



Farmers' Rights

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Plant breeders serve an important function in achieving increased yields of food and feed crops, which are essential to preserving the economics of farming and the livelihoods of farmers. Plant breeders not only develop new varieties but also explore the value of unused germplasm to enhance genetic resources already in use on-farm. By this means they play an important role in conserving plant genetic resources.

In today's industrialized and urbanized societies almost all agricultural production is undertaken by farmers who specialize in production using seeds that have been developed by plant breeders. At the same time many farmers, particularly in developing countries, continue their traditional practices of seed saving and exchange for their seed supply; and in so doing also play a role in distributing germplasm and exploiting genetic resources.

Thus, plant genetic resources can be explored, characterized and developed by plant breeders and exploited by breeders and farmers at the same time that they are being conserved, both *in situ* and *ex situ*. Therefore, as a means of supporting sustainable use ISF fully supports an access and benefit sharing system that respects intellectual property, whether the intellectual property is created by farmers or by plant breeders in the public or private sectors.

In order to create an environment that encourages the continuous and substantial investments required to support breeding and the large scale characterization and conservation of germplasm undertaken by the commercial sector, breeders - companies or individuals – must have the opportunity to protect their new varieties through intellectual property rights in order to obtain a fair remuneration. ISF strongly supports Plant Breeder's Rights based on the UPOV 1991 Convention as it provides an adequate protection of plant varieties against inappropriate exploitation by others. This protection is combined with free access and use for further breeding purposes (breeder's exemption) and the compulsory exception of acts done privately for non-commercial purposes¹ allowing subsistence farmers in developing countries to save and use seed from their own harvests.

Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture (the "Treaty") refers to the contribution farmers have made towards the conservation and development of plant genetic resources, but it also expressly acknowledges that implementation of a system that allows farmers to "save, use, exchange and sell farm saved seed" rests with national governments "subject to national law and as appropriate". The Treaty recognizes that each Contracting Party has its own domestic needs and priorities, and recognizes that a Contracting Party may also have obligations under other international agreements and conventions it adheres to.

Most national laws recognize and protect intellectual property. They allow protection of new plant varieties created by breeders through years of breeding effort and significant economic investment to the exploration, characterization and development of germplasm as intellectual property. The Treaty does so too. Even as Article 9 calls for Farmers' Rights it does not exclude the intellectual property of commercial plant breeders.

¹ Article 15 (1) of the UPOV 1991 Convention

Farmers are the primary market for new varieties developed and protected by commercial plant breeders. Free and unlimited use of farm saved seed that is harvested from protected varieties developed by plant breeders destroys the economic incentive to those breeders to continue to conserve, characterize and develop the available genetic resources in important food and feed crops. If farm saved seed of protected varieties is permitted and used², breeders should receive a fair remuneration for that use. Failure to respect and protect the property newly created by breeders will eventually restrict the release of genetically diverse and improved varieties to the detriment of farmers and to society as a whole. However, farmers still have the opportunity to freely use seeds of landraces and seeds of varieties that are not or no longer protected, independently of the consent of the breeder.

² According to Article 15 (2) of the UPOV 1991 Convention