

PVP for developing countries: an alternative to UPOV 1991'

Carlos M. Correa

Objectives (1)

- Support the conservation and sustainable use of plant biodiversity for food and agriculture;
- Achieve the right balance between breeders' rights and those of farmers and the society at large
- Ensure the livelihood of farming communities, the continuous adaptation of seeds/propagating material
- Increase diffusion of adapted varieties

Objectives (2)

- Respect, protect and fulfil states' obligations regarding the right to food, the right to enjoy the benefits of scientific progress and its application, and the rights of indigenous peoples;

How?

- Support both the formal as well as the informal seed sector
- Implement of farmers' rights, particularly small scale farmers
- Avoid misappropriation of public research institutions and farmers' varieties

Sui generis PVP

- Alternative to UPOV 1991
- TRIPS compliant
- In line with CBD, Nagoya Protocol, FAO Treaty

Sui generis PVP

- Combination of positive and defensive protection
- Scope broader than UPOV (non-uniform varieties)
- Exception for small scale farmers

New uniform plant varieties

- Close to UPOV 1978 (positive protection)
- NDUS
- Registration
- Exclusive rights
- Farmers' privilege, breeders' exception
- Benefit sharing contribution (Seed Fund)

New farmer and other heterogeneous varieties

- Misappropriation regime (defensive)
- Farmers, farmers' communities and breeders (e.g. public institutions)
- ND, identifiability
- Registration
- Right to remuneration

Traditional farmers' varieties

- Misappropriation regime (defensive)
- Identifiability
- Unregistered
- Remuneration to Seed Fund

Seed Fund

- On-farm conservation and community seed banks
- Benefit sharing to farmers and farming communities

	New uniform varieties	New farmers and breeders heterogeneous varieties	Traditional farmers varieties
Type of protection	Positive	Defensive	Defensive
Criteria	NDSU	ND, identifiability	Identifiability
Rights conferred	Exclusive rights	Remuneration in case of marketing	Remuneration in case of marketing
Registration	Yes (with benefit sharing contribution)	Yes	No
Exceptions	Small scale farmers, farmers' privilege, breeder's exception	Small scale farmers,	Small scale farmers,