abroad. We would also be grateful if all those who are working with farmers take this opportunity to distribute the questionnaire among them, or to convene group consultations among farmers to complete the questionnaire collectively, if appropriate, and send it to us.

We sincerely hope that you will take the time to complete this questionnaire to the best of your capacity, and return it to us.

**The final deadline for submission of this questionnaire is 31 August 2010.**

**Please e-mail the questionnaire to [tow@fni.no](mailto:tow@fni.no) or as fax to (+47) 67 11 19 10.**

We will publish the results of this e-mail based part of the consultation by the beginning of November 2010 in the form of a report, with the responses presented region-wise. For more information please visit the website of the Farmers' Rights Project of the Fridtjof Nansen Institute at ([www.farmersrights.org](http://www.farmersrights.org)) or contact Tone Winge ([tow@fni.no](mailto:tow@fni.no)).

Thank you for all your help in making these important global consultations a success!

Oslo, Norway 6 July 2010

Sincerely yours,

(sign.)

Regine Andersen,  
Senior Research Fellow and  
Director of the Farmers' Rights Project

Fridtjof Nansen Institute

## Views and experiences: The realization of Farmers' Rights

### 1. Respondent information:

Name:			
Country:			
Affiliation:		Web-site (if any):	
Position:		E-mail address:	

Stakeholder category:	Farmers	Seed industry	Research	Ministry	NGO	IGO	Other, please specify :

In which capacity are you sharing your views and experiences here?	Personal capacity:	As representative of my institution:	On behalf of a group (see below)

If you have consulted a group of people, how many? Please attach a list of names	1-10	11-20	21-30	31-40	41-50	More (please specify)

We will present your input as part of a report. Will you also:	Yes	No
- allow us to publish this questionnaire online?		
- allow us to cite you by name in the report?		

### 2. Farmers' Rights in general

2.1 In your view, how important are the following aspects of Farmers' Rights in your country?	Very important	Important	Less important	Not important
A. protection of traditional knowledge relevant to plant genetic resources for food and agriculture				
B. the right to participate equitably in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture				

C. the right for farmers to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture				
D. the rights to save, use, exchange and sell farm-saved seed/propagating material				
E. other aspect (please specify):				
F. other aspect (please specify):				
Please explain why (you may select one or two aspects):				

<b>2.2 What do you regard as the major achievements of your country with regard to Farmers' Rights? (choose one or more, as appropriate)</b>	Adoption of conducive law	Adoption of conducive policy	Implementation of conducive law/ policy	Government programme running	Project(s) implemented by NGO/IGO	Markedly increased awareness	Other
A. protection of traditional knowledge relevant to plant genetic resources for food and agriculture							
B. the right to participate equitably in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture							
C. the right for farmers to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture							
D. the rights to save, use, exchange and sell farm-saved seed/propagating material							
E. other (please specify here):							

--	--	--	--	--	--	--	--

Please specify the achievement(s) of your country:

**2.3 What do you see as the major obstacles to the realization of Farmers' Rights in your country?**

### 3. Protection of traditional knowledge relevant to plant genetic resources for food and agriculture:

3.1 What, in your view, is most important in order to protect traditional knowledge relevant to plant genetic resources for food and agriculture in your country? (please choose only one response)	A. to protect the this knowledge against misappropriation	B. to protect this knowledge from disappearing	C. other (please specify):

3.2 If you answered 'A' (protection against misappropriation): do you know of any cases of misappropriation of traditional knowledge relevant to plant genetic resources for food and agriculture in your country? (please specify)

--

3.3 If you answered 'B' (protection against disappearing): how would you describe the current situation of the disappearance of traditional knowledge relevant to plant genetic resources for food and agriculture in your country?

--

3.4 In your experience, which national measures affect the protection of traditional knowledge in your country, and how?	We have such measures	We don't have such measures	The effects of the existing measures are:			Not sure
			Positive	Negative	Mixed/none	
laws on protection of traditional knowledge						

laws on intellectual property rights						
seed laws						
other laws (please specify):						
Policies/programmes on traditional knowledge						
agricultural or other relevant policies:						
measures to document traditional knowledge						
Projects encouraging sharing of this knowledge						
other programmes/projects (please specify below)						
other (please specify below):						

Please specify the most important measures in your country, and their effects:

**3.5 In your opinion, what are the most important gaps and needs when it comes to national measures affecting the protection of traditional knowledge in your country?**

**3.6 If you have any other views and experiences regarding the protection of traditional knowledge in your country, please write them here:**

#### 4. The right of farmers to participate equitably in the sharing of benefits arising from the utilization of plant genetic resources for food and agriculture

4.1 Which national measures in your country affect farmers' right to equitably participate in benefit-sharing, and how?	We have such measures	We don't have such measures	The effects of the existing measures are (choose one):			Not sure
			Positive	Negative	Mixed/none	
Right to benefit sharing is covered by law						
National fund for benefit sharing in place						
Financial support to diversity farming <sup>29</sup>						
Participatory plant breeding projects						
Community seed banks						
Projects for marketing of diversity products						
Capacity building for diversity farming						
Capacity building for farmers' rights						
Awards						
Legislation on plant breeders' rights						
Patent law						
Agricultural policies and incentives in general						
Other (please specify below):						
Please specify the most important measures in your country, and their effects:						
4.3 In your opinion, what are the most important gaps and needs with regard to benefit sharing in your country?						

