Comments on the FAO Draft Guide for National Seed Policy Formulation

SUBMITTED BY:
ALLIANCE FOR FOOD SOVEREIGNTY IN AFRICA

To: The Secretary
Commission on Genetic Resources for Food and Agriculture
Natural Resources Management and Environment Department
Food and Agriculture Organization of the United Nations

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These comments are submitted by the Alliance for Food Sovereignty in Africa (AFSA). AFSA is the ALLIANCE FOR FOOD SOVEREIGNTY IN AFRICA, a Pan African platform comprising networks and farmer organisations working in Africa, including the African Biodiversity network (ABN), the Coalition for the Protection of African Genetic Heritage (COPAGEN), Comparing and Supporting Endogenous Development (COMPAS) Africa, Friends of the Earth- Africa, Indigenous Peoples of Africa Coordinating Committee (IPACC), Participatory Ecological Land Use Management (PELUM) Association, Eastern and Southern African Small Scale Farmers’ Forum (ESAFF), La Via Campesina Africa, FAHAMU, World Neighbours, Network of Farmers’ and Agricultural Producers’ Organizations of West Africa (ROPFA), Community Knowledge Systems (CKS) and Plate forme Sous Régionale des Organisations Paysannes d’Afrique Centrale (PROPAC).

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1. Key points and recommendations

1.1 Seed systems

- We note with great concern the general orientation towards commercial sector development, even while the overwhelming importance of farmer-based seed systems (80% of all seed) is acknowledged.
- Policies should contain balanced support in relation to the relative importance of these sectors to farmers.
- Commercial seed is mainly limited to hybrid cereals and commercial vegetables, but consumers rely on a much wider range of products to meet their nutritional needs. Farmer-managed systems for the production and distribution of these seeds must be prioritised for support in policy on the basis of public sector investment and participatory extension methodologies.
- We are in favour of building interconnections between formal and informal seed systems (participatory R&D, production and distribution) to the extent that this is based on public sector investment, share technologies and common ownership.
- We are opposed to seed trade laws that prevent farmers from exchanging or selling seed across national borders as they are accustomed to.
- We oppose the harmonisation of seed laws that rely on national systems of certification and plant variety protection laws that restrict and criminalise farmers’ rights to save, reuse, exchange and sell seed in their possession both within their countries and across national boundaries.

1.2 Public sector and public-private partnerships (PPPs)

- The public sector is being pushed into using its resources to subsidise the development of private profitability. This is the underlying economic model of the draft guide. Farmer-based partnerships with the public sector on a not-for-profit, shared technology basis should be prioritised over PPPs with industrial-corporate interests.
- We support increased public sector investment in seed sector development, with priority being placed on supporting and building farmer-managed systems based on co-operation, shared technologies and common ownership.

1.3 Subsidies

- We understand input subsidies on certified seed as being a form of public subsidy to the private sector by increasing demand and guaranteeing a profitable market.
- In agreement with Olivier de Schutter, we propose that input subsidies targeted at individuals should be phased out and replaced with public investment in extension, farmer-based R&D and bulk infrastructure such as water and roads with collective benefit.
- Any seed subsidies should purely be for public sector programmes and private interests should not be permitted to profit from subsidies.

1.4 Private investment and finance

- We question the assumption that profit-driven activity is the best model to expand production and distribution of quality seed.
- We propose a reorientation of the focus towards public sector resources used to develop and support co-operative, common ownership systems of seed production and distribution based on freely available publicly-owned germplasm, with co-operative, farmer-based plant breeding and seed production as priorities for investment.
• We are opposed to public sector support for interest-based loan finance for seed sector development. Public sector financing support should only be in the form of grants. Development aid and philanthropic institutions should shift their focus towards building farmer-managed seed systems.

• The section on seed marketing should be renamed as seed distribution with commercial market channels recognised as one minor channel of distribution, and resources oriented to identifying and supporting a diversity of channels for seed distribution including those in farmer-managed systems such as free exchange, bartering, gifting and sharing.

1.5 Seed quality

• Quality cannot be narrowed down to distinctness, uniformity and stability (DUS). There is need for flexibility with farmers involved actively in defining qualities and shaping seed R&D, production and distribution based on differentiated and context-specific quality requirements.

• Policy should explicitly include identification and support for farmer-based seed quality assurance systems (e.g. participatory guarantee schemes).

1.6 Variety development, plant breeding and IP

• We propose open access to all germplasm in the public sector on condition that improvements are available under the same terms (General Public Licence). Ultimately this should also apply to privately-held germplasm, since it is based on centuries and millennia of human effort to improve seed.

