



Updates on Plant Variety Protection

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1. Editorial

The issue of this newsletter reports on the major opposition in Asia against the inclusion of the UPOV system in the RCEP regional trade agreement. In addition, we refer to three new studies, and Articles that points to the risk of overly stringent intellectual property rights for the protection of farmers' rights.

2. Asian NGOs say no to UPOV in RCEP trade deal.

The Regional Comprehensive Economic Partnership (RCEP) is a free-trade agreement (FTA) being negotiated by 16 countries, including the 10 member states of the Association of Southeast Asian Nations and India, Japan, China, Australia, New Zealand and South Korea. Some of these countries demanded that a plant variety protection system in line with the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV) should be part of the deal. NGOs and Farmers' Organisations from India, Malaysia and the Philippines published open letters at the end of February where they stressed that the RCEP negotiations should not include an obligation to join or implement the UPOV systems of plant variety protection and in this way undermine Farmers' Rights. More information could be found in this [IP Watch article](#).

3. Comparative Study of the Nagoya Protocol, the Plant Treaty and the UPOV Convention: The Interface of Access and Benefit Sharing and Plant Variety Protection

The [new study](#), was published by the Centre for International Sustainable Development Law (CISDL, based in Canada) in January 2019 with the financial support of the Swiss Confederation. In its conclusions the study states „The closest links between UPOV and the CBD and Nagoya Protocol for advancing ABS are the farmer's privilege and breeder's exemption. Sui generis PVP systems adopted outside of the UPOV Convention framework – as permitted by TRIPS – may provide a way to better balance rights and obligations relating to the Nagoya Protocol, Plant Treaty, and PVP. However, this could be disadvantageous due to a proliferation of different national sui generis systems [...]. As such, it may be necessary to consider amending UPOV to strike a better balance between the three treaties in a way that attracts greater membership.

4. Plant Breeders' Rights, Farmers' Rights and Food Security: Africa's Failure of Resolve and India's Wobbly Leadership

This [article](#) published by Chidi Oguamanam, Professor at the Centre for Law, Technology and Society, at the University of Ottawa, Canada speaks about African and India's conjoined interest in the rights of farmers offering a basis for solidarity and, literally for self-defence and selfpreservation in food security. «Clearly, for African countries and India and, of course, their counterparts in the developing world where traditional knowledge, agrobiodiversity, sustainability and conservation ethics, including the practice of farm-seed saving and exchange are the dominant core of their agricultural knowledge and production, it is necessary as it is logical to put their money where their mouth is. In so doing, they ought to be conscious of the implication of uncritical embrace of UPOV and TRIPS' vision of PBRs and patents in agriculture and its ramification for their food security.»

5. The Status of Patenting Plants in the Global South

The [research report](#) written by Prof. Carlos Correa and published by Oxfam provides an overview of the status of patenting plants in the developing countries and emerging economies of the Global South. The comprehensive analysis shows that only 40% of the 126 developing countries and emerging economies for which legal information was available have used the TRIPS flexibility regarding the nonpatentability of plants. The other developing countries «where a broad coverage of patents is allowed (including plants and/or their parts and components, [...]) should be encouraged to review their legislation and learn from the examples of countries that consistently with the TRIPS Agreement, have appropriately narrowed down the scope of patentability in this field. The report which is available in english, french, spanish and chinese also includes a position statement of Oxfam.

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