4.4 Do you have any other views and experiences regarding benefit sharing in your country? Please indicate them here.
---

<sup>29</sup> 'Diversity farming' here refers to farming practices where plant genetic resources are utilized and maintained. 'Diversity products' are the products resulting from such farming.

--

**5. The rights of farmers to participate in making decisions, at the national level, regarding plant genetic resources for food and agriculture**

5.1 Which national measures in your country affect the participation of farmers in decision-making at the national level	We have such measures	We don't have such measures	The effects of the existing measures are (tick one):			Not sure
			Positive	Negative	Mixed/none	
Legal right to participation is covered by law						
Participation in relevant committees						
Hearing procedures involving farmers' organisations (consultations of farmers)						
Decision makers are trained in farmers' rights						
Capacity building for farmer participation						
Facilitation of farmer activity/participation in major newspapers/media						
Other (please specify below):						

Please specify the most important measures in your country, and their effects:

--

**5.2 In your opinion, what are the most important gaps and needs with regard to the participation of farmers in decision making regarding plant genetic resources for food and agriculture in your country?**

**5.3 Do you have any other views and experiences regarding farmers' participation in decision-making in your country? Please indicate them here.**

## 6. The rights of farmers to save, use, exchange and sell farm-saved seed and propagating material

6.1 Which national measures in your country affect the rights that farmers have to save, use, exchange and sell farm-saved seed and propagating material, and how?	We have such measures	We don't have such measures	The effects of the existing measures are (tick one):			Not sure
			Positive	Negative	Mixed/none	
patent law						
plant breeders' rights legislation						
variety release regulations						
seed marketing regulations						
seed fairs						
seed exchange networks						
other programmes/projects supporting seed saving and exchange practices						
other (please specify below):						

Please specify the most important measures in your country, and their effects:

6.2 In your view, what are the most important gaps and needs with regard to farmers' rights regarding the saving, use, exchange and sales of farm-saved seed and propagating material?

**6.3 Do you have any other views and experiences regarding the rights of farmers to save, use, sell and exchange farm-saved seed in your country? Please indicate them here.**

--

## 7. Other views and experiences

**7.1 On a scale from 1 to 6, how would you rate the performance of your country with regard to the realization of Farmers' Rights? Please choose one answer only.**

1	2	3	4	5	6
Insufficient	Tolerable	Fairly good	Good	Very good	Excellent

**7.2 What do you see as the most important measures that still remain to be taken in your country in order to promote the realization of Farmers' Rights?**

--

**7.3 Do you have any other views and experiences regarding the realization of Farmers' Rights under the Plant Treaty that have not been covered in the above? Please indicate them here.**

--

**8. Recommendations to the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture as to how it can support the realization of Farmers' Rights at the national level:**

**8.1 Please list the points you would recommend to the Governing Body:**

**Thank you very much for your assistance!**

**Attachment 4: List of respondents**

<b>Africa</b>		<i>Affiliation</i>	<i>Position</i>
Burkina Faso	Balma, Didier	INERA (Institut de l'Environnement et de Recherches agricoles)	Director
	Mamounata Belem		
	Jeremy Ouedraogo		
	Jérôme Belem		
	Bertin Zagre		
	Jean-Baptiste Tignegre		
	Mahamoudou Sawadogo		
	Roger Zangre		
	Sada Bagagnan		
	Léopold Zinsone		
Cameroon	Nkwe Makongo, Pascal (signed by the CORDAP consultation group)	CORDAP (Rural Council for the Development of Agriculture and Fisheries)	President national
Congo (RDC)	Bopolo, Amede Daki	ADAPEL (Action pour le Developpe- ment de l'Agriculture et de la Peche avec Protection Environnementale de Likende)	Coordinator
Ethiopia	Feyissa, Regassa	Ethio-Organic Seed Action	Director
Kenya	Banja, George O.		Chief Executive Officer
	Malomba, Peter Beda Obuyu	Bungoma Energy Saving Technologies	Partner
	Ong'ang'a, Obiero	OSIENALA (Friends of Lake Victoria)	Executive Director
Malawi	Kafuwa, Dalitso	FAIR	Project Coordinator
	Kapitapita, Charles		Project Officer
	Munthali, Shelix	Rural Enterprises Initiative	Managing Director
	Nyirenda, Mahara	FAIR	Agriculture Coordinator