• Explicit public sector investment in participatory plant breeding (PPB) and participatory variety selection (PVS) should be included in policy, with an orientation towards building farmer knowledge in plant breeding.

• We call for an end to work on seed law harmonisation based on UPOV 1991 as the only sui generis option, and for work with farmers and governments to develop alternative options based on their needs and conditions.

1.7 Biotechnology

• We are opposed to the introduction of genetically modified (GM) seed into agriculture, because it threatens socio-ecological sustainability.

• We are in favour of diverting resources from biotechnology R&D to build capacity in ‘conventional’ plant breeding and reproduction and sustainable genetic resource use including in farmer-based seed systems, based on participatory extension and R&D methodologies.

1.8 R&D and seed extension

• We support the mainstreaming of and public investment in participatory R&D and extension methodologies, including support for farmer-to-farmer extension networks, based on an open source platform.

1.9 Civil society and farmer participation

• The draft guide generally recognises that civil society and farmers have a role to play in policy formulation and realisation, but this is not always explicitly stated, especially in the proposed National Seed Forum task force on drafting the policy. Any governance structures in the seed system must open space for integral participation of mass-based small-scale farmer organisations and other interested civil society organisations.
2. Introduction

The food sovereignty movement in Africa welcomes the opportunity to contribute to the formulation of policy guidelines for seed sector development. We share the sentiments expressed in the draft guide of a vision of a “viable and integrated seed sector, one capable of harnessing the potential of improved varieties and high quality seeds, and to develop an efficient production and delivery system to provide seed of good quality at a reasonable price based on real demand from and benefit to farmers” (p.8, par32). However, we question whether the orientation towards constructing commercial seed systems in Africa as the priority response will realise this vision.

Seed security is defined in the guide on the basis of quality, price, quantity, at the right time. There is a strong link to food security especially in places with large farming populations (p.22, par83). The guide proposes seed production under irrigation even in dry seasons to ensure seed supply during drought. In favourable areas seed should be produced that is adapted to less seed secure agro-ecological zones. Strategic stocks of early generation seed of important varieties, on-farm seed saving and community seed banks are all proposed for support (p.22, par84).

As with food security as a concept, seed security provides a platform to build on, but it must also incorporate an understanding of the power dynamics that shape the direction of development in sectional interests. Food security focuses on the need for enough, nutritious food for every person and the health to absorb those nutrients effectively. To this food sovereignty adds an exposition and critique on the power structures and dynamics that retain this as a surplus-generating economic activity rather than a co-operative venture where all benefit by common labour and free sharing of knowledge. It is a deliberate and systematic strategy for building co-operation and solidarity in human relations to work out appropriate responses to the engulfing social and ecological crises.

We are in favour of public sector investment in seed research and development (R&D), production and distribution using participatory methodologies with farmers as active partners to build and support co-operative ventures based on shared technologies and collective ownership. Our comments on the draft guide for policy formulation examine the extent to which the proposals advance this goal.

3. Overview of the draft guide

The draft guide seeks to realise effective seed policies, an enabling environment for seed sector development, and facilitation of the exchange and use of genetic resources (p.2, par2). The guide itself contains five sections: what seed policies are and how they differ from seed laws; participatory process of seed policy formulation; nature and layout of seed policy documents; key elements contained in seed policies; and issues involved in implementation.

The draft identifies eleven key elements for inclusion in seed policy: variety development, seed production, seed quality assurance, agricultural extension, seed marketing, seed import and export, seed enterprise development, seed value chain, seed security, capacity building and seed legislation/standards with the aim of creating a “national seed system” (p.3, Sec D). The first four are appropriate to any seed system (variety development, seed production, seed quality assurance and agricultural extension). The next four are more appropriate for the commercial
system (seed marketing, seed import and export, seed enterprise development, seed value chain), as is seed legislation/standards in the way it is dealt with in the guide. Capacity building could go with variety development and agricultural extension, especially for participatory variety selection (PVS) and participatory plant breeding (PPB).

The guide tends to orient towards enabling the development of commercial (i.e. profit-driven) systems of seed production and distribution based on GR technologies and systems of production and distribution.

According to the draft guide, success of a seed sector is measured by attracting investment and that it grows and adapts to its conditions. While adaptation may be a measure of success shared by the food sovereignty movement, the other two measures (attracting investment and growth) need to be interrogated further. Investment may be of value but it is a question of what the investments are made in and whether the investment is based on the extraction of surpluses. While we may favour the idea of expanding knowledge and sustainable systems of production and distribution to meet the needs of humanity, we also note that the notion of infinite growth on a finite resource base is a fundamental cause of the social and ecologically crises humanity faces today. The food sovereignty movement does not therefore automatically assume ‘growth’ as an unquestioned good.

