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

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I. INTRODUCTION

1. At its Nineteenth Regular Session the Commission on Genetic Resources for Food and Agriculture (Commission) considered the document further research on the impact of seed policies, laws and regulations, and reviewed and revised a concept note for further research. It recommended that FAO, in collaboration with the International Treaty, carry out further work on the effects of seed policies, laws and regulations, based on the concept note, subject to the availability of resources.¹ The Commission also highlighted that, with regard to further research on the impact of seed policies, laws and regulations, 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.²

II. BACKGROUND

2. At its Eighteenth Regular Session in 2021 the Commission considered the report of the follow-up study, *Effects of seed policies, laws and regulations*.^{3,4} The Commission requested that further research be undertaken by FAO, in collaboration with the Treaty, 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 and landraces (FVLs).⁵

3. In response to the Commission's request, FAO, in collaboration with the Treaty, prepared a draft concept note for further research on the topic. The draft concept note proposed that the research address the actual implementation of seed policies, laws and regulations, as well as stakeholders' responses, and other factors beyond seed policies that may affect farmers' ability to access seeds and planting materials of diverse, locally adapted varieties, including FVLs. The draft concept note focused on farmers' ability to access seeds and planting materials in particular of diverse, locally adapted farmers' varieties/landraces, taking into account different seed systems at national and local levels, which may be affected differently.⁶

4. The draft concept note was reviewed in an informal expert consultation involving twenty-seven expert stakeholders from both the formal and informal seed sectors, and further revised in collaboration with the Treaty Secretariat. As mentioned above, the concept note was further reviewed and revised by the Commission at its last session. The concept note is given in the Appendix to this document.

III. CONSULTATION WITH EXTERNAL PARTNER

5. In response to the Commission's request, FAO identified two candidate international organizations that have extensive experience in this area of research: the International Food Policy Research Institute (IFPRI), and the Norwegian University of Life Sciences (NMBU). They were approached separately and asked to propose a suitable research design to conduct a study as outlined in the concept note, and provide an initial estimate of the costs of such research per country.

6. IFPRI outlined a structure for a methodologically rigorous research approach to address the questions posed in the concept note. This structure would involve: a) country-level researchers and experts from National Agricultural Research Institutions that are working on biodiversity issues; b) institutes from the Consultative Group on International Agricultural Research (CGIAR), particularly the Alliance of Bioversity and CIAT and IFPRI, possibly with the involvement of the Nature-Positive

¹ CGRFA-19/23/Report, paragraph 60.

² CGRFA-19/23/Report, paragraph 61

³ CGRFA-18/21/12.3.

⁴ CGRFA-18/21/12/3/Inf.1.

⁵ CGRFA-18/21/Report

⁶ CGRFA-19/23/7.1, paragraph 25

Solutions Initiative⁷ or the CGIAR Environmental Health and Biodiversity Impact Platform⁸; and c) a think tank with a strong track record of works in this field, such as the New Markets Lab⁹.

7. A proposal for 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 was provided by IFPRI for a two-year study that focused on the impact of seed policies, laws and regulations in six countries. This proposed included the establishment of an advisory group to guide the research, which would include, *inter alia*, FAO, the International Treaty, the Commission, and other subject-matter experts and partner organisations. A common protocol would guide this research, which would be developed, tested, validated and monitored by a project management team comprising technical and scientific experts in the field. The field research would be conducted in selected countries in collaboration with national partners and stakeholders. A four phase workplan was outlined:

- i) a six month inception phase for consultation with study principals, partners and stakeholders on key learning objectives, research questions, policy constraints and best practices;
- ii) a twelve month implementation phase to conduct, analyse and produce recommendations from a global literature review, as well as from country-level case studies that would involve key informant interviews;
- iii) a validation phase to prepare a draft report documenting learning objectives, research questions, study protocol, findings, and future policy scenarios, which would then be validated with the advisory group, key partners, collaborators and stakeholders at national and global levels; and
- iv) a communication phase to finalise the report and related knowledge products, and to communicate findings and recommendations to target audiences.

8. The estimated cost for such a study design was USD \$2.67 million for a six-country study. This estimate was budgeted as follows: direct labour costs for researchers - USD \$150 thousand; collaborators, mostly at country level to implement the research engage national stakeholders - USD \$1.45 million; staff travel - USD \$128 thousand; convening meetings, workshops and conferences - USD \$96 thousand for; communication - USD \$50 thousand; and service center charges related to research support, as well as overheads - USD \$481 thousand. Cost breakdowns were not provided for each specific phase of the workplan, though based on the plan it can be inferred that the inception phase would cost approximately USD \$650 thousand. Over half the budget was allocated to country-level collaborators and to meetings and workshops with country-level stakeholders through all stages of design, conduct and validation of the research. This continuous engagement with partners, collaborators, and stakeholders at country level would be important for ensuring that there is broad understanding and ownership by member countries of the research, its findings, and recommendations.

