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Report of the expert meetings : Report on of the expert meetings and activities

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FarmSeedOpportunities

Opportunities for farm seed conservation, breeding and production

Project number: 044345

Specific Targeted Research project

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Report of the expert meetings

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Report on of the expert meetings and activities

WP4 Leader: Riccardo Bocci

Partners: all partners

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14 May 2010

Aim of the document: to report about the discussions with experts which have helped to prepare our conclusions about regulation scenarios for seed in Europe

Input of the experts as written in WP1 and 4 of DoW:

T1.3: has analysed the constraints of policy maker requirements. This regarding the marketing of seeds of landraces, conservation varieties and amateur varieties: current discussions on regulations and legislative affairs at the European level and in European countries. Some experts was invited to bring their contributions.

T4.1: Since the need for seed legislation is becoming a challenge for peasants of non industrialized countries where on-farm breeding was first experimented, the breeding strategy will be compared in order to enlarge the scenario propositions at the international level. The aim is to share experiences and strategies between scientists and farmers from the North and the South, promoting exchanges and mechanisms for an effective preservation, sustainable use and benefits sharing at global scale. This task will take full advantage of the present contacts deriving from NGO and CSO networks and initiatives for farmers' rights in Europe and Southern Countries.

The main result of the conference will be an integrated version of FSO report, especially focussing the southern contribution to the strategies outlined at European level.

T4.3: Validation by external experts for legislative improvements. The innovative scenarios will be carefully examined by experts on EU and international legislation, to remain realistic in the European policy context.

1 Introduction

Partners in the project included diverse stakeholders concerned with the conservation, use and exploitation of landraces/conservation varieties. Participants were researchers involved in organic agriculture (FiBL and LBI), genetic resources (CGN, IGSA and INRA), seed quality (PRI) and participatory plant breeding organisation (IIED and WUR), organic farmer organisations (AIAB) and seed networks (RAS and RSP). The partners from IIED and WUR (WU, PRI and CGN) have extensive experience, including policy research, in developing countries.

During several national and international occasions, FSO consortium invited experts to enlarge the competences and to discuss the results and the propositions elaborated during the project. The external experts enlarge also the geographical and economical context.

1 - International experts: the general context of seed laws for informal seed systems (Cf. Marseille).

2 – Experts for collecting experiences on the seed laws and discussing the recommendations

2.1 – in the framework of the analysis of the matches and mismatches of the directive on conservation varieties with current practice

2.2 – and in the framework of the intentions of the Directive from involved authorities in Brussels: DG SANCO discussion and other contributions from solicited experts by e-mail

2 – International experts

The FSO project paid particular attention to the International regime on PGR and as a matter of fact participated to the different negotiations that took place during its duration (e.g. the Governing Body of the ITPGRFA, the Conference of the Parties of the CBD). FSO partners were fully aware that European situation should be considered within this international framework and in a strong interrelation between local, national and international policies.

For that reason a specific event was organised at the end of the project, aiming at presenting FSO outcomes, but also improving them with comments, suggestions and experiences from countries from Southern countries and/or countries not included in the project. This event took place in October in Marseille, with the participation of 10 experts (see table 1).

Three main issues were discussed during the International conference:

1. The importance of sharing experiences, problems and innovative solutions on seed laws and participatory plant breeding between North and South countries;

2. Analysing views and options on conservation varieties from other European countries that were not partners of the project;

3. Presenting the regional innovative laws on agrobiodiversity in place in Italy.

Table 1: List of experts participating to the International conference

Expert	Affiliation	Country
Alessandra Gallié	ICARDA	Syria
Pratap Shrestha	LI-BIRD	Nepal
Loic Dewavrin	Organic farmer	Quebec - Canada
Juliana Santilli	Phd on FRs	Brazil
Lorenza Paoloni	Università del Molise	Italy
Regine Andersen	Fridtjof Nansen Institute	Norway
Maria Scholten	Scottish Crofting Federation	Scotland
Zsofia Hock	Department for Agrobotany, Tápiószele,	Hungary
Isabel La Pena	Sociedad Peruana de Derecho Ambiental (SPDA)	Peru
Ricardo Pacco	Parco de la Papa	Peru