4. Seed systems

Seed production and distribution is identified as one of five FAO priority areas in sustainable plant and genetic resource use. The draft guide refers to “seed sector development” (p.2, par 2), and throughout the document makes reference to ‘informal’ and ‘formal’ systems or sectors. There is explicit mention of the importance of the informal sector which “may provide more than 80% of all seed used” and recognition of the general absence of the private sector (p.8, par30; see also p.9, par35).

Despite this, the drafters have taken a position that the best way to develop a ‘national seed system’ that can produce and distribute quality seed that meets farmers’ needs is through the construction of a formal or commercial seed sector. It is clear that FAO believes that profit-driven actions are the most effective route to producing and distributing quality and affordable seed to farmers, but nowhere is this belief justified. It is taken for granted that everyone agrees on this, which is the definition of hegemony.

The draft guide defines the ‘formal seed sector’ as encompassing any seed “of identified varieties produced under established quality assurance systems” (p.7, fn7). We would add that farmers acquire this seed through registered channels. Formal seed production includes early generation (breeder/pre-basic, foundation/basic and registered) and multiplication, and requires quality assurance and co-ordination (p.16, par64).

The informal or farmer-managed seed system is everything else. This includes any recycled seed currently in use including open pollinated varieties (OPVs), improved OPVs, hybrids that were not certified in the current planting season, and local and indigenous varieties that have never gone through any formally regulated process. These seeds are in widespread use across Africa and are a fundamental part of seed sovereignty. The draft guide proposes support for the informal system’ be built into policy, including in extension, training schemes for farmers, community seed
banks, germplasm conservation, seed quality control and sourcing of emergency seed stocks, with a focus on women (p.18, par67b2). We strongly support this.

The commercial (‘formal’) and farmer-managed (‘informal’) seed systems operate on their own logics but there are interconnections between them. The section on seed production proposes “integrated approaches that strengthen both formal and informal systems” (p.16, par63). In this regard, it is surprising there is no formal recognition of the work being done through the AU-approved Integrated Seed Sector Development (ISSD) programme as a way of identifying and working on links between commercial and farmer-managed systems. Key links in a conventional setting (parallel tracks) are commercial seed sales into the farmer-managed system and use of germplasm in the farmer-managed system for variety improvement in the commercial sector. In an integrated setting these can be expanded to include farmer seed selection as part of PPB, farmer selection and production of new varieties as part of PVS, and farmer participation in the production of certified seed in the commercial system on contract as an enterprise (whether commercial, co-operative or by mutual association). We are in favour of building interconnections between formal and informal seed systems, especially in participatory R&D, to the extent that this is based on public sector investment, share technologies and common ownership.

The draft guide therefore does recognise “different production or farming systems” (p.2, par5) but this is not consistently carried through into the analysis and proposals for policy development. Later reference to seed enterprises, value chains and proposed policy formulation on import and export, for example, exhibit a heavy bias towards the commercial seed sector, potentially at the expense of farmer-managed systems.

The very title of ‘seed enterprise development’ indicates an orientation towards commercial (for-profit) seed entities to produce and distribute seed. The draft guide refers to “seed enterprises, especially within the private sector” (p.21, par77). Given the private sector is specifically mentioned this suggests there are other enterprises. What are these? We can think of co-operatives and mutual voluntary associations. But such forms are not always amenable to credit extension (they have no legal structure) and therefore the orientation is towards a commercial business model. The food sovereignty movement calls for more space to be granted to these other forms to work with, learn from and share. There are movements of alternative economic forms even within capitalism based on sharing and common ownership, and African farming households have their own forms of these relations. These can and should be supported as strengthened if needed, with direct producers driving the process. The draft explicitly calls to support private seed enterprises since these offer “clear comparative advantage” (p.21, par77), but there is no indication of the nature of these advantages and or what alternatives they offer.

A value chain approach may be useful in breaking down components of the production and distribution system and understanding the co-ordination and governance links from input to end user. But they also analyse seed systems from the perspective of an arrow with beginning (financing) and end (consumer and recoup of exchange value), rather than a cycle where inputs and outputs cycle into one another.

