



COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

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EFFECTS OF SEED POLICIES, LAWS AND REGULATIONS

Table of Contents

	Paragraphs
I. Introduction	1–2
II. Further research on the impact of seed policies, laws and regulations	3–4
III. FAO's bottom-up, demand-driven and participatory approach to seed security and seed-related activities	5–7
IV. Guidance sought	8
<i>Annex:</i> Concept note on further research on the impact of seed policies, laws and regulations on farmers' ability to access seeds and planting materials of diverse, locally adapted farmers' varieties/landraces	

I. INTRODUCTION

1. At its Nineteenth Regular Session the Commission on Genetic Resources for Food and Agriculture (Commission) considered further research on the impact of seed policies, laws and regulations on the ability of farmers to access seeds and planting materials of diverse, locally adapted farmers' varieties/landraces (FV/LRs). The Commission recommended that FAO, in collaboration with the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty), carry out further work in this area based on a concept note,¹ subject to the availability of resources.² The Commission also highlighted that FAO and the International Treaty should explore the possibility of having the scoping study conducted by appropriate external partners, who would involve stakeholders from different seed systems. The Commission also recommended that FAO report on how it followed up on a number of requests the Commission made at its Eighteenth Regular Session, including on taking a bottom-up, demand-driven approach to seed security and promoting farmers participation in seed-related FAO activities.³

2. This document summarizes activities undertaken by FAO to (i) advance further research on the impact of seed policies, laws and regulations and (ii) take a bottom-up, demand-driven and participatory approach to seed security and seed-related activities.

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

3. The Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (Working Group), at its Twelfth Session, considered the estimated cost of the research work⁴ and recommended that the Secretariat pursue options for reducing the cost and clarifying the research process, including the selection of countries. It further recommended that an open, competitive call following UN standard procedures be used to receive offers for carrying out any further research. However, while the Working Group acknowledged the importance of carrying out further research in this area, it also questioned whether it was a priority given the amount of extra-budgetary resources that may be required.

4. Following the recommendation of the Working Group, FAO, in collaboration with the International Treaty Secretariat, revised the concept note, as contained in the *Annex* to this document, with the objective to reduce the costs of the research work and clarify the scope of the research question by focusing on policies, laws and regulations adopted with the explicit intention to improve farmers' ability to access sufficient, affordable and locally adapted seeds and planting materials of FV/LRs or of a diverse range of crop varieties. The research would evaluate the impact of such policies, laws and regulations on variety registration, commercialization of seeds and planting materials, and especially on their use.

III. FAO'S BOTTOM-UP, DEMAND-DRIVEN AND PARTICIPATORY APPROACH TO SEED SECURITY, RESILIENCE AND SELF-SUFFICIENCY

5. Where feasible, FAO aims to take a bottom-up, demand-driven approach to promote seed security, resilience and self-sufficiency, as well as participation of farmers and Indigenous Peoples in seed-related activities. FAO emergency and resilience-building activities are based on evidence gathered from vulnerability analyses, risk monitoring and emergency needs assessments using a range of tools and information sources.⁵ Responses, which include activities to support seed security, resilience and self-sufficiency, aim to support agricultural households and sustainable livelihoods. Seed security assessments are also conducted to guide activities. These assessments are primarily based on smallholder farmers' perspectives and experience of seed security, and on the actions these farmers take to access the quality seeds and planting materials of a diverse range of crops and varieties that they require. Through focus group discussions, including discussions specifically with

¹ CGRFA19/23/Report, *Appendix D*.

² CGRFA-19/23/Report, paragraph 60.

³ CGRFA-19/23/Report, paragraph 61.

⁴ See CGRFA/WG-PGR-12/24/4.3.

⁵ <https://www.fao.org/emergencies/our-focus/analysis-and-evidence/3/en>

women farmers, as well as surveys of farmers and interviews with a wide range of seed-system stakeholders, these assessments analyse the challenges and opportunities facing smallholder farmers' seed security, and develop recommendations jointly with relevant stakeholders.⁶

6. Emergency responses should rely on crops and varieties that are adapted to the targeted areas and the emergency context and are preferred by beneficiaries, in line with FAO technical guidance.⁷ Where emergency responses use seed vouchers as the main modality for seed distribution, farmers can select the crops and varieties they prefer.⁸ Further, support to quality seed production is routinely directed at small enterprises or associations of farmers, and includes support of these farmers in marketing their produce to other farmers. To be sustainable, seed enterprises must meet farmers' demand for their seed. Seed-sector development is therefore inherently demand-driven.

7. FAO has also been investing in the localization of its emergency and resilience-building activities, supporting and prioritizing the capacities of local and national actors (LNAs), which include community-based organizations, Indigenous Peoples' organizations, and local non-governmental organizations. Through localization, LNAs are partners in the design and implementation of activities. Bottom-up identification of needs and priorities and locally-led solutions are central to localization.

IV. GUIDANCE SOUGHT

8. The Commission may wish to:

- (i) review and, as appropriate, revise the draft concept note contained in the *Annex*;
- (ii) recommend that FAO, in collaboration with the International Treaty, engage an external partner through a call for expressions of interest made via the United Nations Global Marketplace and based on the concept note, as revised by the Commission; and
- (iii) invite Members to provide extra-budgetary resources to fund the research.