It is important to note that the model of seed legislation that has been exported worldwide is virtually the same as Europe's, providing for the registration of varieties in catalogues, the certification of seeds marketed and the correspondence of the registered varieties to the properties of distinctness, uniformity and stability (DUS). They are also wholly complementary to those on the protection of intellectual property in varietal innovation as enshrined by the International Union for the Protection of New Varieties of Plants (UPOV). Here, too, varieties must be registered in a catalogue for protection and they also must be distinct, uniform and stable – and novel too. Subjects who reproduce, multiply or re-seed protected varieties on-farm (the so-called 'farm-saved seed') must pay royalties to the constitutor in accordance with a mechanism that promotes research. In Europe, therefore, the system that protects varietal innovation is perfectly integrated into the legal framework that regulates the seed sector. As agreed by many scholars this system could suitable for commercial crops or agriculture and leave informal seed systems aside (see for a thorough analysis Louwaars (ed.), *Seed Policy, Legislation and law*, 2002; Ceccarelli, Guimaraes, Weltzien (eds.), *Plant breeding and farmer participation*, 2009; Lipper, Leigh Anderson, Dalton (eds.), *Seed trade in rural markets, implications for crop diversity and agricultural development*, 2010; Vetelainen, Negri, Maxted (eds.), *European landraces: on farm management and use*, 2010)

There is, however, another aspect to be considered. In 2008, the European Union embarked on an overhaul of the entire regime of seed regulations in order, also, to verify its correspondence to the new objectives of society. The rules and regulations that make up the juridical framework for seed were devised after World War II and responded to well defined needs – to increase agricultural production, foster varietal innovation in the seed industry and provide farmers with good-quality seed. Some of these requirements are no less important today, but additional ones have emerged and therefore alternative avenues may be explored to respond to old objectives. Specifically, the final evaluation report of European seed legislation prepared by the Food Chain Evaluation Consortium (FCEC), and presented on 18 March 2009 in Brussels, pointed out that conservation of agricultural biodiversity and marketing of varieties specifically adapted were becoming pressing issues that the European Union would have to address in the new seed legislation in 2011. It is paradoxical to see the European Union on the one hand rectify its legislative framework in a move to make room for the needs of local agricultural models and on the other see the majority of countries of the South adopt the old European seed legislation and its model of protection of varietal innovation without adapting it to suit the specificities of its own culture, crops, agriculture, society and economy.

In the other side, the European countries have a lot to learn from experiences on participatory plant breeding and innovative seed laws (e.g. Brazil and Nepal) that are emerging in Southern countries.

In the next pages, the outcomes of the International conference are presented, splitted by different countries and putting in evidence the three issues underlined above.

Canada

Canada has in place a seed system similar to the European one. Varieties should be registered in order to be put in the market (Canadian seed act). There is a modernization project that aims at reducing the number of years of the registration trials and the number of traits considered for the Value of Cultivation and Use. In this context there is no place at

the moment for organic agriculture and/or varieties. Regarding GMOs, the conventional seed system is unable to segregate from GMO seeds and contamination of seed sources is quite common. For this reason organic farmers are starting to reproduce their own seeds, within the framework of a technical project on farm saved seeds. Farmers are also developing a PPB project within the network of farmer breeders.

Syria

The informal seed system in Syria covers 90% of the barley seed: exchange of non-officially released varieties is the norm. The PPB programme started in 1995 in a collaboration between the Syrian National General Commission for Scientific and Agricultural Research (GCSAR) and ICARDA. Today the project involves 24 villages across Syria. The farmers involved: (i) grow the PPB varieties in their fields; (ii) evaluate the varieties and decide what varieties to grow each year; (iii) are involved in setting priorities and methodologies; (iv) can multiply their preferred varieties and exchange or sell them. The impact of PPB has been very positive for: (i) increasing yields; (ii) targeting farmers from the most marginal; (iii) decreasing crop failure by enhancing biodiversity: (iv) empowering the farmers; (v) enhancing rural livelihoods; (vi) strengthening farmers' seed systems.

Even so, the Ministry of Agriculture and Agrarian Reform argues that: (i) PPB varieties are to be released through the standard system of conventional breeding: 4 years in PPB fields + 3 years without farmers' participation; (ii) according to the system, selling and exchanging not-officially released seed in Syria is illegal. But there is no national seed law that restricts the exchange of seed. A law was drafted in 2002 with FAO to regulate the exchange of plant genetic resources based on the International Treaty on Plant Genetic Resources for Food and Agriculture.

Peru

90% of seeds are produced in the informal seed system and the agrobiodiversity is a way of managing risks in search of food security. There is a PPB project on potato, corn and bean and Community seed banks have been set up. Two inventories have been realised: one for native potatoes, with 28 minimum descriptors identified with farmers' participation (a specific law passed in 2008 on this issue); one for national corn, based on 11 descriptors for classification, containing also recommendations for the participatory characterization and the identification of farmer's name or community using a particular landraces.