2. Louwaars, N. and de Boef, W.S. 2012 Integrated Seed Sector Development in Africa: A conceptual framework for creating coherence between practices, programmes and policies, Journal of Crop Improvement, 26, p.50
On trade, the guide states the aim of imports is to introduce varieties from outside the borders of a country, and to make sure the quality of this seed meets national standards (including environmental, health and biosafety). The aim of exports is to generate foreign exchange and testing and certification facilities must conform to international requirements (p.20, par74). Again, there is no regard for farmer-managed seed sales and exchange that happen to go across national borders even if within the same agro-ecological zone. The draft guide suggests that harmonised registration can facilitate commercial trade (p.20, par74; p.25, par90b6). But harmonisation for trade purposes focuses on certification processes which exclude farmers’ varieties, and indeed any seed circulating in farmer-managed systems, and will restrict trade in these seeds within and between countries.4

Commercial seed trade may require adherence to international agreements such as the International Plant Protection Convention (IPPC), regional harmonised seed trade regulations, OECD protocols on seed certification and trade, International Seed Testing Association (ISTA) procedures and standards, and membership of international or regional seed trade associations (p.20, par75), and comparable quality assurance standards will facilitate commercial international seed trade (p.20, par76). These are totally outside the reach of farmers operating in farmer-managed seed systems.

Key issues for consideration include variety development, private sector promotion, seed multiplication, seed quality assurance and seed trade (p.8, para30). In these there is strong overlap with the food and seed sovereignty agenda, with the exception of private sector promotion. The question is how to provide these without private sector involvement. What are people currently doing to provide those 80% of seeds? These systems and practices need to be identified, supported, strengthened and expanded to continue playing this socio-economic role with strong participation of the farmers themselves.

We note with concern the general orientation towards commercial sector development, even while the overwhelming importance of farmer-managed seed systems is acknowledged.

Policies should contain balanced support in relation to the relative importance of these sectors to farmers.

Commercial seed is mainly limited to hybrid cereals and commercial vegetables, but consumers rely on a much wider range of products to meet their nutritional needs. Farmer-managed systems for the production and distribution of these seeds must be prioritised for support in policy on the basis of public sector investment and participatory extension methodologies.

5. The public sector and public private partnerships (PPPs)

We are strongly in favour of public sector investment in seed sector development, with an emphasis on farmer-managed seed systems. While the draft guide allocates very important roles to the public sector, the problem is that government resources are diverted to regulating and subsidising private interests (profit-making entities animated by finance capital) at the expense of identifying and supporting farmer-managed practices and systems of R&D, production and distribution.

There is some truth that the state’s capacity to raise revenue is dependent on the private sector to pay taxes. This motivates the state to pledge public resources to support the growth of private activity in the economy. However, this merely indicates that the state and capital are intertwined, and that the state will face the imperative of responding to the interests of the piper. The draft guide says the policy formulation process must be led by national government (p.7, par28).

The guide recognises that the private sector mainly focuses on profitable crops, particularly those with hybrid potential and some commercial vegetables (p.15, par61b3), and even recognises this as a problem (p.16, par62). However, the guide offers no solutions other than proposing public-private partnerships (PPPs) (p.15, par61b3), which doesn’t offer a meaningful response to the problem. PPPs just draw the public sector into supporting profit-making activity. What transfer is there from private to public in these partnerships as a quid pro quo for public support for variety development? The draft guide suggests “encouraging” private marketing of varieties developed by public institutions as the private sector contribution (p.15, par61b3). But these will be marketed (i.e. sold) at a profit over and above the costs of production and distribution, i.e. “an adequate return on investment”, which includes a portion for debt repayments to financial institutions unless the investment takes the form of a grant. This is an unequal exchange.

The concept of PPP covers a wide variety of interactions including multi-party and multi-sectoral research consortia, local development between small seed businesses and government, government/parastatal research institutions and industry and so forth. What is at stake here is the promotion of diverse partnerships, geared towards important opportunities for pro-poor agricultural research in Africa. This is particularly relevant as there are very few examples, especially as to the CGIAR system of successful PPPs and fewer examples where such collaboration have contributed to food security, poverty reduction and widening of economic activity.

Indeed, the public sector is being pushed into using its resources to subsidise the development of private profitability. This is the underlying economic model of the draft guide. Farmer-based partnerships with the public sector on a not-for-profit, shared technology basis should be prioritised over PPPs with industrial-corporate interests.

We support increased public sector investment in seed sector development, with priority being placed on supporting and building farmer-managed systems based on co-operation, shared technologies and common ownership.
6. Subsidies and seed pricing

The drafters of the guide hedge their bets in the discussion on subsidies. They indicate that subsidies may create unfair competition that weakens the private sector (p.17, par66b5). We consider this to be an incorrect analysis, and note that subsidies in many countries benefit private seed companies by creating demand at public expense (e.g. hybrid maize), with the state paying the subsidised amount to the private companies, creating a guaranteed market.