	Phiri, George (consulted 141 farmers on FR in 2009)	CEPA (Centre for Environmental Policy and Advocacy)	Biodiversity Specialist
	Pungulani, Lawrent L.M.	Malawi Plant Genetic Resources Centre	Curator
Nigeria	Abubakar, Babagana	Kanuri Development Association	Vice President
	Ekaiko, Edwin E.	(an NGO)	Programme director
	Ekaette E. Okon		
	Ime S. Akpan		
	Udeme S. Sam		
	Emmanuel Matthew		
	Uwana Isaiah		
	Anieman Ubom		
	Maculay Osom		
South Africa	Taylor, Sue	University of Free State	Research Associate
Uganda	Kabusimbi, Gertrude Kenyangi	SWAGEN (Support for Women in Agriculture and Environment)	Executive Director
Zambia	Phiri, Andrew	Zambia Agriculture Research Institute	Agriculture Research Officer
	Sialwiindi, Redson	Kasco Outgrowers' Scheme	Development Officer
Zimbabwe	Kusena, Kudzai	Genetic Resources and Biotechnology Institute	Curator
	Mushita, Andrew	CTDT (Community Technology Development Trust)	Executive Director
<b>Asia</b>			
Bhutan	Dorji, Singay	National Biodiversity Center	Sr. Biodiv. Officer
India	Bhushan, Pankaj	Tara Foundation (and GM Free Bihar Movement)	Secretary
	Kumar, N. Anil	MSSRF (M.S. Swaminathan Research Foundation)	Director (Biodiversity)
	Ravindran, C.		Assistant Professor

Indonesia	Hakim, Arief Lukman	FIELD (Farmers' Initiative for Ecological Livelihoods and Democracy)	Programme Manager
	Nugroho Wienarto	FIELD Indonesia Foundation	Executive Director
	Engkus Kuswara	FIELD Indonesia Foundation	Ecological Agriculture
	Endang Sutarya	FIELD Indonesia Foundation	Field Coordinator
	Lardian Isfandri	FIELD Indonesia Foundation	Field Coordinator
	Rendra Wijaya Kusuma	FIELD Indonesia Foundation	Field Coordinator
	Ms. Atik	FIELD Indonesia Foundation	Field Assistant
	Ms. Pipi	FIELD Indonesia Foundation	Field Assistant
	Mr Masroni	Indonesian IPM Farmer Association at Indramayu District, West Java	Coordinator
	Mr Warsiyah	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer
	Mr Darmin	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer
	Mr Nurkila	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer
	Mr Joharipin	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer
	Mr Taryana	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer
Mr Yusuf	IPM Farmer Association at Indramayu District, West Java	Farmer Breeder and Trainer	
	Pramono, Tejo	Indonesian Peasant Union (SPI)	Staff
Nepal	Paudel, Bikash	LI-BIRD (Local Initiatives for Biodiversity, Research and Development)	Programme Coordinator
	Roka, Krishna	Penn State University	Student
Pakistan	Ahmad, Mahmood	Pakistan Kissan Trust	Director
Philippines	Borja, Paul	SEARICE (Southeast Asia Regional Initiatives for Community Empowerment)	Policy Advocacy Officer
Sri Lanka	Lakmini, Horagampita	The Green Movement of Sri Lanka	Project Manager
	Lokugamage Diana		

<b>Europe</b>			
Austria	Koller, Beate	Arche Noah	CEO
France	Burgaud, Francois	G.N.I.S (The French Association for Seeds and Seedlings)	International and Public Affairs Manager
	Collin, Caroline	Confederation paysanne	Animatrice de la commission semences
	Kastler, Guy (response validated by RSP board)	Réseau Semences Paysannes/the Farm-Saved Seed Network	Delegue General
	Marchand, Martine	U.F.S.	IP manager
Georgia	Guram, Aleksidze	Academy of Agricultural Science	Vice-President
Germany	Begemann, Frank	Federal Office for Agriculture and Food (BLE), Information and Coordination Centre for Biological Diversity (IBV)	Head of Division
Italy	Bocci, Riccardo	AIAB (Italian Association for Organic Agriculture) and Rete Semi Rurali	responsible for seed issues
Norway	Torheim, Bell Batta	Development Fund	Advisor
Spain	COAG	COAG (Coordinadora de Organizaciones de Agricultores y Ganaderos)	Comision Ejecutiva de GOAG
Turkey	Erzincanli, Hakan Ozan	Green Party	Agric. Working group coordinator
UK	Huese, Arjen	Biodynamic Agricultural College	Director
	Mulvany, Patrick	Practical Action	Senior Policy Adviser
<b>Latin America</b>			
Costa Rica	FPMA Costa Rica	FPMA (Programa Colaborativo de Fitomejoramiento Participativo en Mesoamérica)	
	Alexis B. Camacho		

