

29th February 2016

Dr. Shakeel Bhatti
Secretary
International Treaty on Plant Genetic Resources
for Food and Agriculture (ITPGRFA)

Interrelations between the International Treaty and relevant instruments of UPOV and WIPO.

Dear Mr. Bhatti,

In 2014, 54 civil society and farmer organisations from across the world sent a letter to you dated 18th September 2014 calling for the establishment of an independent commission to investigate the implementation of Article 9 by UPOV and WIPO with regard to their respective instruments and activities and for the investigation to be conducted in a participatory manner.

Following the request, the Secretariat issued a Notification dated 29 October 2014 (GB6-028) which outlined a process for the identification of interrelations. The notification called for inputs from contracting parties and civil society on the subject and stated:

“After the ACSU will have processed the identified interrelations, the Secretary will transmit the results to UPOV and WIPO. Based on the interrelations thus identified, jointly with UPOV and WIPO, a small team of 3-4 experts will be agreed and an initial outline for a joint report be prepared and made available for public comments by membership and stakeholders of the respective instruments.

After closing of the comments on the draft outline, the experts would be tasked to incorporate the comments and work on a draft report to the Governing Body. The draft report would again be made available for comments on the Treaty website and comments would be incorporated into the final version. In response to the Governing Body’s request, the Secretary would then submit the final version to the Governing Body. “

At the ACSU meeting in March 2015 the Committee *“reviewed the tentative list of some of the issues that were mentioned in the submissions received by the Secretary before this meeting, and recommended to forward the entire list in slightly amended form to UPOV and WIPO.”*

The ACSU took the matter forward in line with the process outlined in the Notification mentioned above. In fact, in a letter dated 27th March 2015, Notification GB6-028 together with the full Report of the ACSU was notified by the Treaty Secretariat to Dr. Francis Gurry, Secretary General of UPOV and Director General of WIPO. Further Secretariat’s document (IT/GB6/15/13) prepared for the 6th session of the Governing Body also highlighted elements contained in Notification GB6-028 including the convening of a small team of experts to draft a report on the possible areas of interrelations among their respective international instruments.

In Resolution 5/2015 the Governing Body requested you to «continue» the engagement «through a participatory and inclusive process». The Governing Body did not question the process outlined in Notification GB6-028 nor the list of issues of interrelations of ACSU. Its request for the Treaty Secretariat to “continue” the process in a participatory manner is a clear endorsement of the process outlined by the Secretariat and a signal for the Secretariat to go ahead with the process as described in Notification GB6-028.

Accordingly, following the transmission of results to UPOV and WIPO, the next step would be to put together a team of independent experts that is mandated to draft a report on interrelations between the International Treaty and the relevant international instruments of UPOV and WIPO for consideration by the Governing Body.

It has been brought to our attention that UPOV member states may be considering the holding of a symposium in which their Contracting Parties would present information on their experiences in implementing the UPOV Convention and ITPGRFA. We are of the view that this suggestion is completely inadequate for the identification of possible areas of interrelations between the international treaty and relevant instruments of UPOV and WIPO. Further it is neither participatory nor inclusive.

Most importantly that suggestion backtracks and contradicts the process outlined in Notification of 2014.

We strongly urge you to continue with the process outlined in Notification GB6-028 and to identify independent experts to undertake an investigation on implementation of Article 9 by UPOV and WIPO. We would stress that the process should be participatory and inclusive, which as clarified by the Notification means to invite stakeholders for public consultations on the outline and on the draft report prepared by the independent experts. The Experts should have extensive expertise on and support implementation of Article 9.

In the case UPOV has no interest for an in-depth analysis of possible areas of interrelations, the Treaty Secretariat, in order to deliver a useful outcome for the next governing body, should nevertheless continue the process.

We look forward to actively participating in the process as outlined in Notification GB-028. We look forward to hearing from you.

Sincerely

On behalf of the signatories

Sangeeta Shashikant, Third World Network

François Meienberg, Berne Declaration

Signatories

1. ACT Alliance EU, Belgium
2. Aliansi Organik Indonesia (Indonesian Organic Alliance), Indonesia
3. Aliansi Petani Indonesia (Indonesia Peasant Alliance), Indonesia
4. Association for AgriCulture & Ecology (AGRECOL), Germany
5. Action for Change and Progress, Kenya
6. African Center for Biodiversity (ACB), South Africa
7. Agriculture Sovereignty, Ghana
8. AgrarKoordination, Germany
9. AllianceSud, Switzerland
10. Asociación ANDES, Perú
11. ASPSP, Senegal
12. Berne Declaration, Switzerland
13. Bina Desa, Indonesia
14. Bread for All, Switzerland
15. Bread for the World – Protestant Development Service, Germany
16. Bioscience Resource Project of Ithaca, USA

17. Building Eastern Africa Community Network (BEACON), Kenya
18. Centre for Sustainable Development (CENESTA), Iran
19. COASP, West Africa
20. Community Technology Development Trust (CTDT) Zimbabwe
21. Commons for Ecojustice (EcoJustice), Malawi
22. Dachverband Kulturpflanzen- und Nutztiervielfalt, Germany
23. EcoNexus, UK
24. Eastern and Southern Africa Small Scale Farmers Forum (ESAFF), Tanzania
25. Fahamu Africa, Senegal
26. Food Sovereignty Ghana, Ghana
27. Forum für international Agricultural Policy, Germany
28. Freie Saaten e.V., Germany
29. FIAN-Indonesia
30. JINUKUN-COPAGEN, Benin
31. Indonesia for Global Justice (IGJ), Indonesia
32. Indonesian Human Rights Committee For Social Justice, Indonesia
33. Institute for Ecology and Action-Anthropology (INFOE), Germany
34. International Institute for Environment and Development (IIED), UK
35. Growth Partners Africa (GPA), Kenya
36. Kasisi Agricultural Training Centre, Zambia
37. Kenya Food Rights Alliance (KeFRA), Kenya
38. Konphalindo, Indonesia
39. Pan-Africanist International
40. Red de Semillas "Resembrando e Intercambiando", Spain
41. Rumah Organik, Indonesia
42. Rural Women's Assembly (RWA), South Africa
43. SEARICE, Philippines
44. Serikat Petani Indonesia (SPI), Indonesia
45. Smallholder Farmers Association of Kenya, Kenya
46. Swissaid, Switzerland
47. Tanzania Alliance for Biodiversity (TABIO), Tanzania
48. Tanzania Organic Agriculture Movement (TOAM), Tanzania
49. The Development Fund, Norway
50. Third World Network
51. Trust for Community Outreach and Education (TCOE), South Africa
52. UK Food Group (UK network of 49 NGOs)
53. Uniterre, Switzerland
54. USC, Canada
55. Verein zur Erhaltung der Nutzpflanzenvielfalt Germany
56. We Are the Solution, West Africa
57. Yayasan Field, Indonesia
58. Zambia Alliance for Agroecology and Biodiversity Conservation, Zambia
59. Zimbabwe Traditional and Organic Food Forum, Zimbabwe