

Development: Contentious negotiations over Farmers' Rights resolution

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Geneva, 13 Oct (Sangeeta Shashikant*) -- Negotiations on the Farmers' Rights resolution became particularly contentious during the 6th meeting of the Governing Body of the International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA) when certain delegations such as Australia, Canada and the European region sought to weaken the text of the resolution.

The meeting took place at the Food and Agriculture Organisation (FAO) headquarters in Rome on 5-9 October 2015.

"Farmers' rights" is a core but often contentious aspect of the International Treaty.

Some of the key areas of contention during the negotiations on the draft resolution were: development of voluntary guidelines for implementation of farmers' rights; study on best practices as options for national implementation of farmers' rights; and addressing the inter-relationships between Article 9 of the Treaty, the International Convention for the Protection of New Varieties of Plants (UPOV) and the World Intellectual Property Organization (WIPO).

Africa called inter alia for developing voluntary guidelines for implementation of farmers' rights and for an enhanced understanding of the inter-relationships among the Treaty, WIPO and UPOV.

Asia called for a strategy for the protection of traditional knowledge and promoting farmers' participation in decision-making.

It further noted that intellectual property legislation might impose constraints on farmers' activities, including community seed banks and participatory plant breeding.

The Group of Latin American and Caribbean countries (GRULAC) said the resolution should include references to the scope of farmers' rights and invited Parties to ensure greater coordination and synergies among institutions working on the issue.

GRULAC also proposed the inclusion of text requesting the Secretary to engage in "greater socialization on the extent of Farmers' Rights at all levels as another necessary measure to advance the implementation of these rights".

It further proposed to include text inviting Parties "to have a better articulation and coordination among the different institutions dealing with Farmers' Rights and plant genetic resources for food and agriculture."

Ethiopia proposed that the draft Resolution request the Secretariat "to develop voluntary guidelines on the implementation of farmers' rights at national level, through an ad hoc working group in a

transparent, participatory and inclusive manner, with effective participation of farmers and other organizations".

Canada stressed that the responsibility for implementation rests with national governments, and called for information exchange, but not assistance, towards implementation of farmers' rights.

Canada was opposed to the development of voluntary guidelines on the implementation of farmers' rights.

Canada also insisted on the inclusion of "subject to availability of financial resources" in the text of the Resolution, whenever the Secretariat was mandated with a particular task with regard to farmers' rights.

Several delegations also called for a study on best practices, policies and legislation as options for national implementation of Farmers' Rights.

Brazil further proposed that "such a study should take into account the specific needs and priorities of small-holder farmers and the implications of other international legal regimes to the implementation of Article 9 of the Treaty".

(Article 9 addresses Farmers' Rights.)

However, Australia and Canada specifically objected to such a study.

Norway suggested that the draft resolution should request the "Secretary to commission a study on inter-relations between the International Treaty, especially its Article 9 and relevant instruments of UPOV and WIPO. The study should be carried out by an independent expert committee and through a participatory and inclusive process. The basis for this work should be the list of issues as noted in IT/ACSU-2/15/4."

The European region proposed that the Treaty Secretariat should engage with UPOV and WIPO "in a mutually supportive manner".

[There is increasing evidence that the activities of UPOV and WIPO are undermining implementation of Article 9, making the topic of inter-relations particularly controversial. In 2013, Resolution 8/2013 requested the Secretary to invite UPOV and WIPO to jointly identify possible areas of inter-relations among their respective international instruments.

[Various submissions on the matter were made and compiled in IT/ACSU-2/15/Inf. 5. Thereafter, the Secretary proposed to jointly with UPOV and WIPO put together a small team of experts to draft a report on the possible areas of inter-relations among their respective international instruments. However, limited progress was made in concluding the implementation of Resolution 8/2013.]

The final text of the Resolution on Implementation of Article 9, Farmers' Rights is as follows:

"The Governing Body,

"Recalling the recognition in the International Treaty of the enormous contribution that the local and indigenous communities and farmers of all regions of the world have made, and will continue to make, for the conservation, development and use of plant genetic resources as the basis of food and agriculture production throughout the world,

"Recalling its Resolutions 2/2007, 6/2009, 6/2011 and 8/2013,

"1. Requests the Secretariat to engage Contracting Parties and relevant organizations to take initiatives to gather information at national, regional and global levels for exchanging knowledge, views, experiences and best practices on the implementation of Farmers' Rights as set out in Article 9 of the International Treaty;

"2. Invites each Contracting Party to consider developing national action plans for the implementation of Article 9, as appropriate, and subject to national legislation, in line with the implementation of Articles 5 and 6;

"3. Invites each Contracting Party that have not already done so, to consider reviewing and, if necessary, adjusting its national measures affecting the realization of Farmers' Rights, as set out in Article 9 in the International Treaty, to protect and promote Farmers' Rights;

"4. Invites each Contracting Party to engage farmers' organizations and relevant stakeholders in matters related to the conservation and sustainable use of plant genetic resources for food and agriculture, and consider their contributions to awareness raising and capacity building towards this aim;

"5. Invites Contracting Parties to enhance interaction and coordination, as appropriate, among the different institutions dealing with Farmers' Rights as set out in Article 9 of the Treaty and plant genetic resources for food and agriculture;