	Ronal C. Arias	
	Gerardo V. Porras	
	Alexander F. Gonzalez	
	Rodolfo A. Villalobos	
	Juan Carlos H. Fonesca	
El Salvador	FPMA El Salvador	FPMA (Programa Colaborativo de Fitomejoramiento Participativo en Mesoamérica)
	Maria M. del Cid	
	Maribel de Leon Garay	
	Tobias A. Aleman	
	Carlos H. Reyes	
Guatemala	FPMA Guatemala	FPMA (Programa Colaborativo de Fitomejoramiento Participativo en Mesoamérica)
	Esvin R. Lopez	
	Miguel A. L. Figueroa	
	Juan C. Vicente	
	Juan F. Herrera	
	Patricia E. L. Martinez	
	Mario Fuentes	
	Gustavo Tovar	
Honduras	FPMA Honduras	FPMA (Programa Colaborativo de Fitomejoramiento Participativo en Mesoamérica)
	Abraham Aleman	
	Mainor Pavon	
	Juan P. Herrera	
	Pablo Z. Mejia	
	Azucena Fajardo	

Nicaragua	Ricardo Sorto	FPMA (Programa Colaborativo de Fitomejoramiento Participativo en Mesoamérica)	
	Ana G. Vargas		
	FPMA Nicaragua		
	German P. Videa		
	Santos L. O. Merlo		
	Rolando Herrera		
	Lucila Umanzor		
	Julio C. Molina C.		
	Norman Alfaro		
Blanca I. C. Briones			
Miguel A. Moreno			
<b>Near East</b>			
Yemen	Al-Ahnumi, Ahmed Abdul-Kader	Agricultural Research and Extension Authority of Yemen (AREA)	Agric. Ext. Specialist
	Al-Nusairi, Mohammed Saleh	AREA	DG of Research
	Mohammed A. Al-Khawlani		
	Shafal A. Muhsen		
	Salah Shalan		
	Ali Al-Sayadi		
	Wadee Al Selwi		
	Mahboud Al-Agbari		
	Alsaghier, Mansour Amin	AREA	Wheat breeder
	Alsharjabi, Khalil M.	AREA	DG, technology dissemination
Alshurai, Ali A.	AREA	National Focal Point for GRFA	
Saeed, Ahmed Lutf Mohamed	AREA	Director of National Genetic Resources Center	

<b>North America</b>			
Canada	Boehm, Terry	National Farmers union	President
	Müller, Birgit	National Farmers Union	Researcher/farmer
USA	Bereano, Philip L.	Washington Biotechnology Action Council	Vice-President
	Browne, John	Judd Creek Nursery	Operator
	Müller, Nora Manon		Student
<b>Other input</b>			
(Asia)	Erlano, Beth	APSA (Asia Pacific Seed Association)	Publications and Program Coordinator of APSA
(Kenya)	Rakotoarisaona, Justin	AFSTA (African Seed Trade Association)	Secretary General
(Europe)	Anderson, Fergal	Via Campesina, Europe	
Germany	Herrlinger, Christoph	ESA and German Plant Breeders' Association	Vice-Secretary General
Germany	von Broock, Reinhard	KWS	Managing Director
Spain	Red de Semillas	Red de Semillas	
Netherlands	van den Hurk, Anke	Plantum NL	Senior adviser, biodiversity



**Attachment 5: Consultation Conference Programme**

***Farmers' Rights***  
***Global Consultations Conference***

**23–25 November 2010, Addis Ababa, Ethiopia**

**PROGRAMME**

**SPONSORS:**

**The Swedish International Biodiversity Programme (SwedBio)**  
**Norwegian Agency for Development Cooperation (NORAD)**  
**Norwegian Ministry of Agriculture and Food**  
**The Development Fund, Norway**  
**Spanish Agency for International Development Cooperation (AECID)**

**ORGANIZERS:**

**Fridtjof Nansen Institute, FNI (Norway)**  
**Institute of Biodiversity Conservation, IBC (Ethiopia)**

**HOST:**

**Institute of Biodiversity Conservation, IBC (Ethiopia)**

## *Before the Conference*

### **Saturday 20 November**

Evening: The first participants arrive

---

### **Sunday 21 November**

12:30 Lunch at Harmony Hotel for early arrivals

18:30 Dinner at Harmony Hotel for early arrivals

---

### **Monday 22 November: Optional field trip to consult with farmers**

#### **Program for the field trip:**

- 11:00: Bus departs from Harmony Hotel.
- Lunch at Kuriftu Resort & Spa, Debre Zeyt
- Meeting with farmers at Chefe-Donsa (80 km east of Addis Ababa)
- Visiting participatory research project on climate change adaptation/mitigation where female farmers are actively participating in the entire research process.
- Visiting farms with chickpea and grasspea fields and seeing the harvests of wheat, barley, teff, and lentils (depending on available time)
- 18:00: Arrival at Harmony Hotel

