

APBREBES Intervention on

“Interrelations with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)”

94th meeting of the UPOV Consultative Committee 25.10.2017

APBREBES thanks this Committee for the opportunity to suggest possible further actions concerning interrelations between the ITPGRFA and UPOV on Farmers' Rights.

The ITPGRFA recognizes the right of farmers to save, use, exchange and sell farm-saved seed, the right to participate in decision-making, the right to fair and equitable benefit sharing, and the right to protection of traditional knowledge.

During the October Symposium, several experts clarified how certain provisions and interpretations of the UPOV Conventions especially the 1991 Act as well as activities of the Office of the Union conflicts with implementation of Farmers' Rights.

We would like to recall that in UPOV's examination of the PVP laws of several developing countries, UPOV has called for the deletion of provisions that safeguard Farmers' Rights such as the right of small-scale farmers to exchange and sell farm saved seed.

Independent expert literature to date has also highlighted how UPOV's requirements are undermining full achievement of Farmers' Rights.

For instance, a study published on behalf of the German Federal Ministry for Economic Cooperation and Development in 2015 concludes:

“UPOV 91-based PVP laws were found to not advance the realisation of Farmers' Rights; rather they are effective in the opposite direction”

APBREBES believes that the time has now come for UPOV to address some of these conflicts.

An important starting point would be to revise the Explanatory Note on Exceptions to the Breeder's Right under the 1991 Act of the UPOV Convention to allow smallholder farmers complete freedom to operate with regard to protected varieties. We note that some UPOV Members as well as the European Seed Association have called for the same.

We don't believe that the UPOV FAQ (Frequently Asked Questions) on Interrelations should be the starting point.

Participation in decision-making is another key issue. Much remains to be improved within UPOV in terms of farmer participation, as illustrated by the lack of farmer representatives as speakers at the Symposium on Farmers' Rights in October, as well as when UPOV carries out technical assistance and capacity building activities at national and regional levels. UPOV should adopt a decision to implement Farmers' Right to participate in all UPOV activities and develop guidelines in this regard.

We invite you to read APBREBES latest study on this matter available on our website.

Finally, UPOV could better contribute to the realization of Farmers' Rights by allowing mechanisms to realize Farmers' Rights to fair and equitable benefit sharing. UPOV's position rejecting or recommending deletion, of disclosure requirement in PVP legislation perpetuates inequity and is unacceptable.

A decision should be adopted recognizing the right of governments to require in their PVP legislations disclosure of origin and evidence of prior informed consent and benefit sharing.

In conclusion we urge you to read our detailed proposal in Annex V of document CC/94/10.

We sincerely hope that the Consultative Committee will be able to support the proposed follow up actions.

Thank you.