"6. Invites Contracting Parties and relevant organizations to take initiatives to convene regional workshops and other consultations including with farmers' organizations for the exchange of knowledge, views and experiences to promote the realization of Farmers' Rights as set out in Article 9 of the Treaty, and present results at the next session of the Governing Body;

"7. Requests the Secretary to facilitate such initiative upon request and depending on available resources;

"8. Requests the Secretary, subject to availability of financial resources to prepare a study on lessons learnt from the implementation of Farmers' Rights as set out in Article 9 of the treaty,

including policies and legislation, and invites Contracting Parties and all relevant stakeholders, especially for national implementation of Article 9 on Farmers' rights, as appropriate and subject to national legislation. The Study will be presented at the 7th session of the Governing Body;

"9. Decides to consider at its next session success stories in the national implementation of Farmers' Rights as set out in Article 9 of the Treaty with a view to invite Contracting Parties to consider how to promote them further at the national level as appropriate and subject to national legislation;

"10. Requests the Secretary, subject to the availability of financial resources, to launch and implement a Joint Capacity Building Programme with GFAR and other relevant organizations on Farmers' Rights as set out in Article 9 of the International Treaty;

"11. Requests the Secretary, in consultation with the Bureau and subject to availability of financial resources, to finalize the Educational Module of Farmers' Rights as set out in Article 9 of the Treaty;

"12. Requests the Secretary to continue engaging, in a mutually supportive manner with UPOV and WIPO to jointly, and including through a participatory and inclusive process, as appropriate and subject to availability of resources, finalize the process for identification of possible areas of inter-relationships between their respective instruments and the Treaty and report on the outcomes to the 7th session of the Governing Body;

"13. Appreciates the participation of farmers' organizations in its work and invites them to continue to actively participate in its sessions and in relevant inter-sessional processes as appropriate and according to the Rules of Procedure, giving due consideration to the FAO Strategy for Partnership for Civil Society Organizations;

"14. Invites Contracting Parties and development cooperation organizations to consider providing financial and technical support for the implementation of Farmers' rights as set out in Article 9 of the Treaty in developing countries, and to enable farmers and representatives of farmers' organizations to attend meetings under the International Treaty;

"15. Requests the Secretary to report on relevant discussions that relate to Farmers' rights, as set out in Article 9 of the International Treaty, within FAO fora;

"16. Encourages the Secretary to conduct active outreach on the extent of Farmers' Rights as set out in Article 9 of the Treaty to relevant stakeholders as another necessary measure to advance the implementation of these rights;

"17. Calls upon Contracting Parties in a position to do so to support, including with financial resources the implementation of the activities foreseen in this Resolution;

"18. Requests the Secretary to report to the Governing Body, at its seventh Session, on the implementation of this Resolution."

In the concluding plenary, La Via Campesina (LVC), an international peasant's organization, said that 30 years has gone by - an entire generation, "the Treaty was approved but in reality, its implementation is still incomplete".

LVC expressed outrage at the Governing Body's decision to leave it in the hands of agricultural research, UPOV and WIPO to define farmers' rights, without having foreseen participation of national and international peasants' organizations, which are the ones that keep and renew the diversity of seeds in their fields.

LVC condemned the behaviour of two countries, which set stumbling blocks in the way of any positive decisions in favour of farmers' rights.

"The difficulty in realizing Farmers' Rights is due to the fear of corporations. But we, peasants, are not afraid. The agro-industrial system is depleted. It is destroying our biodiversity, our local seeds and production systems. And they do not have a "Plan B". What will happen when all this comes to an end?", LVC added.

"For industry, the priority is to maximize profits, as quickly as possible. Quite to the contrary, the priority, for peasants' is to feed the world's population and maintain biodiversity, the basis of food production. Governments are responsible for making citizens, city dwellers, consumers and workers participate in this debate. But if governments do not fulfill their duty, La Via Campesina will take the initiative to raise awareness among citizens.", LVC further said, adding, "Peasants' rights belong to peasants! Don't take a single one away!"

In a separate statement, civil society organizations (CSOs) expressed disappointment with the outcome that was meant to ensure Farmers' Rights.

CSOs argued that, "Farmers' Rights are well accepted as a fundamental human right, and key to the conservation and sustainable use of plant genetic diversity. However, much of the work in this room this week has subordinated Farmers' Rights to the interests of a small group of multinational seed companies. And, there are few farmers or civil society representatives in decision-making circles".

CSOs recommended that the Treaty move to the Committee on World Food Security model, which has taken partnership with farmers' organizations and civil society much further, adding that, "Farmers must move from the margins to the centre of discussion and decision making if this Treaty is to work well."

CSOs welcomed Indonesia's offer to host a consultation on Farmers' Rights and also welcomed the participatory study on national experiences, policies and legislation as a needed step towards the implementation of Article 9.

CSOs further expressed hope that work on the inter-relations between the Treaty, UPOV and WIPO will help to address contradictions that work against Farmers' Rights. They expressed

disappointment that there was no agreement to start working on guidelines for the implementation of Farmers' Rights.

Elizabeth Matos from Angola, a long-standing delegate of ITPGRFA, in her farewell speech, expressed disappointment about the slow pace of farmers' rights implementation and lack of attention to benefit-sharing.

(* The author thanks Bertram Zagema for his comments.) +