18:30 Dinner at Harmony Hotel

## DAY 1: Tuesday 23 November – Plenary

### Chairs of the Conference:

- *Dr. Abera Deressa*, Ministry of Agriculture, Ethiopia
- *Dr. Regine Andersen*, Senior Research Fellow and Director of the Farmers' Rights Project, Fridtjof Nansen Institute, Norway

09.00: **Welcome address** by *Dr. Kassahun Embaye*, A/Director General of the Institute of Biodiversity Conservation (IBC), Ethiopia, on behalf of the organizers.

09.05: **Opening address** by *H. E. Mr. Sileshi Getahun*, State Minister of Agriculture, Ethiopia

09.20: **Words from the Secretariat** by *Mr. Kent Nnadozie*, Treaty Support Officer, Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

09.35: **Introduction about the conference**, its background and objectives by *Dr. Regine Andersen*, Senior Research Fellow of the Fridtjof Nansen Institute, Norway, and Director of the Farmers' Rights Project.

09.50: **Presentation round** with exchange on hopes and expectations for the conference

10.25: Tea and coffee break

10.45: **Presentation of the results of the global e-mail consultations on Farmers' Rights** that have been carried out prior to this conference, by *Dr. Regine Andersen*, Senior Research Fellow of the Fridtjof Nansen Institute, Norway, and Director of the Farmers' Rights Project.

11.15: **Discussion with emphasis on key issues to take into account in the conference**

---

12.00: Lunch break

---

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

- Overview of typical national measures (laws, regulations, policies, programmes) relevant for the protection of traditional knowledge in the context of Farmers' Rights and brief on international developments in this regard, by *Dr. Juliana Santilli*, Lawyer / public prosecutor, Instituto Socioambiental / Federal Prosecutor's Office, Brazil (8-10 minutes)
- The story of the Potato Catalogue from Huancavelica, Peru, in brief, by *Dr. Maria Mayer de Scurrah*, President, Grupo Yanapai, Peru (5 minutes)
- Farmers' views on what needs to be done and challenges regarding the protection of traditional knowledge in the context of Farmers' Rights, by *Mr. Regassa Feyissa*, Director, Ethio-Organic Seed Action (EOSA), Ethiopia (5 minutes)
- Identifying major obstacles to, and options for, realizing Farmers' Rights related to the protection of traditional knowledge: Discussion

14.15: Tea/coffee break

- 14.30: The realization of Farmers' Rights to fair and equitable benefit sharing** (Art. 9.2.b)
- Overview of typical national measures (laws, regulations, policies, programmes, projects) relevant for the realization of Farmers' Rights to fair and equitable benefit sharing, by *Ms. Wilhelmina Pelegrina*, Executive Director, SEARICE, the Philippines (5 minutes)
  - Brief on the benefit sharing fund of the International Treaty, and the results from the Bogor meeting on non-monetary benefit sharing, by *Mr. Kent Nnadozie*, Treaty Support Officer, Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture (8-10 minutes)
  - Success stories from Nepal, by *Dr. Shreeram Prasad Neopane*, Executive Director of Local Initiatives for Biodiversity, Research and Development (LI-BIRD), Nepal (5 minutes)
  - A farmers' views on what needs to be done and challenges regarding Farmers' Rights to participate equitably in benefit sharing, by *Mr. Tejo Pramono*, Staff member, La Via Campesina, Indonesia. (5 minutes)
  - Identifying major obstacles to, and options for, realizing Farmers' Rights to fair and equitable benefit sharing: Discussion
- 15.45: The realization of Farmers' Rights to participate in decision making** (Art. 9.2.c)
- Overview of typical national measures (laws, regulations, policies, programmes, projects) relevant for the realization of Farmers' Rights to participate in decision making and a brief on the state of participation worldwide, by *Mr. Patrick Mulvany*, Senior Policy Advisor, Practical Action, United Kingdom (5-8 minutes)
  - Success stories from Southern Africa, by *Mr. Nyasha Chishakwe*, Head of Policy and Advocacy, Community Technology Development Trust (CTDT), Zimbabwe (5 minutes)
  - A farmers' views on what needs to be done and challenges regarding Farmers' Rights to participate in decision making, by *Mr. Terry Boehm*, President, National Farmers Union (NFU), Canada (5 minutes)
  - Identifying major obstacles to, and options for, realizing Farmers' Rights to participate in decision making: Discussion
- 16.45: Tea/coffee break
- 17.00: Rights that farmers have to save, use, exchange and sell farm saved seed** (Art. 9.3)
- Overview of typical national measures (laws, regulations, policies, programmes, projects) relevant for the realization of Farmers' Rights to save use, exchange and sell farm-saved seed, and revisiting the 2009 e-consultation on Farmers' Rights in this regard, by *Dr. Robin Pistorius*, Advisor to the Centre for Genetic Resources, the Netherlands (8-10 minutes)
  - Results from the EU project Farm Seed Opportunities, by *Mr. Riccardo Bocci*, Coordinator, Italian Association for Organic Agriculture (AIAB), Italy (5-8 minutes)
  - Success stories from Norway, by *Ms. Bell Batta Torheim*, Advisor, Development Fund, Norway (5 minutes)
  - A farmers' views on what needs to be done and challenges regarding the rights that farmers have to save, use, exchange and sell farm saved seed, by *Ms. Heike Schiebeck*, Farmer and Board Member, ÖBV – Via Campesina Austria (5 minutes)
  - Identifying major obstacles to, and options for, realizing Farmers' Rights to save, use, exchange and sell farm saved seed: Discussion
- 18.30: Summarizing key findings** from today's consultations, feed-back and introduction to the regional meetings next day, by the co-chairs (ending at 19.00)
- 19.30: Dinner at Harmony Hotel
-