There is confusion in the document between seed subsidies and price controls (p.19, par72 and see also p.17, par66b5). In our understanding, subsidies are paid from public to private to assist farmers to purchase seed. This does not harm the commercial seed system and in fact is more likely to increase private profitability by expanding demand for commercial seed and guaranteeing a profitable market. In contrast, price controls are where government imposes a cap on prices and private enterprises carry the cost if prices are below operational costs plus “adequate return on investment”. But price controls are not widely practiced from what we can see, and price setting mostly takes the form of subsidies that benefit commercial interests by increasing demand.

The guide proposes that seed prices should at least be set above the price of grain (p.19, par72). Having just argued against government intervention in seed pricing, the guide now suggests that minimum prices should be set. There is no indication of who should set these prices, or whether the ‘free market’ will do it (basically by excluding the production of any seed that sells for lower than the price of grain). It also argues against interventions that focus on profit at the expense of farmer capacity to pay and thus limit farmer access to seed, and then proposes safety nets such as subsidies, vouchers and cash transfers. The guide later indicates that “an effective subsidy scheme” can boost demand if it balances between affordable prices for farmers and “reasonable returns” for seed enterprises (p.19, par73).

This whole section is very confused, since it both argues for and against subsidies and makes an incorrect analysis of the impacts of subsidies on private profitability and investment.

The guide talks about the “real market price of seed” as if there is some objective ‘real’ price outside of market competition and regulation and the power dynamics that accompany these (p.19, par72). The ‘real’ price might be considered to be operational costs of production and distribution, but even these costs are open to interpretation; for example, how much should a manager or CEO be paid, what equipment and infrastructure is strictly necessary for effective operations, etc.? But then the socially-defined ‘adequate return on investment’ is tacked on and this is related to subjective factors such as the level of perceived risk and struggles over surplus. So the notion of a “real market price for seed” should be abandoned and the drafters should take their own advice to heart (p.3, Sec B), that it is necessary to understand the power dynamics not only in the formulation of policy, but also in the pricing of seed.

We recognise input subsidies on certified seed as a form of public subsidy to the private sector by increasing demand and guaranteeing a profitable market.

In agreement with Olivier de Schutter5, until recently the UN Special Rapporteur on the Right to Food, we propose that input subsidies targeted at individuals should be phased out and replaced

with public investment in extension, farmer-managed R&D and bulk infrastructure such as water and roads with collective benefit.

We consider that any subsidies should purely be for public sector programmes and private interests should not be permitted to profit from subsidies.

7. Private investment and finance

We have already indicated our concern that while the draft recognises farmer-managed seed systems at the level of principle, it prioritises the establishment of a commercial sector in its substantive proposals (e.g. p.14, par57).

The draft guide indicates that until the 1980s, national governments had a predominant role in the seed sector and sector developments. This was followed by government withdrawal (as part of neo-liberal prescriptions, including structural adjustment programmes in Africa) but was not always replaced by anything (p.4, par9). Sometimes the private sector stepped in, but this was mostly focused on profitable crops, particularly those with hybrid potential and some commercial vegetables (p.15, par61b3). Mostly no-one is providing adequate support (p.4, par9). There is renewed interest in the seed sector since the 2008 global crisis (p.4, par10).

The draft guide highlights the importance of credit provision, especially for contract growers and seed handling equipment (p.21, par78b2). This introduces loan-based financing which brings credit and debt into the system and creates a conduit for the extraction of surplus value (the cost of credit, supposedly the cost of the risk taken by those with capital to invest and taking into account the opportunity cost of other possible avenues for investment). We need to reflect on what contribution finance capital is making. It certainly benefits large-scale commercial enterprises, but at what cost to the long-term sustainability of the agro-food system? An alternative is the provision of credit on a non-interest basis, and while there is some reference to subsidised financing for a period (p.21, par78b2), there is no indication of possible alternatives to interest-based financing.

We also identified the next section on seed value chains as one with a commercial bias. Value chains can be understood as co-ordinated production and distribution systems from finance capital and commercial inputs to the end consumer, as mentioned earlier, an arrow rather than a cycle, with a disconnection between end and restart (p.21, par80). Seed sector value chains include both input (seed production and distribution) chains and output chains (agricultural products to generate income for inputs, including industrial functions such as milling, extraction, packaging and canning) (pp.21-22, par81). Seed requirements may be shaped by industrial requirements for uniformity and standardisation (p.22, par82), which goes against the sovereignty principles of diversity and local specificity. Value chain approaches can create “an assured seed market” (p.22, par82). The guide proposes value chain financing, with buyers providing credit to farmers for deduction at the end of the season (p.22, par82). These schemes tend to benefit buyers especially if they hold a strong position in the value chain, and agro-food chains are recognisably buyer-driven chains.