Norway

Norway has few farmers left (around 45.000 farms), and a small but growing minority of these are engaged in diversity farming. They normally use older varieties which are more genetically heterogeneous and thus easier to adapt to their specific growing conditions and develop further according to own preferences. The majority these farmers – which probably do not count more than around 100 people, are small-scale organic, particularly biodynamic farmers. They need varieties that are not adapted to the use of fertilizers and pesticides. There is also an expanding niche market in terms of demand for better nutrition, old traditional food, and exiting new products. A kind of informal seed system is still in place: landraces are used to some extent, old commercial varieties are frequently used, farmers exchange seeds among themselves and across borders, some farmers get seeds from Nordgen, the Nordic gene bank, and farmers develop the varieties from season to season by selection. As Norway is a member of the European Economic Area Agreement (it is not an EU

member), it has to implement all EEA-relevant EU directives. The EU directives on variety release and seed marketing are EEA-relevant and are thus implemented in Norway. Due to introduced laws from EU, variety release and seed marketing regulations has prohibit seed exchange/sale among farmers, and the marketing of varieties that are not on the official lists of crop varieties from 2004 and until 2010. In 2010, however, Norway has introduced new regulations, based on the EU Directive on Conservation Varieties. The new regulations allow exchanging, giving away and selling of seeds among farmers and gardeners on a non-commercial basis. It also allows for the release of plant varieties which are considered conservation varieties, following the EU-rules but interpreting them less strict as may be the case in other countries. The new Norwegian rules also allow farmers to establish authorised seed shops for conservation varieties with simple procedure and lower requirements than for other seed shops. The latter is meant to enable the marketing of conservation varieties on a commercial scale.
The customary use of farmers to select seeds for use the next season is quite widespread in Norway, and is also common among conventional farmers to some extent. For this reason, and to ensure a fair balance between farmers' and breeders' rights, Norway decided not to become member of UPOV based on the 1991 Act.

Hungary
A programme of multiplication and diffusion of landraces was initiated around 1960 by the national seed bank, aiming at preserving collected landraces, old cultivars, and local varieties and compensating reduction of genetic variation resulting from multiplication under the same edaphic and climatic conditions year by year. The number of requests significantly increased due to the growing interest of farmers and breeders. Their motivations were: (i) searching special traits (quality, tolerance, shape, color); (ii) history; (iii) organic farming; (iv) raising awareness on agrobiodiversity. Problems foreseen with the Conservation varieties directives: (i) where to get the seeds? (ii) who are the registered maintainers; (iii) the majority of the varieties are stored in genebanks that are not prepared to diffuse them for lack of capacity.

Brazil
The Brazilian agricultural sector presents a strong duality between agribusiness for export on one side, and family farming on the other. Informal seed systems are important and they account for 60% in the case of rice, 87% in beans, 17% in corn, 46% in soybean and 34% in wheat. These are growing due to: (i) lack of trust in "formal" varieties"; (ii) low quality and high prices of commercial seeds. Seed law (law no. 10.711/2003, regulated by Decree no. 5.153/2004) regulates formal seed system, but creates some legal space for farmers´ and local seed systems: (i) there is **a legal definition of local, traditional or creole varieties**: varieties developed, adapted or produced by family farmers, agrarian reform settlers or Indigenous peoples, with well established phenotypical traits, recognized by the respective communities as such and taking into consideration also sociocultural and environmental descriptors, (not only agronomic). They cannot be characterized as substantially similar to commercial varieties; (ii**) waiver of official registration for local varieties**: Registration in the National Cultivar Registry of local, traditional or creole varieties used by family farmers, agrarian reform settlers or Indigenous peoples is not mandatory" (due to inadequacy to DUS criteria); (iii) **waiver for family farmers**: "Family farmers, agrarian reform settlers and Indigenous peoples who multiply seeds or seedlings for distribution, exchange or trade with each other are not required to register in the National Seed and Seedling Registry. The

Decree created the following restriction: “farmer organizations can only distribute (not sell) seeds, and only among members of these organizations”. This interpretation is questioned by farmers’ organizations.

Nepal

The traditional seed systems contribute to 90% of seeds of food crops and are characterized by production, exchange, and sale of farm saved seeds of both local and improved crop varieties. The formal seed system is characterized mainly by public sector seed production and distribution of new varieties, with limited engagement of private sector. Seed production and marketing is regulated by Seed Laws, but in practice remain largely unregulated. The Seed act of June 2005 changed application formats in favour of PPB varieties to include: (i) farmers’ perception data; (ii) organoleptic taste data; (iii) accept data from participatory assessment; (iv) national listing (registration) of landraces and local crop varieties, including farmers’ varieties; (v) provisions for production and marketing of farmers’ varieties – both notified and non-notified.