## DAY 2: Wednesday 24 November 2010 – Regional consultations

We divide into 4 regional groups with chairs *from* the ITPGRFA-Bureau (where possible):

1. Africa Region. Chair: *Dr. Kassahun Embaye*, A/Director General, Institute of Biodiversity Conservation, Ethiopia. Co-chair: *Mr. Zachary Muthamia*, Head, National Genebank of Kenya, Kenya Agricultural Research Institute, Kenya (Secretary: *Dr. Gemedo Dalle Tussie*, Director, Genetic Resources Transfer and Regulation Directorate, Institute of Biodiversity Conservation (IBC), Ethiopia)
2. **Asia and Near East Regions.** Chair: *Mr. Lim Eng Siang*, Honorary Fellow, Bioversity International, Regional Office for Asia, the Pacific and Oceania, Malaysia. Co-chair: *Dr. Muhamad Sabran*, Head of Collaboration and Public Relation Division, Indonesian Agency for Agriculture Research and Development, Indonesia. (Secretary: *Mr. Kamalesh Adhikari*, Research Director, South Asia Watch on Trade, Economics & environment (SAWTEE), Nepal)
3. **Group of Latin America and Caribbean Countries.** Chair: *Ms. Maria Cecilia Vieira*, Environment Division, Ministry of Foreign Affairs, Brazil / ITPGRFA Bureau. Co-chair: *Dr. Modesto Fernandez Diaz-Silveira*, Senior Officer for Environment, Ministry of Science, Technology and Environment, Cuba. (Secretary: *Mr. Robert Lettington*, Legal advisor, Asociación Quechúa-Aymara para Comunidades Sostenibles (ANDES) / Lecturer, Kenyatta University School of Law, Peru/Kenya)
4. **Europe and North America Regions.** Chair: *Ms. Pernilla Malmer*, Senior Advisor, Swedish Biodiversity Center (Swedbio). Co-Chair: *Mr. Patrick Mulvany*, Senior Policy Advisor, Practical Action, UK. (Secretary: *Ms. Tone Winge*, Researcher, Fridtjof Nansen Institute, Norway)

Each group will have the following programme:

- 09.00: Welcome words from the chair and presentation of the programme. Exchange of views on how best to ensure a fruitful discussion process. Discussion of organizational matters and other questions to the programme as required.
- 09.15: The rights that farmers have to save, use, exchange and sell farm saved seed (Art. 9.3)
- National measures in the region affecting Farmers' Rights to save, use, exchange and sell farm saved seed: Joint listing of typical measures (laws, regulations, polices etc.)
  - Achievement and success stories from the region: Exchange among the participants on the achievements made in the different countries, and on specific success stories
  - Challenges, gaps and needs regarding the realization of rights that farmers have to save, use, exchange and sell farm saved seed: Discussion
  - Recommendations to the Governing Body regarding further steps required to guide and support countries in their realization of Farmers' Rights in this respect
- 10.30: Tea and coffee break
- 10.45: The realization of measures to protect traditional knowledge (Art. 9.2.a)
- National measures in the region affecting Farmers' Rights related to the protection of traditional knowledge: Joint listing of typical measures
  - Achievements and success stories from the region: Exchange among the participants on the achievements made in the different countries, and on specific success stories
  - Challenges, gaps and needs regarding the realization of measures to protect traditional knowledge: Discussion