9. The second estimate, as provided by NMBU, noted that the Concept Note requested reviews of literature, reports and case studies in each country, along with targeted interviews with select stakeholder groups, and that factors beyond seed policies, laws and regulations should be considered in the analysis of positive or negative impacts on farmers' access to seeds. Based on these stipulations, NMBU considered that a comprehensive study of seed systems, policies, and food system governance would be required in each country. Using as a point of reference the seed system studies that NMBU has conducted for the BOLD project¹⁰, and outlining a defined seed systems toolkit methodology which involved national partners¹¹, NMBU considered that such a study would

⁷ <https://www.cgiar.org/initiative/nature-positive-solutions/>

⁸ <https://www.cgiar.org/research/cgiar-portfolio/environmental-health-biodiversity/>

⁹ <https://www.newmarketslab.org/>

¹⁰ <https://bold.croptrust.org/>

¹¹ <https://www.nmbu.no/en/research/projects/seed-system-toolkit>; analytical framework also outlined in Westengen, O.T., S.P. Dalle, and T.H. Mulesa. 2023. Navigating toward inclusive and resilient seed systems. *Proceedings of the National Academy of Sciences*. **120** (14) <https://doi.org/10.1073/pnas.2218777120>

require two years. They estimated the cost of a rigorous study would involve international research oversight, national collaborators, and research students, and would cost approximately USD \$250 thousand per country, which would mean that a six-country study would cost approximately USD \$1.5 million. They did not provide break-down of cost estimates by research activity or phase.

10. The implementation of either proposal would require extra-budgetary resources, and extensive fundraising. Possible courses of action could be considered as alternatives to raising the full amount for either proposal, such as raising funds at this point for an inception phase (e.g. for IFPRI – USD \$650 thousand), or raising a fixed amount of extra-budgetary resources and then requesting these providers to revise proposals to fit within the resources available.

IV GUIDANCE SOUGHT

11. The Working Group may wish to recommend that the Commission:
 - a) Guide further research on the impact of seed policies, laws and regulations, in the light of the concept note reviewed and revised by the Commission at its Nineteenth regular Session, the partners identified by FAO for undertaking the research and the need for extra-budgetary resources;
 - b) Invite Members to provide extra-budgetary resources to fund the research; and
 - c) Make any other recommendations with regard to further research on the impact of seed policies, laws and regulations.

APPENDIX¹²

**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**

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 (FVLs) and to expand the range of varieties from which farmers may choose. The European Union, for example, allows FVLs to be registered as Conservation Varieties and their seed to be sold locally.¹³ Some countries provide for the possibility of registering FVLs in the regular variety list or in a separate one.¹⁴ 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 case studies, and through targeted interviews with select stakeholder groups, the scoping study will address the question of whether seed policies, laws and regulations have enhanced access to diverse, locally adapted FVLs, and if so, how?

In exploring this question, the scoping study will take account of factors beyond seed policies, laws and regulations that may affect, positively or negatively, farmers' access to seeds and planting materials of FVLs. These factors may include, *inter alia*, the level of interest of farmers or other stakeholders in registering and commercializing FVLs, 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.¹⁵

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,¹⁶ the Inventory of National Measures, Best Practices and Lessons Learned on the Realization of Farmers' Rights,¹⁷ the International Treaty compliance reports¹⁸ and the Background Study on *Bottlenecks and Challenges to the implementation of Articles 5 and 6 of the International Treaty*.¹⁹ 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, who have direct knowledge of these case studies to supplement documentary evidence. The study should be inclusive regarding gender and age.

Process

¹² CGRFA-19/23/Report, *Appendix D*.

¹³ Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which 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.

¹⁴ For example, Benin, Burundi, Malaysia, Niger, Thailand and Switzerland provide for separate lists to register varieties defined as “traditional”, “niche”, “conservation” or “local”.

¹⁵ CGRFA-18/21/12/3/Inf.1.

¹⁶ <https://www.fao.org/plant-treaty/tools/toolbox-for-sustainable-use/overview/en>

¹⁷ <https://www.fao.org/plant-treaty/areas-of-work/farmers-rights/overview-inventory/en>

¹⁸ <https://www.fao.org/plant-treaty/areas-of-work/compliance/en>

¹⁹ IT/GB-9/ACSU-6/22/4.

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 FVLs. 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.