

Press Release: Alliance for Food Sovereignty in Africa (AFSA)

ARIPO PVP Regulations: Ferocious Campaign against Seed Saving Farmers in Africa and State Sovereignty

13 June 2016

Representatives of 19 African countries who are members of the African Regional Intellectual Property Organisation (ARIPO) will meet in Harare, Zimbabwe 14-17th June 2016, to adopt draft Regulations intended to implement the Arusha Protocol for the Protection of New Plant Varieties (Arusha Protocol).

According to the Alliance for Food Sovereignty in Africa (AFSA), these Regulations are designed to intimidate and force seed processors, seed suppliers, government certification officers and even farmers' organisations to police and spy on farmers who use farm-saved protected seed. According to Dr Million Belay, AFSA co-ordinator "these Regulations are undoubtedly, rural surveillance of farmers at its very worst."

AFSA has consistently and vehemently resisted the development and adoption of the Arusha Protocol. AFSA has repeatedly pointed out that the Protocol represents a centralised harmonised regime that undermines the sovereign rights of member states; severely undermines farmers' rights in that small-scale farmers are not allowed to freely reuse, exchange and sell all farm saved seeds within their seed systems; facilitates biopiracy; and is inconsistent with various obligations of international biodiversity treaties and human rights' instruments.

Serious concerns have also been raised about the secret and flawed process by which the Protocol was developed and the deliberate locking out of African civil society from the deliberations when the Protocol was adopted on the 6th July 2015¹. The Arusha Protocol was heavily influenced by foreign entities such as the International Union for the Protection of New Varieties of Plants (UPOV), the European Union's Community Plant Variety Office (CPVO), the Netherlands Government, the US Patent and Trademark Office (USPTO), the World Intellectual Property Organization (WTO) and the French Seed industry, the National Inter-Professional Grouping of Seed and Plants (GNIS).

The draft Regulations make a bad situation much worse. Not only are these Regulations taken almost verbatim from European Union Regulations and are entirely unsuitable for the 19 poor African countries that make up the ARIPO region, 13 of whom are least developed countries. Astonishingly, these Regulations nullify several provisions of the Protocol aimed at protecting the sovereignty of ARIPO Member States. A major point of controversy during the Protocol negotiations was the extent to which the decision-making powers of the ARIPO Office given were usurping the sovereignty of member states. Consequently, after long hours of negotiation, changes were made that now give Contracting States an explicit right to object to any Plant Breeders' Right (PBR)—as granted by the ARIPO Office, regionally—in which event the PBR will not be awarded national protection. The draft Regulations

¹ See <http://afsafira.org/open-letter-to-members-of-the-international-union-for-the-protection-of-new-varieties-of-plants-upov-2/>

completely ignore both this critical issue entirely and fail to provide appropriate mechanisms to operationalize the right of Member States to object to the grant as contemplated in Article 4(1) of the Protocol.

Furthermore, what stands out are the draconian provisions made against farmers' rights and seed systems. The Regulations require small-scale farmers to pay remuneration for the propagation of farm saved seed of the protected variety on his or her own holding. This is incredulous as even in the EU farmers are free to reuse farm saved seed of protected varieties without payment of remuneration for a specific list of crops. In an attempt to protect the profit-making interests of the breeder, the Regulations have, contrary to public policy, given the breeder monitoring and enforcement powers. According to Mariam Mayet of the African Centre for Biodiversity, an AFSA member, "there is nothing in the Arusha Protocol that legitimizes the inclusion of these provisions in the Draft ARIPO Regulations. These Regulations have created civil liability and a reverse onus of guilt on the part of Africa's farmers without there being any due process. This is totally unacceptable."

According to Dr. Million Belay, "ASFA is demanding that these Regulations be scrapped in their entirety. AFSA remains vehemently opposed to the Arusha PVP Protocol, whose underlying imperatives are to increase corporate seed imports, reduce public breeding activity, and facilitate the monopoly by foreign companies of local seed systems and the disruption of traditional farming systems. AFSA is committed to ensuring that farmers, as breeders themselves as well as users, remain at the centre of localised seed production systems and continue to exercise their rights freely to save, use, exchange, replant, improve, distribute and sell all the seed in their seed systems."

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Contact:

Dr. Million Belay at millionbelay@gmail.com

Mariam Mayet at mariam@acbio.org.za

Note to Editors

1. ARIPO is the African Regional Intellectual Property Organisation. **The following countries are members of ARIPO:** Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Liberia, Rwanda, São Tome and Príncipe Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

2. AFSA is a Pan African platform comprising civil society networks and farmer organisations working towards food sovereignty in Africa, and representing millions of small-scale farmers.

3. For more background information on AFSA's concerns regarding the ARIPO PVP Protocol, see

i) <http://www.acbio.org.za/images/stories/dmdocuments/AFSA-ARIPO-Statement.pdf>

ii) [1]<http://www.acbio.org.za/images/stories/dmdocuments/AFSA-Susbmission-ARIPO-PVP-Protocol.pdf>