



Updates on Plant Variety Protection

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1. Editorial

A lot has happened since our last Newsletter was published. However, disputes over plant variety rights have remained the same, as illustrated by articles about Africa, Latin America, and Asia in this Newsletter. Following our December 2024 Newsletter and [our report](#), *UPOV's War against the Rights of Farmers*, we received substantial feedback. We thus decided to publish the report in Spanish, and it is now posted on our [website](#).

2. Seeds at Risk - Global Struggles for Control over Food / Online Launch of the Report

APBREBES co-published a new report, *Seeds at Risk*, that illustrates the primeval importance of seeds and their foundational role in our food systems. The report describes the wide range of controversies surrounding seeds and is available in [English](#), [French](#), and [German](#). The publication will be launched online on 24 April (at 14:00 CEST) around a dialogue with farmers' seeds advocates who strive to transform our food systems. The event will be held in English, French, German, and Spanish with simultaneous interpretation. Register [here](#) to join Shalmali Guttal, a member of the UN Working Group on UNDROP, Mamadou Goïta, a member of the International Panel of Experts on Sustainable Food Systems, and Simon Degelo, responsible for seeds and biodiversity at SWISSAID, for the discussion.

3. Recent EFTA Free Trade Agreements do not Require UPOV Compliance

The United States of America, the European Union, Japan, and EFTA (Switzerland, Norway, Iceland, and Liechtenstein) have repeatedly used free trade agreements (FTA) to push other states to adopt plant variety protection (PVP) laws based on the UPOV 1991 Convention. However, in recent months, EFTA signed agreements that give partner countries much more flexibility. For example, EFTA members signed a comprehensive [Trade and Economic Partnership Agreement](#) (TEPA) with India last year. The PVP article in the [Annex on Intellectual Property](#) merely restates the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The terms of protection required by the agreement are similar to the ones in the current Indian Act on the Protection of Plant Varieties and Farmers' Rights, which states that the protection shall not be shorter than nine years for trees and vines and six years for other plant varieties but may be extended. On 23 January, EFTA Member States signed the [EFTA-Thailand FTA](#). Article 8 on PVP in the [Annex on Intellectual Property](#) states that "The Parties recognise the importance of protecting new varieties of plants and shall endeavour to provide for adequate and effective protection of new plant varieties by an effective sui generis system." In an additional Article 4, the text further states that "The Parties recognise the

relevance of disclosure requirements relating to genetic resources and associated traditional knowledge in patent applications". These two agreements give Thailand and India complete freedom to maintain their current legislation, providing a more adequate protection of farmers' rights than UPOV 1991. The entry into force of both FTAs is currently pending.

4. Unpacking the AfCFTA Protocol on Intellectual Property Rights

In its [report](#), the Alliance for Food Sovereignty in Africa (AFSA) highlights the potential opportunities and threats of the African Continental Free Trade Area (AfCFTA) intellectual property protocol. "While the Protocol acknowledges a sui generis system that includes farmers' rights, plant breeders' rights (PBRs), and access and benefit sharing rules, these are framed within a commercially driven context." The authors remark that Article 8 on the Protection of New Plant Varieties is vague and does not clearly delineate appropriate rights for farmers and plant breeders. These ambiguities, they say, can be resolved in the planned annex. AFSA is calling to push for a sui generis PVP system emphasizing farmers' rights and traditional seed exchange practices.

5. Bolivia's Resistance to Modification and Commodification of Seeds: Challenges in Aligning the Domestic Situation with its International Position

Despite the Bolivian government's rejection of the privatisation of genetic resources and its commitment to farmers' rights in international fora, the current Bolivian law on PVP seems to be in line with UPOV 91, although the country is a member of the 1978 Convention of UPOV. The law prohibits the exchange and sale of seeds by farmers but includes an exemption allowing small farmers (up to 100 hectares) to save seeds. However, because seed suppliers routinely go beyond their legal rights, they secure repeat seed purchases, even from smallholders. In their [article](#) (restricted access), Saurav Ghimire, Doctoral Researcher at the Vrije Universiteit Brussel, et al conclude "that enabling smallholders soybean farmers to exercise their legally recognized right to save and repeatedly use their own seeds could be one of the means to protect them from the agricultural exclusion currently happening in the soybean sector in Bolivia."

6. A Comparative Analysis of the Indian and Nigerian PVP Regimes: Advocacy for a Balanced Protection of Interests in the Nigerian Seed Sector

In his [paper](#) (restricted access), Oluwaseun Samson Fapetu, a law teacher at Adekunle Ajasin University in Nigeria, compares the legislation protecting plant varieties in Nigeria and India, examining provisions on plant varieties and plant biodiversity. In this conclusion, the paper demonstrates that the Nigerian law inordinately protects breeders' rights above all other interests and shows little or no protection for biodiversity. The author calls to amend Nigerian law to reflect the country's socio-economic needs and to provide more balanced protection to all concerns of plant variety. Previous studies have already underlined the imbalance of the Nigerian PVP Act. Unfortunately, the scientific findings have not reached the decision-makers, as Nigeria joined UPOV 91 a few months ago.

7. A Case Study on Farmer-Managed Seed Systems (FMSS) in Zambia

A [case study](#) on Farmer Managed Seed Systems (FMSS) in Zambia by the Zambia Alliance for Agroecology and Biodiversity (ZAAB),] concludes "there is a need and scope for officially recognizing FMSS [Farmer Managed Seed Systems] and providing policy and legislative support that should address increasing availability of seed of a wide range of crops and varieties." Such policy support is partially met in the Zambian PBR Act of 2007, which provides some room for farmers to continue practices of

selecting, saving, exchanging, and selling their seeds. “It is this protection and surety to Zambian farmers, as well as the provisions for protecting the national public interest, that disqualifies Zambia from becoming a member of the Union for the Protection of Varieties (UPOV), which requires more stringent restrictions for farmer use of varieties. So, Zambia cannot have it both ways. It's either it joins UPOV and abandons its farmers or stays out of UPOV and supports its farmers,” ZAAB said.

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Feedback & Contact

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