



## Updates on Plant Variety Protection

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### 1. Editorial

This newsletter has rarely presented you with such a flurry of new publications. Reading them all will take a lot of time – but will also bring many fresh insights.

We received a lot of positive feedback for our publication “Implementing the International Treaty (ITPGRFA) in light of UNDROP”, which was featured in the last newsletter. We are pleased to announce that the briefing paper is now also available in [Spanish](#).

### 2. APBRES Report on the 2022 UPOV Session

During the last UPOV session at the end of October, hotly contested topics were discussed further. Although there were no final decisions on the definition of Essentially Derived Varieties, the exceptions for smallholder farmers, or the novelty of parent lines, it was decided the discussions will continue in all cases. Details on the negotiations can be found in our [Report on the 2022 UPOV Session](#).

### 3. Seed Activism: Patent Politics and Litigation in the Global South

In her [new book](#) Seed Activism, [Karine Peschard](#) sheds light on the role of biotech corporations in the contemporary food regime, the transposition of supranational norms at the domestic level, and the nature and prospects of legal activism in the Global South. For her research, she analyses three court cases: Roundup Ready soybean in Brazil, Bt cotton, and Bt eggplant in India. Peschard argues that private IP systems have rendered moot domestic legislation on plant variety protection and farmers' rights. As an anthropologist, she pays particular attention to the role of power in shaping law and the legal system. «Only by doing so can we begin to understand the variety of ways in which people resist, accommodate to, and ultimately shape new legal regimes in agriculture.»

### 4. The Intellectual Property Protection for Plant Related Innovation - Fit for Future?

With his [new book](#) (based on his dissertation at Humboldt University of Berlin,) [Michael Andreas Kock](#) (former Global Head IP with Syngenta) provides a comprehensive analysis of the current system of intellectual property rights on plants - its problems and limitations. What is remarkable about his work, beyond the analysis, (e.g. on the regulation of Essentially Derived Varieties in plant breeders' rights), is the development of a vision to solve existing and future problems. He says that a «system failure can only be prevented by a fundamental redesign of the IPR system for plant innovations into

one holistic open innovation framework, which combines elements of patents, plant breeders' rights, biotech regulatory, and the International Treaty for Plant Genetic Resources for Food and Agriculture". He calls it UPOV 2030. Michael Kock is aware that the likelihood of such an initiative is currently considered low, but his contribution will certainly stimulate all those who will work on a solution in the future

## **5. In defense of farmer saved seeds**

Based on examples from Australia, Canada, and Europe, Dr. Richard Gray, Professor and Grain Policy Chair at the University of Saskatchewan, Canada, argues that eliminating the use of farmer-saved seeds (FSS) just to collect additional revenue for seed companies does not seem to be an efficient way to proceed. In his [article](#), he concludes that there are several advantages to FSS production that can provide effective competition for the pedigreed industry. Farmers using FSS often save seed transportation costs and manage their seed inventory more effectively with minimal impact on seed quality. "There is no asymmetric information regarding the production history of FSS and farmers can also be confident that the FSS does not contain weed seeds or diseases not already present on their farms." He also shows that payment of royalties is a matter of intellectual property rights and not directly a function of the use of FSS.

## **6. Food Barons 2022: Crisis Profiteering, Digitalization and Shifting Power**

For many years, the ETC Group has published the most comprehensive information on corporate concentration in the food sector. The Group just issued [a new report](#), which shows the frightening way in which concentration continues to increase. For the seed sector, this means that the four largest companies dominate 51% of the market. And just as significantly, the four largest seed companies are also the four largest pesticide producers. The fact that today a large proportion of seeds are produced by [pesticide producers](#) is certainly not a good starting point for the development of sustainable agriculture.

## **7. From land enclosures to lab enclosures: digital sequence information, cultivated biodiversity and the movement for open source seed systems**

In a few weeks, the Conference of Parties to the Convention on Biological Diversity will take place in Montreal, Canada. A central point of the negotiations will be the question of how the benefit sharing obligation will be implemented for so-called Digital Sequence Information (DSI). In her [new article](#), Raquel Ajates, a Post-Doctoral Researcher at the Universidad Nacional de Educacion a Distancia, Madrid, Spain, and the University of Dundee, United Kingdom, shows how strongly this question also affects plant breeding and the relevant intellectual property rights. She postulates that the open-source seed system is an important aspect of a comprehensive solution.

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