Seed legislation (laws and regulations) “should guide the orderly production and marketing of seed by protecting the interests of both sellers and buyers” and include variety release and registration, field-level seed multiplication, quality control, marketing, exports and imports (p.24, par88). Once again, this is entirely structured for the commercial seed system, and there is nothing about protecting and promoting farmer-managed seed systems.

Seed marketing in the guide clearly refers to marketing of commercial seed, looking at pricing, subsidies, dealer networks, credit, import and export (p.19, par72). The section on seed marketing should be renamed as seed distribution with commercial market channels recognised as one minor channel of distribution, and resources oriented to identifying and supporting a diversity of channels for seed distribution including those in farmer-managed systems such as free exchange, bartering, gifting and sharing.

We question the assumption that profit-driven activity is the best model to expand production and distribution of quality seed.

We propose a reorientation of the focus towards public sector resources used to develop and support co-operative, common ownership systems of seed production and distribution based on freely available publicly-owned germplasm, with co-operative, farmer-based plant breeding and seed production as priorities for investment.

We are opposed to public sector support for interest-based loan finance for seed sector development. Public sector financing support should only be in the form of grants. Development aid and philanthropic institutions should shift their focus towards building farmer-managed seed systems.

8. Seed quality

The draft guide identifies the main objective of seed policy to increase the availability of quality seed of adapted crop varieties (p.2 par1). The food sovereignty movement shares this sentiment, but the crucial question is how “quality seed” is defined.

According to the guide, the main purpose of seed laws is to “improve the overall quality and safety of seed in the marketplace, to protect farmers from seed of low quality and to provide a facilitating environment for the development of local seed enterprises” (p.6, par17). Here, two out of three are biased towards commercial systems – marketplace and enterprises, which means profit-driven private sector participation (see above). A key issue is who is getting the profits (which is defined as the extraction of surplus over and above operational costs), and at whose expense.

The main critique of public R&D and production is poor quality: “seed of improved varieties provided by the public may be of poor quality” (p.8, par30). There is no direct reference to quality in farmer-managed seed systems, although the prioritisation on commercial sector development suggests a belief that quality in farmer-managed systems may also be poor.

The guide suggests that formal regulation in the “pre-marketing phase”, including variety testing and release, production, quality control and certification, “is not a prerequisite for a viable seed supply chain” (p.24, par90b5). But it does not indicate what alternatives might look like or how
they could be supported.

The draft guide identifies a fundamental problem with seed trade being that farmers cannot reliably assess the quality of seed on purchase. Quality obligations on sellers are required to protect farmers, and according to the draft this involves certification, accreditation and authorisation procedures (p.6, par16). This signifies the narrow focus on the formal or commercial seed system and neglects appropriate and farmer-developed quality assurance measures that can be supported and expanded in the farmer-managed system.

Quality cannot be narrowed down to distinctness, uniformity and standardisation (DUS). There is need for flexibility with farmers involved actively in defining qualities and shaping seed R&D, production and distribution based on differentiated and context-specific quality requirements.

Policy should explicitly include identification and support for farmer-based seed quality assurance systems (e.g. participatory guarantee schemes).

9. Variety development, plant breeding and intellectual property (IP)

Crop variety development has the objective of “improved or more appropriate varieties that meet the needs of farmers”, with the aim of improvements being “adaptation to diverse agro-ecological conditions” (p.14, par60). Something needs to be said here about excluding varieties that threaten to damage existing ecosystems, based on the Precautionary Principle. The guide says new varieties “should be better than existing ones in some attributes, such as yield potential, adaptation to growing conditions and tolerance to environmental stresses, climate change, pests and diseases” (p.14, par60). These criteria can be accommodated within a seed sovereignty framework, although clearly defined mechanisms to monitor ecosystem impacts for damage are required.

The guide suggests “access for public and private plant breeders to material stored in genebanks” (p.15, par61b1) be included in the section on variety improvement. Does ‘public’ include civil society and farmers? Access to materials in genebanks for these groups needs to be made explicit.

The guide proposes the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA/International Seed Treaty) (p.15, par61b1), which includes farmers’ rights to save, sell and exchange seeds although it does say these rights are subject to national law which may deny these rights.

