



COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Item 4 of the Provisional Agenda

INTERGOVERNMENTAL TECHNICAL WORKING GROUP ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

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FURTHER RESEARCH ON THE IMPACT OF SEED POLICIES, LAWS AND REGULATIONS

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I. INTRODUCTION

1. The Commission on Genetic Resources for Food and Agriculture (Commission), at its Eighteenth Regular Session, considered the effects of seed policies, laws and regulations on the diversity of plant genetic resources for food and agriculture (PGRFA). It requested FAO, in cooperation with relevant international organizations, to continue to support countries in the development or revision of their national seed policies, as appropriate and according to their specific situations, taking into account the Commission's *Voluntary Guide for National Seed Policy Formulation*.¹ Furthermore, it requested FAO to undertake, in collaboration with the International Treaty on Plant Genetic Resources for Food and Agriculture (Treaty), further research on the impact of seed policies, laws and regulations, taking into account the variety of factors that may affect, and possibly improve, farmers' ability to access sufficient and affordable seeds and planting materials of diverse, locally adapted varieties, including farmers' varieties/landraces (FVLs).²

2. This document summarizes the steps undertaken to carry out further research on the impact of seed policies, laws and regulations. The draft concept note is contained in the document *Draft concept note on further research on the impact of seed policies, laws and regulations affecting farmers' ability to access seeds*.³

II. BACKGROUND

3. During its last two regular sessions, the Commission considered two studies on the possible impacts of seed policies, laws and regulations on farmers' ability to access seeds and planting materials, especially of FVLs.

4. In 2019, at the Commission's Seventeenth Regular Session, FAO presented a review of the status and trends of seed policies and seed laws of 94 countries, the Andean Community and the European Union to ascertain the scope of these seed policies/laws in terms of registration requirements for varieties prior to their commercialization, seed quality control provisions, and farmers' representation in the governing bodies of national seed authorities. The findings of the study were largely indicative. It remained, for example, unclear for many countries whether FVLs could be registered and seed of such varieties be produced and exchanged on a commercial basis as the legislation itself does often not disclose this kind of information. Furthermore, the fact that FVLs were not mentioned in many seed laws could not be interpreted as to mean that they cannot be registered and that seeds of such varieties cannot be commercialized. The study also emphasized that many factors affect the diversity of PGRFA directly or indirectly and that it is therefore difficult to make rigorous claims about the impacts of seed policies in isolation.⁴

5. In response to these findings, the Commission requested FAO to carry out in-depth case studies for consideration by the Working Group, at its next session. These case studies should consider the effects of seed policies, laws and regulations on: (i) on-farm diversity of PGRFA; (ii) smallholders' access to sufficient, affordable, diversified and locally adapted PGRFA, including FVLs; and (iii) food security and nutrition under the different seed systems. The Commission further requested FAO to clarify the terms "farmers' seed systems", "informal seed systems", "formal seed systems" and "integrated seed systems", taking into account submissions by Members and observers.

6. In response to the Commission's request, using the findings from the preliminary study, two sets of countries characterized by marked differences in their seed regulatory provisions were delineated as the subjects for the follow-up study. One set, comprising 12 countries, had legislative provisions that would potentially restrict the use of FVLs, while a second set of 26 countries had provisions that would potentially enhance diversity, or at the least not limit it.

7. For the follow up study, the Commission's National Focal Points for PGRFA of both sets of countries were surveyed as to the implementation of regulatory provisions for crop varietal

¹ FAO. 2015. *Voluntary Guide for National Seed Policy Formulation*. Rome. (also available at <http://www.fao.org/3/i4916e/i4916e.pdf>).

² CGRFA-18/21/Report, paragraph 105.

³ CGRFA/WG-PGR-11/23/4.2/Inf.1.

⁴ CGRFA-17/19/9.3; CGRFA-17/19/9.3/Inf.1.

registration, seed quality assurance, and the promotion and/or sale of FVLs. It was determined that differences between these two sets of countries in the implementation of seed laws and policies were not as marked as the provisions in their respective seed regulatory instruments seemed to suggest. In particular, there was no instance of FVLs being targeted specifically in the enforcement of seed regulatory provisions.⁵

8. In response to the follow-up study, the Commission requested FAO, in collaboration with the Treaty, to undertake further research on the impact of seed policies, laws and regulations, taking into account the variety of factors that may affect, and possibly improve, farmers' ability to access sufficient and affordable seeds and planting materials of diverse, locally adapted varieties, including FVLs.⁶ The Governing Body of the Treaty, at its Ninth Session, welcomed joint activities of the Secretariats of the Treaty and the Commission, in particular with regard to the effects of seed policies, laws and regulations.⁷

III. DEVELOPMENT OF A DRAFT CONCEPT NOTE

9. In response to the Commission's request, FAO developed a draft concept note for the conduct of further research. The draft concept note proposed that further research address the actual implementation of seed policies, laws and regulations, as well as the response of stakeholders to seed policies, laws and regulations, and other factors beyond seed policies possibly impacting farmers' ability to access seeds and planting materials of diverse, locally adapted varieties, including FVLs. The concept note further recommended to develop a definite methodology to conduct the research and that the research process be iterative and inclusive, i.e. involve at each stage a broad range of stakeholders along the seed value chain.

10. The draft concept note was reviewed by twenty-seven stakeholders from both the formal and informal seed sectors, including eleven National Focal Points. Following these consultations, the draft concept note proposes that further research should define clear and specific questions, for example, how policies, laws and regulations affect farmers' choices in accessing seeds and planting materials, with particular attention to vulnerable farmers and to different types of seed systems. Various options, including the use of different qualitative and quantitative research methods, were suggested for the research methodology. The articulation of a definitive methodology for the conduct of the study would depend on: how many identified research topics would be studied at the same time; whether there would be a phased series of studies; and the scale of human and budgetary resources that would be dedicated to the endeavour.

IV. GUIDANCE SOUGHT

11. The Working Group may wish to recommend that the Commission:
- a) Consider further research on the impact of seed policies, laws and regulations, in the light of the draft concept note;
 - b) Make any other recommendations with regard to further research on the impact of seed policies, laws and regulations.

⁵ CGRFA-18/21/12.3; CGRFA-18/21/12.3/Inf.1.

⁶ CGRFA-18/21/Report

⁷ IT/GB-9/22/Report, B.11.