

APBREBES Statement under Agenda Item 10 of the Forty-Seventh Session of the UPOV Council, October 24, 2013.

We understand from the documents under discussion specifically Paragraphs 37 and 60 of document C/47/3 as well as various sources that the UPOV Office has been involved in meetings and supporting ARIPO in its work for the Draft Legal Framework for the Protection of New Varieties of Plants.

On this we would like to highlight several points.

Last week the Alliance for Food Sovereignty in Africa (AFSA), a broad based alliance of African regional farmers' networks and African NGO networks issued a statement expressing serious concerns with the approach taken by the ARIPO Draft Legal framework on plant variety protection.

The statement raises a number of concerns such as loss of sovereign rights as the draft legal framework is proposing a centralized PVP regime in the region and the lack of mechanisms to adequately deal with its impact on the dominant subsistence farming systems in ARIPO member states.

The full AFSA Statement is available here:
http://www.grain.org/bulletin_board/entries/4802-aripo-s-plant-variety-protection-law-criminalises-farmers-and-undermines-seed-systems-in-africa

But overall the main question civil society raises is the suitability of UPOV 1991 as a PVP regime for the ARIPO Member States.

The statement points out that 12 out of 18 members of the ARIPO region are Least Developed Countries, which means the poorest of the poor with extremely vulnerable economies. Therefore we see from the AFSA statement that the framework being developed does not address these concerns.

Further according to a recent decision of the WTO, the LDCs in the ARIPO region enjoy a transition period until 2021, which can be extended. As such they are under no obligation to put in place a PVP regime now and they will have time to look into a better way of implementing their needs and obligations.

Members of UPOV 1991 today are mostly economically advanced, engaged in commercial farming and professional breeding. In fact many UPOV members began with limited PVP regimes and many of them are still party to UPOV 78. But these conditions do not exist in most of the new countries including ARIPO Member states who would like to join UPOV.

To our knowledge, there has been no independent assessment or analysis of any kind that proves beyond doubt that UPOV 1991 corresponds to the needs of the region. Thus we urge the ARIPO Secretariat and the UPOV Office to reconsider the approach of the ARIPO draft legal framework in view of the challenges facing the region.

Finally we would like to highlight that AFSA has also raised concerns that the process

of developing the legal framework has not been inclusive or participatory. While seed industry has been consulted extensively, the processes have been mostly closed to farmer organizations, and civil society.

In stating so, it is acknowledged that at a meeting in Malawi just mentioned by ARIPO this morning, a civil society representatives were not invited but after showing interest to contribute to the process they were allowed to be present but on very short notice. Clearly this is inadequate representation of stakeholders is a problem for implementation. Further civil society and farmer groups that have submitted detailed concerns over the process have yet to receive any formal response on issues they have raised.

We urge ARIPO, the UPOV Office and donors involved in this process to make the process more participatory and inclusive.

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