The guide suggests that intellectual property rights (IPR) legislation for “sustainability and cost-effectiveness” can be used as an incentive for private breeders. IPR protection is not a requirement for the public sector, which may produce improved seed varieties as a public service for further use by others, including the private sector. So the clause is essentially about using IPR as an incentive for private (exclusive, for-profit) involvement. This is explicitly stated in the guide:

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7. See the Kyoto Protocol, http://unfccc.int/kyoto_protocol/items/2830.php
“IPR laws ensure adequate return on investment” (p.15, par61b2&b4), although no evidence is provided to substantiate this statement.

There is some discussion on PBRs, which require authorisation of the rights holder for propagation of the variety for commercial purposes (P.26, par99). As indicated above, we argue that if the original germplasm was derived from the public sector, new varieties should be made freely available under a GPL.

The draft guide links draft policy to harmonisation of rules and regulations (p.2, par5) and highlights the need to conform to the Union for the Protection of Varieties (UPOV) - of which the 1991 version constrains farmers’ rights is the only one open for signing - and the WTO TRIPS Agreement. UPOV is identified as a sui generis system as an alternative to patents as permitted by the TRIPs Agreement (p.26, par102), although other sui generis systems are also possible (p.26 par106). AFSA has repeatedly raised opposition to the use of UPOV as the only sui generis option, which restricts farmers’ rights. 8

The guide indicates that PBRs contain a “breeding exemption” in which “access for research and breeding is totally free for other breeders and farmer-breeders which is not the case with patents” (p.26, par103). According to Garlich v. Essen, Secretary-General of the European Seed Association (ESA), “In plant breeding, every newly developed plant variety is the result of a combination of thousands of different genetic resources deriving from all over the world. Due to this high interdependence of breeding, it always functioned as an open source system, based on the free access by anybody to all plant genetic resources for further breeding. This is also enshrined in the breeding exemption in the UPOV Convention which provides a specific IP protection system for the sector” 9 This may cover concerns about access to improved germplasm for breeding, as long as on-farm selection and recycling is also considered to be breeding.

We propose that private sector development of new varieties based on publically-owned germplasm should be made freely available for further development on the same basis as the germplasm was received (General Public Licence). Open source germplasm doesn’t mean that companies are not allowed to sell the seeds they have developed, or that they will not be able to. ‘First mover advantage’ means a company can still profit from innovations even if others know what they have done. First, “it takes time and money to reverse engineer a product” and “when the innovator begins production with a very large capacity, the size of the residual competitive rent left for even the first imitator becomes very small, so small that, in general, it will not be profitable to imitate”.10 Farmers who access the seed will be free to recycle it if they wish. But commercial farmers will not recycle hybrid seed unless the qualities they seek in a seed (e.g. uniformity, standardisation) are maintained. They are more likely to purchase fresh seed anew every year to ensure quality, so commercial seed producers will retain profitable markets even if there is some leakage, especially to small, resource-poor farmers. In the long run, this leakage could also produce new markets for companies if the seed produces well and farmers decide they want to buy fresh seed.

The guide does mention PPB and PVS as options but not as requirements (p.15, par61b4). We would like to stress the involvement of farmers in early stage PVS as a statutory requirement.

capacity building on plant breeding amongst farmers and other organisations in conjunction with public sector R&D and extension services, and investment of public resources in developing PPB approaches with farmers and civil society.

This whole section is oriented towards the commercial sector and its profitability, including IPRs, PBRs, variety testing based on distinctness, uniformity and stability (DUS) testing and value for cultivation and use (VCU) testing to select the best varieties for marketing, (p.25, par95).

We propose open access to all germplasm in the public sector on condition that improvements are available under the same terms (General Public Licence). Ultimately this should also apply to privately-held germplasm, since it is based on centuries and millennia of human effort to improve seed.

Explicit public sector investment in participatory plant breeding (PPB) and participatory variety selection (PVS) should be included in policy, with an orientation towards building farmer knowledge in plant breeding.

We call for an end to work on seed law harmonisation based on UPOV 1991 as the only sui generis option, and for work with farmers and governments to develop alternative options based on their needs and conditions.

10. Biotechnology

The guide stresses the value of biotechnology including tissue culture, DNA fingerprinting, marker-assisted selection and genetic modification (GM). But it recognises this is controversial and does not take a stand, only suggesting that national governments should state their position on biotechnology clearly in the policy document (p.15, par61b5). We are opposed to the introduction of GM into agriculture, because it threatens socio-ecological sustainability. Biotechnology is a business opportunity that the state is creating. We are in favour of diverting those resources to build capacity in ‘conventional’ plant breeding and sustainable genetic resource use including in farmer-managed seed systems, both at universities and research institutes and also amongst farmers and civil society. This should be based on participatory extension and R&D methodologies (including PPB and PVS), and institutionally rooted in decentralised training units supported by the public R&D infrastructure to increase farmer knowledge about plant breeding.