- Recommendations to the Governing Body regarding further steps required to guide and support countries in their realization of Farmers' Rights in this respect

---

12.00: Lunch break

---

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

- National measures in the region affecting Farmers' Rights to participate in fair and equitable benefit sharing: Joint listing of typical measures
- Achievements and success stories from the region: Exchange among the participants on the achievements made in the different countries, and on specific success stories
- Challenges, gaps and needs regarding the realization of Farmers' Rights to fair and equitable benefit sharing: Discussion
- Recommendations to the Governing Body regarding further steps required to guide and support countries in their realization of Farmers' Rights in this respect

14.45: Tea and coffee break

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

- National measures in the region affecting Farmers' Rights to participate in decision making: Joint listing of typical measures
- Achievements and success stories from the region: Exchange among the participants on the achievements made in the different countries, and on specific success stories
- Challenges, gaps and needs regarding the realization of Farmers' Rights to participate in decision making: Discussion
- Recommendations to the Governing Body regarding further steps required to guide and support countries in their realization of Farmers' Rights in this respect

16.15: Additional discussion time, summarizing findings and recommendations from the region to the Governing Body and discussing any further matters the region may wish to refer to the Governing Body in the context of Farmers' Rights  
(Tea and coffee break included at around 17:00)

18.00: Preparing for the presentation to the plenary next day (ending at 18.30)

19.00: Departure from hotel by bus

19.30: Dinner with cultural event at Crown Hotel

Return by bus to Harmony Hotel after dinner

---

## **DAY 3: Thursday 25 November 2010 – Plenary**

09.00: Welcome words by the chairs of the plenary, and presentation of today's programme.  
Questions and feed-back

09.15: Presentation from the regions: **Africa Region**

- Presentation of findings and recommendations
- Questions and comments from the plenary

10.05: Presentation from the regions: **Asia and Near East Regions**

- Presentation of findings and recommendations
- Questions and comments from the plenary

10.55: Tea and coffee break

11.10: Presentation from the regions: **Latin America and Caribbean Countries**

- Presentation of findings and recommendations
- Questions and comments from the plenary

---

12.00: Lunch break

---

13.15: Presentation from the regions: **Europe and North America Regions**

- Presentation of findings and recommendations
- Questions and comments from the plenary

14.05: **Analysis of the results** (similarities, differences and cross-regional learning potentials)

- Overview presented by the chairs
- Discussion

14.55: Tea and coffee break

15.10: **Joint recommendations to the Governing Body** from the conference

- Discussion
  - Conclusions
- (Tea and coffee break included at around 17:00)

18.15: **Evaluation of the conference**

18.30: **Closing addresses by the chairs**

19.00: **Finalization of the conference**

19.30: Dinner at Harmony Hotel

-----

### **Friday 26 November**

Most of the participants leave

12:30 Lunch at Harmony Hotel for those leaving late

18:30 Dinner at Harmony Hotel for those leaving late

-----

### **Saturday 27 November**

The last participants leave.



## **Attachment 6: Participants at the Consultation Conference**

### **Participants at the Consultation Conference in Addis Ababa, Ethiopia, 23–25 November 2010**

#### **Organizers & ITPGRFA Secretariat**

Dr Kassahun Embaye, A/Director General, Institute of Biodiversity Conservation (IBC), Ethiopia

Dr Regine Andersen, Senior Research Fellow and Director of the Farmers' Rights project, Fridtjof Nansen Institute (FNI), Norway

Dr Gemedo Dalle Tussie, Director, Genetic Resources Transfer and Regulation Directorate, Institute of Biodiversity Conservation (IBC), Ethiopia

Mr Kiflu Tarekegn Abera, Director, Communications and Public Relations, Institute of Biodiversity Conservation (IBC), Ethiopia

Dr Alganesh Tesema Gellaw, Team Leader of Plant Genetic Resource, Institute of Biodiversity Conservation (IBC), Ethiopia

Ms. Zinash Kebede, Conference Secretary, Institute of Biodiversity Conservation (IBC), Ethiopia

Ms. Tone Winge, Research Fellow, Fridtjof Nansen Institute (FNI), Norway

Ms. Bell Batta Torheim, Advisor, Development Fund, Norway

Mr Kent Nnadozie, Treaty Support Officer, ITPGRFA Secretariat

#### **Africa**

Dr Abera Deressa, Ministry of Agriculture, Ethiopia

Ms. Michelle Andriamahazo, Chef de Service, Ministry of Agriculture / Service of Environment, Madagascar

