



ASSOCIATION FOR PLANT BREEDING FOR THE BENEFIT OF SOCIETY

PRESS RELEASE

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UPOV's Symposium on Interrelations between ITPGRFA & UPOV, Inadequate to Implement "Farmers Rights" Resolutions

The International Union for the Protection of New Varieties of Plants (UPOV), in its meetings of 17th March, agreed to hold a joint symposium on 26th October with the International Treaty on Plant Genetic Resources for Food and Agriculture ("ITPGRFA") on the interrelations between the ITPGRFA and the UPOV Conventions.¹

"APBREBES is concerned that this decision backtracks and contradicts the process outlined by the Secretariat of the ITPGRFA in its Notification GB6-028 and is completely inadequate to implement the Resolutions of its Governing Body. There is a risk that the long needed comprehensive analysis of the possible contradictions between the ITPGRFA and UPOV Conventions will never be accomplished", said Susanne Gura from APBREBES.

The issue of interrelations between the ITPGRFA and the UPOV Conventions in the context of Farmers' Rights was raised at the ITPGRFA Governing Body in 2013 in Oman. Resolution 8/2013 on "Implementation of Article 9, Farmers' Rights" requested the Treaty Secretariat "to invite UPOV and WIPO to jointly identify possible areas of interrelations among their respective international instruments".

This was in response to concerns that the activities of UPOV and WIPO undermine implementation of Article 9 of the ITPGRFA, which concerns "Farmers' Rights."² One key concern is that UPOV, in particular its Act of 1991, places severe restrictions on the right of farmers to save, use, exchange and sell seeds.³

In October 2014, the ITPGRFA Secretariat outlined in Notification GB6-028 a process for the implementation of the resolution.⁴ The process involved identification of interrelations based on submissions received by the Secretariat by its Ad Hoc Technical Committee on Sustainable Use of Plant Genetic Resources for Food and Agriculture (ACSU) and the convening of a small group of independent experts to further examine the identified interrelations between ITPGRFA and the UPOV Conventions. In 2015, the ITPGRFA Governing Body requested the

Secretary to continue this process and insisted that it “be participatory and inclusive” (Resolution 5/2015).

However when considering the ITPGRFA Resolutions on interrelations, UPOV merely considered the holding of a symposium. Dr. Bhatti in his presentation to UPOV Members on 17th March did not mention Notification GB6-028. He suggested instead that experts be commissioned to prepare expert papers to input into the symposium.

The idea of further in-depth analysis of the identified interrelations beyond the holding of a symposium was supported by a number of UPOV members including Bolivia, Norway and Switzerland. In a letter to Dr. Bhatti dated 29th February 2016, more than 60 civil society organizations supported the conduct of an independent study.

APBEBES is concerned that a symposium will mainly be an arena where countries and other stakeholders present their views and experiences and will not provide the in-depth, thorough and evidence based analysis needed to meet the objectives of the ITPGRFA Governing Body resolutions.

Furthermore, the focus on Farmers’ Rights seems to have been lost, in the proposed programme of the Symposium endorsed by UPOV. According to the decision, the symposium will have four sessions and only one will be specifically on “Analysing of the interrelations between Farmers’ Rights and Plant Breeders’ Rights Under the ITPGRFA and the UPOV Convention”, while the three others will be on interrelations between UPOV and the ITPGRFA in general (“Overview of UPOV and the ITPGRFA”, “Experiences of the Contracting Parties in Implementing the UPOV Convention and the ITPGRFA” and “Overview of initiatives involving the ITPGRFA and UPOV”).

“The programme of the Symposium has diverged from the objective of the Governing Body Resolutions which was about examining the interrelations between UPOV and the ITPGRFA with a focus on farmers’ rights. Instead, the programme examines in general the interrelations between UPOV and the ITPGRFA”, said Laurent Gaberell from APBEBES

“UPOV’s decision makes no mention of the ‘Preliminary list of Issues on the interrelations of the International Treaty and the relevant International instruments of UPOV and WIPO’ adopted by ACSU for further analysis as per Notification GB6-028. It appears that this list prepared on the basis of submissions to the ITPGRFA and endorsed by the ACSU has been abandoned”, said Chee Yoke Ling from Third World Network.

The Decision states four experts and four contracting parties to UPOV and ITPGRFA will be invited to present their analysis and experiences. Presentations by farmer organizations that have championed full realization of Farmers’ Rights are not mentioned explicitly in the program of the Symposium. “Considering that the decision states that it is useful to provide information on real problems experienced by farmers, we strongly urge that peasant farmer organizations be invited to present their views and concerns in the symposium”, said Elin Ranum from the Development Fund.

Moreover, the Decision states four experts will be selected by UPOV while the ITPGRFA will only be consulted. “And the programme does not include the experience of Parties to the

ITPGRFA that have implemented non-UPOV *sui generis* plant variety protection systems and thus are in a better position to fully realize farmers' rights", said Laurent Gaberell from APBEBES.

"It seems that UPOV has hijacked the whole process and the ITPGRFA has lost control. While the process was first developed by the ITPGRFA with a lot of emphasis on 'a participatory and inclusive process' the process to develop the program of the Symposium as well as the Symposium itself is neither participatory nor inclusive. There is a serious risk that the main questions regarding farmers' rights will not be tackled. The ITPGRFA Secretariat should not accept such an agreement. Unless rectified, the result of this Decision will fail to implement the Resolutions taken by the Governing Body of the ITPGRFA", said Francois Meienberg from the Berne Declaration.

APBEBES urges the convening of a team of independent experts led by the ITPGRFA supported by a transparent and participatory process to investigate implementation of Article 9 by UPOV and WIPO and in that context to further analyse the list of interrelations identified by ACSU.

Regarding the holding of a symposium, APBEBES is of the view that it should be seen only as one *step* in the process of identifying and addressing the interrelations and not an end in itself. APBEBES urges the ITPGRFA and UPOV to amend the proposed programme in order to ensure that: the Symposium is focused on interrelations with respect to farmers' rights; the ACSU preliminary list of issues is the basis for discussions; peasant farmer organizations are invited as speakers to present their views and concerns; experts selected have a credible expertise and commitment towards full implementation of farmers' rights; and adequately includes the experience of ITPGRFA Parties that have implemented non-UPOV *sui generis* system.

For more information:

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Notes:

1. For the Decision, see UPOV's Document C(Extr.)/33/3
2. "Farmers' Rights" according to the ITPGRFA includes the right of farmers to save, use, exchange and sell farm-saved seed and other propagating material; 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; the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and the right to the protection of traditional knowledge relevant to plant genetic resources for food and agriculture. It also recognizes "the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centers 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".
3. For a detailed analysis of the international contradictions on farmers rights between the ITPGRFA and UPOV/ WIPO, see http://www.apbrebes.org/files/seeds/files/Treaty_UPOV_WIPO%20Interrelations_def_150929.pdf
4. Notification GB6-028 is available at http://www.planttreaty.org/sites/default/files/028_NCP_GB6_ITPGRFA-UPOV-WIPO_en.pdf