11. R&D and seed production extension

Agricultural extension is usually addressed in overall agricultural policy. Seed policy deals with aspects of extension related to awareness amongst farmers of new crops, varieties and quality seed and showing how these increase agricultural production (p.19, par71). The focus is on increasing productivity, but we should add that it is equally important to build and maintain socially and ecologically robust systems.
The guide proposes to increase demand for quality seed through extending knowledge of improved practices and technologies such as conservation agriculture, soil fertility management and integrated pest management. Farmer Field Schools (FFS) are identified as a useful extension methodology, but which should take gender into account. The guide recognises multiple channels for providing extension, including private, public and civil society although there is no explicit mention of farmer-to-farmer exchanges as a methodology. It suggests seed fairs, field days and others to promote new varieties (p.19, par71). We should note that these methods are technology neutral, i.e. they can be applied for any seed type, from GM seed to indigenous varieties.

Technical skills and capacities for seed enterprises are required, including field level seed production and post-harvest processing and storage and business skills (p.21, par78b1). This appears to be based on an outdated transfer of technology (ToT) model where experts know the answers and the main issue is to get farmers to adopt the predefined technologies. There is not enough emphasis on looking at what exists and building on it, sharing ideas and technologies collectively rather than competitively.

Capacity building is a cross-cutting issue, with key areas for consideration including institutional, training and curriculum development, NARS, private enterprise development, farm-level and field-based capacity with FAO support (p.23, par86).

We support the mainstreaming of and public investment in participatory R&D and extension methodologies, including support for farmer-to-farmer extension networks, based on an open source platform.

12. Civil society and farmer participation

The draft guide calls for policy formulation with full participation of “seed sector stakeholders” (p.3, Sec B) and generally includes civil society and farmer organisations as stakeholders, although not always explicitly (e.g. p.2, par4). Farmer organisations are recognised here to the extent they are involved in the seed sector, but if this is narrowly defined as production and distribution of certified seed, then it excludes many organisations who produce and distribute seed outside the certified system and who generate a functioning seed pool, as well as farmer organisations whose members may not currently be involved in production and distribution of certified seed but on whom seed system developments have a major impact. This includes any organisations not registered as a seed producer or distributor but whose members are organisationally supported to improve and save seed on their farms.

The draft guide indicates that a seed policy should include objectives and a shared vision for stakeholders. Seed policy should define the roles of the public and private sector and co-ordinate “institutions, companies and NGOs where they exist” (p.4, Box 1). Here it offers a rather narrow definition of interested parties, with no explicit inclusion of farmers and their organisations. The emphasis is on the private sector, which should be “adequately represented on all governing bodies involved in seed sector decision-making” (p.21, par78b4).

The draft guide proposes the formation of a National Seed Forum (NSF) with a wide range of participants. It identifies investment and participation in the seed sector as goals, with collaboration between public, private, civil society and farmers (p.9, pars37-42). A task force under
the NSF would be established to draft seed policy. Here civil society and farmer organisations are not included in the list of potential stakeholders, with only “farmers as seed users” recognised, and the remainder being government and private sector representatives (p.31, Appendix 1). The guide suggests that policy should be regarded as a “living document” to be revised periodically, and proposes the establishment of a National Seed Council to monitor implementation and to plan (p.11, par51), but with no suggestions for its composition.

Given the strong interconnections between state and capital in the current context, we have to look for other ways to strengthen alternative systems. Depending on the extent of state collusion with capital, these might not be identified or supported in policy, although we favour the explicit inclusion of alternatives wherever possible. For seed, these options, based on farmer-managed systems, must establish legal protection for farmers to save, exchange, use and sell any seed in their possession. These must be included in any policy.

The draft guide generally recognises that civil society and farmers have a role to play in policy formulation and realisation, but this is not always explicitly stated, especially in the proposed National Seed Forum task force on drafting the policy.

Any governance structures in the seed system must open space for integral participation of mass-based small-scale farmer organisations and other interested civil society organisations.

An option must always remain for civil society and farmer-managed activities outside the explicit policy framework. This does not mean illegal, it just means operating outside the regulated framework as part of the ‘natural economy’. The ultimate guarantee of the continuing availability of such options is active, strong and independent mass-based farmer organisations.