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Item 14 of the Provisional Agenda

**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES
FOR FOOD AND AGRICULTURE**

SECOND SESSION OF THE GOVERNING BODY

Rome, 29 October – 2 November 2007

**THE DEVELOPMENT OF FARMERS' RIGHTS IN THE CONTEXT
OF THE INTERNATIONAL UNDERTAKING AND ARTICLE 9**

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I. Introduction

1. Article 9 of the Treaty provides that:

9.1 The Contracting Parties recognize the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.

9.2 The Contracting Parties agree that the responsibility for realizing Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:

- (a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;*
- (b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and*
- (c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.*

2. At the First Session of the Governing Body, Contracting Parties discussed Article 9 and the Report of that Session contains the following account of the discussions:

Norway stressed the importance of Farmers' Rights, noting that the responsibility for their implementation lay with national governments. Norway was accordingly funding a project that focused on how countries could best implement Farmers' Rights, the need for cooperation in this regard within the framework of the Treaty, and how the Governing Body could support these efforts. The results of the first phase of the project had been presented in a side-event on 13 June. Mindful of the workload that the Secretariat was carrying, and that the first priority of the Treaty was make the Multilateral System functional, Norway nonetheless requested that follow-up to Article 9, Farmers' Rights, be considered by the Bureau for possible inclusion in the agenda of the Governing Body's Second Session. Many regions supported this proposal.¹

3. This information document gives a brief outline of the history of Farmers' Rights in the context of International Understanding on Plant Genetic Resources and Article 9 of the Treaty.

II. Brief History of Farmers' Rights

4. The International Undertaking on Plant Genetic Resources was unanimously adopted by the FAO Conference at its 22nd Session through Conference Resolution 8/83. The concept of

¹ Paragraph 54 IT/GB-1/06/Report

Farmers' Rights was first introduced into the International Undertaking as an Agreed Interpretation by FAO Conference Resolution 4/89, and was further defined by FAO Conference Resolution 5/89. Under these resolutions, Farmers' Rights were seen as a means to reward farmers and their communities for their contributions in the past, to encourage them to continue in their efforts to conserve and improve Plant Genetic Resources for Food and Agriculture (PGRFA), and to allow them to participate in the benefits derived, at present and in the future, from the improved use of plant genetic resources, through plant breeding and other scientific methods.

5. Three 'agreed interpretations' of the International Undertaking were negotiated over the years and incorporated into the text of the Undertaking as *Annexes 1, 2 and 3*:

- Resolution 4/89, entitled *Agreed Interpretation of the International Undertaking*, which recognizes farmers' rights being *Annex I* to the *International Undertaking*;²
- Resolution 5/89, entitled *Farmers' Rights*, which conceptualized the notion of Farmers' Rights³ being *Annex II* to the *International Undertaking*; and
- Resolution 3/91, which sets out that farmers' rights should be implemented through an international fund for plant genetic resources being *Annex III* to the *International Undertaking*.

6. As an annex to the International Undertaking on Plant Genetic Resources, Resolution 5/89 defines Farmers' Rights as "*rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity. These rights are vested in the International Community, as trustee for present and future generations of farmers, for the purpose of ensuring full benefits to all farmers, and supporting the continuation of their contributions, as well as the attainment of the overall purposes of the International Undertaking.*"

7. As part of this Resolution, the FAO Conference endorsed the concept of Farmers' Rights with a view to:

- ensuring global recognition of the need for conservation and the availability of sufficient funds for these purposes;
- assisting farmers and farming communities throughout the world, especially those in areas of original diversity of plant genetic resources, in the protection and conservation of their PGR and of the natural biosphere; and,
- allowing the full participation of farmers, their communities and countries in the benefits derived, at present and in the future, from the improved use of PGR.⁴

8. During the 26th Session of the FAO Conference, Resolution 3/91 was also adopted endorsing that:

- Farmers Rights would be implemented through an international fund on Plant Genetic Resources (PGR) which will support PGR conservation and utilization programmes, particularly, but not exclusively, in the developing countries;

² Adopted on 29 November 1989, text at: <ftp://ext-ftp.fao.org/waicent/pub/cgrfa8/Res/C4-89E.pdf>.

³ Adopted on 29 November 1989, text at: <ftp://ext-ftp.fao.org/waicent/pub/cgrfa8/Res/C5-89E.pdf>. Farmers' rights, under Resolution 5/89, mean "*rights arising from the past, present and future contributions of farmers in conserving, improving, and making available plant genetic resources, particularly those in the centres of origin/diversity. These rights are vested in the International Community, as trustee for present and future generations of farmers, for the purpose of ensuring full benefits to farmers, and supporting the continuation of their contributions...*"

⁴ International Undertaking on Plant Genetic Resources, *Annex II*, page 10-11

- in view of the pressing and permanent need for effective conservation and sustainable use of PGR, the resources for the international fund and other funding mechanisms should be substantial, sustainable and based on principles of equity and transparency.

9. One of the principal objectives of the renegotiation of the International Undertaking, which initiated the negotiations for the International Treaty, as indicated in FAO Conference Resolution 7/93, was to provide for the realization of Farmers' Rights.

10. The negotiations for the revision of the International Undertaking culminated in the adoption of the International Treaty, through Resolution 3/2001, by the FAO Conference in November 2001. The Treaty recognizes the enormous contribution that farmers and their communities have made and continue to make to the conservation and development of plant genetic resources. This is the basis for Farmers' Rights, which include the protection of traditional knowledge, and the right to participate equitably in benefit-sharing and in national decision-making about plant genetic resources. It gives governments the responsibility for implementing these rights in accordance with their needs and priorities and provides that such rights are subject to national legislation.

III. Conclusions

11. The Governing Body may wish to invite Contracting Parties to report to it, from time to time, on steps and measures taken at the national level to develop or implement Farmers' Rights, in order to share experiences and exchange information.

12. The Governing Body is invited to consider the contents of this document and provide further guidance on the next steps for the implementation of Article 9.