Dr Catherine Mungoma, Director, Seed Control and Certification Institute, Zambia

Mr Zachary Muthamia, Head, National Genebank of Kenya, Kenya Agricultural Research Institute, Kenya

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 of Forestry Engineering Course, Faculty of Agronomy, University José Eduardo dos Santos / Collaborator, Action for Rural Development and Environment (ADRA), Angola

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

Mr Amare Worku, Up-scaling Component Manager, GTZ Sustainable Land Management (SLM) Program, Ethiopia

Dr Abebe Demissie, Regional Coordinator, Eastern African Plant Genetic Resources Network (EAPGREN)  
Entebbe, Uganda

### Asia and Near East

Mr Lim Eng Siang, Honorary Fellow, Bioversity International, Regional Office for Asia, the Pacific and Oceania,  
Malaysia

Dr Muhamad Sabran, Head of Collaboration and Public Relation Division, Indonesian Agency for Agriculture  
Research and Development, Indonesia

Mr Singay Dorji, Senior Biodiversity Officer, National Biodiversity Centre, Ministry of Agriculture and Forests,  
Bhutan

Ms. Wilhelmina R. Pelegrina, Executive Director, Southeast Asia Regional Initiatives for Community  
Empowerment (SEARICE), Philippines

Mr Tejo Pramono, Staff member, La Via Campesina, Indonesia

Dr Anil Kumar, Director of Biodiversity, M.S. Swaminathan Research Foundation (MSSRF), India

Dr Shreeram Prasad Neopane, Executive Director, Local Initiatives for Biodiversity, Research and Development  
(LI-BIRD), Nepal

Mr Kamalesh Adhikari, Research Director, South Asia Watch on Trade, Economics and Environment (SAWTEE),  
Nepal

Dr Vanaja Ramprasad, Managing Trustee, Green Foundation, India

Ms. Diana Lakmini, Project Manager, The Green Movement of Sri Lanka (GMSL), Sri Lanka

Mr Surya Prasad Adhikari, President, National Farmers Committee of Nepal, Nepal

### Latin America and Caribbean Countries

Dr Maria Cecilia Vieira, Environment Division, Ministry of Foreign Affairs, Brazil / ITPGRFA Bureau

Dr Modesto Fernández Diaz-Silveira, Senior Officer for Environment, Ministry of Science, Technology and  
Environment, Cuba

Dr Patricia Goulart Bustamante, Researcher, Embrapa – Brazilian Agriculture Research Corporation, Brazil

Mr Juan Fernando Terán Jijon, Researcher, Institute of National High Studies, Ecuador

Dr María Mayer de Scurrah, Project Coordinator, Grupo Yanapai, Peru

Dr Juliana Santilli, Lawyer / Public Prosecutor, Instituto Socioambiental / Federal Prosecutor's Office, Brazil

Dr Robert Lettington, Legal advisor, Asociación Quechúa-Aymara para Comunidades Sostenibles  
(ANDES)/Lecturer, Kenyatta University School of Law, Peru/Kenya

### Europe and North America

Ms. Pernilla Malmer, Senior Advisor, Swedish Biodiversity Center (Swedbio), Sweden

Ms. Annette von Lossau, Senior Adviser, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ),  
Germany

Ms. Susanne Koudahl, Legal Adviser, Norwegian Ministry of Agriculture and Food, Norway

Dr Robin Pistorius, Advisor to the Centre for Genetic Resources, the Netherlands

Mr Patrick Mulvany, Senior Policy Advisor, Practical Action, UK

Mr Pat Roy Mooney, Executive Director, ETC Group, Canada

Mr Terry Boehm, President, National Farmers Union (NFU), Canada

Mr Riccardo Bocci, Coordinator, Italian Association for Organic Agriculture (AIAB), Italy

Mr François Burgaud, International and Public Affair Manager, The French Association for Seeds and Seedlings (GNIS), France

Ms. Szonja Csörgö, Manager Intellectual Property and Legal Affairs, European Seed Association (ESA), Belgium/Region

Ms. Heike Schiebeck, Farmer and Board Member, ÖBV – Via Campesina Austria, Austria



**The Fridtjof Nansen Institute is a non-profit, independent research institute focusing on international environmental, energy, and resource management. The institute has a multi-disciplinary approach, with main emphasis on political science, economics, and international law. It collaborates extensively with other research institutions in Norway and abroad.**



**FRIDTJOF NANSENS INSTITUTT  
THE FRIDTJOF NANSEN INSTITUTE**

**Fridtjof Nansens vei 17, P. O. Box 326, NO-1326 Lysaker, Norway**

**Phone: (47) 67 11 19 00 – Fax: (47) 67 11 19 10 – E-mail:**

**[post@fni.no](mailto:post@fni.no)**

**Website: [www.fni.no](http://www.fni.no)**