⁶ FAO. 2016. Seed security assessment: A practitioner's guide.

<https://openknowledge.fao.org/handle/20.500.14283/i5548e>

⁷ FAO 2010. *Seeds in emergencies: a technical handbook*. Rome

<https://openknowledge.fao.org/handle/20.500.14283/i1816e>

⁸ FAO's Cash and Voucher Assistance. <https://www.fao.org/emergencies/our-focus/cash-and-voucher-assistance/4/en>

 ANNEX⁹

**CONCEPT NOTE ON FURTHER RESEARCH ON THE IMPACT OF SEED POLICIES,
LAWS AND REGULATIONS ON THE ABILITY OF FARMERS TO ACCESS SEEDS AND
PLANTING MATERIALS OF DIVERSE, LOCALLY ADAPTED FARMERS’
VARIETIES/LANDRACES**

In recent years, a number of countries have adopted policies, laws or regulations that aim to support the registration or commercialization of farmers’ varieties/landraces (FV/LRs) and to expand the range of varieties from which farmers, including farmers of Indigenous Peoples and local communities, may choose. The European Union, for example, allows FV/LRs to be registered as Conservation Varieties and their seed to be sold locally.¹⁰ Some countries provide for the possibility of registering FV/LRs in the regular variety list or in a separate one.¹¹ Other countries recognize Quality Declared Seeds as a standard for quality assurance, so as to enhance farmers’ access to the seeds and planting materials produced through this standard.

Through a review of recent literature, reports and country case studies, and through targeted interviews with select stakeholder groups, the scoping study will address the question of whether seed policies, laws and regulations that aim to support the registration or commercialization of FV/LRs or to expand the range of varieties from which farmers may choose through standards (such as Quality Declared Seeds), have enhanced access to diverse, locally adapted FV/LRs, and if so, how. Indicators of impact should focus on evidence of change in the commercialization of FV/LRs and of farmers’ use of FV/LRs, and the scale of any such changes.

In exploring this question, the scoping study will take account of factors beyond seed policies, laws and regulations that may affect, positively or negatively, the registration and commercialization of FV/LRs, and farmers’ access to these seeds and planting materials. These factors may include, *inter alia*, the level of interest of farmers or other stakeholders in registering and commercializing FV/LRs, and how key aspects of seed value chains, such as varietal maintenance or quality assurance, are addressed. Why and how specific policy instruments are implemented in practice, and how farmers and other stakeholders understand and respond to these instruments, should also be noted. Finally, the study should recognize farmers’ use of different seed systems (e.g. formal, informal, integrated) in relation to region, crop and context.¹²

Methodology

Recent literature will be gathered, including from published and unpublished reports from reliable sources as well as from a review of the Policy Resources in the International Treaty’s Toolbox for Sustainable Use of PGRFA,¹³ the Inventory of National Measures, Best Practices and Lessons Learned on the Realization of Farmers’ Rights,¹⁴ the International Treaty compliance reports¹⁵ and the background study on *Bottlenecks and challenges to the implementation of Articles 5 and 6 of the International Treaty*.¹⁶ Based on this review, case studies will be developed that represent different legislative scenarios, geographical regions, crop types (e.g. cereals, pulses, vegetatively propagated crops, and vegetables) and marketing approaches. Targeted interviews will also be conducted with select stakeholder groups along the seed value chain, among others, farmers, farmer cooperatives, community seed banks and relevant seed businesses, as well as regulatory authorities and genebanks,

⁹ CGRFA-19/23/Report, *Appendix D*.

¹⁰ Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties that are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties, OJ L 162, 21.6.2008, pp. 13–19.

¹¹ For example, Benin, Burundi, Malaysia, Niger, Thailand and Switzerland provide for separate lists to register varieties defined as “traditional”, “niche”, “conservation” or “local”.

¹² CGRFA-18/21/12/3/Inf.1.

¹³ <https://www.fao.org/plant-treaty/tools/toolbox-for-sustainable-use/overview/en>

¹⁴ <https://www.fao.org/plant-treaty/areas-of-work/farmers-rights/overview-inventory/en>

¹⁵ <https://www.fao.org/plant-treaty/areas-of-work/compliance/en>

¹⁶ IT/GB-9/ACSU-6/22/4.

who have direct knowledge of these case studies to supplement documentary evidence. The study should be inclusive regarding gender and age. The process for selection of countries for case studies should be outlined, with no more than six case studies of specific policies, laws or regulations selected from different regions. The time dedicated to interviews with stakeholders and key informants should be commensurate with the overall aim of this research, which is improved understanding of the impact of specific policy instruments, rather than a process for national policy revision.

Process

An entity or entities experienced in the organization and conduct of this type of research should be involved in the preparation of the study. Interviews should be conducted with different stakeholder groups. Preliminary results should be shared and discussed with an inclusive multistakeholder group to ensure that the research meets the stated purpose.

The expected output will be a literature review, a summary of case studies and a discussion of the results. Each case study should detail the legislative instruments, elaborate elements of success and challenges faced, and note key contextual factors. General lessons should be drawn regarding the possible impacts of seed policies, laws and regulations that aim to improve farmers' access to seeds and planting materials, particularly to FV/LRs. Questions for further research should also be framed, and methodologies proposed, based on review and analysis of the case studies.

Timeline

The report of the scoping study will be presented to the next Working Group meeting for its consideration.