Scotland

There are around 17.000 small farmers on Highlands and Islands, with an average land holding of less than 20 ha. Mostly this is part-time agriculture. Landraces are still grown for barley, small oat, oat, rye, and cabbage. An e*x situ* conservation system is in place aiming at: (i) guaranteeing a safety back-up for seed growers; (ii) monitoring of seed quality and feedback to seed growers; (iii) inventorying landraces (www.scottishlandraces.org). Regarding conservation varieties Scotland will make a light implementation of the directive, and they have concerns about: (i) the definition of area of origin; (ii) costs for growers. Finally alternative tools for conservation may be better suited.

Italy

Italian regional legislations are one of the few operational examples at European level for protecting and enhancing agrobiodiversity. In many ways they can be considered a forerunner of regulations at national and European levels in line with the aims of the FAO Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). In the Italian context, the regional laws also act as a useful local test bench since the Italian constitution states that Regions are empowered to legislate on matters of agriculture. Furthermore, the Italian law transposing ITPGRFA expressly states that the Regions are the principal subjects with whom responsibility lies for implementing the treaty. The experience with the Regional laws, therefore, highlights the importance of the local context in addressing the question of the sustainable use of genetic resources. In particular, combining territorial development with agricultural biodiversity appears to be an appropriate strategy for harmonising local incentives and global objectives in pursuit of the common good deriving from the sustainable use of genetic resources for food and agriculture.

3 – Experts in seed regulations

- **Expert input for analyse the matches and mismatches between the directives on conservation varieties with current practice (Task1.3)**

Many country initiatives have experienced constraints in meeting policy maker requirements on regulations and legislative affairs with respect to conservation varieties. For WP 1.3 we collected experiences from knowledgeable experts of initiatives, such as Pro Species Rara (CH), The Bolster (NL) and Pieterpikzonen (NL). We needed this input from experts to analyse the matches and mismatches between the directive on conservation varieties with current practice in the conservation and use of varieties and landraces that are not included in national (and EU) varieties lists.

During the FSO meeting in Spain 2008, we interviewed Béla Bartha, director of ProSpecies Rara mainly working with vegetable seed, on the practical consequences of implementing the new directive for his company, and he provided us with useful information on where and where not obstacles can be foreseen. And later we asked him to comment on and improve the draft text of report WP 1.3 by email. In the same way we also asked Karl Josef Mueller, director of Cereal Breeding Research Darzau, to give input based on his experience with cereal landraces in Germany.

In the Netherlands in May 2009, we organised a national workshop with 25 stakeholders together with the Dutch national authorities involved with the implementation of the new directive. It was a very useful interaction as the authorities had underestimated what kind of obstacles would come across as soon as the directive needs to be implemented. It leaded to some crucial actions in the Netherlands to clarify necessary steps to be taken with respect to implementation on national level. It also leaded to a national funded pilot study to guide the stakeholders in registration and characterisation of landraces. It motivated the representative of the Dutch national authority (Kees van Ettekoven) to join the FSO conference in Marseille to better understand the challenges in the interpretation and implementation of the new Directive.

We presented the results and remaining questions to the FSO meeting with experts in Brussels (Sept 09) to hear what the implications of our findings will be and what is necessary to improve for better understanding of the obstacles we foresee.

We presented the preliminary results to a wider audience of stakeholders in Marseille (Oct 2009). After that meeting Kees van Ettekoven provide us with written comments on our draft report of WP1.3. in October 2009 to improve the wording of the report.

The final project meeting with FSO partners was in Frick-CH (Dec 09) to discuss our near-final results, including input based on experiences collected through national expert meetings in Spain and France. The final publishable report was completed at the end of the project.

- **Discussion about FSO recommendations (Task 4.3)**

A first version of FSO recommendations has been submitted to discussion as soon as was the FSO meeting in Spain (Villamartin) in 2008 where several experts were invited.

Nevertheless, the current form of the deliverable D4.6, "Set of recommendations on farm conservation strategy, the role of innovative market mechanisms, legislative framework for landraces, conservation varieties and amateur varieties in Europe", was only elaborated after Frick meeting in which we collected the near-final issues of all the WPs.

This document was submitted to several experts by email. Several points of view and suggestions to broaden our actions were collected:

- From Valeria Negri (Università degli Studi Borgo, Perugia Italy). She analysed the situation from the plant genetic resources (PGR) protection point of view:
  - It seems to me that the present seed legislation, and the Farm Seed Opportunity document, mainly concerns the seed market for wider use (e.g. the Organic farming, the PDO, the PGI, traditional specialties ... needs). To better protect PGR, new ad hoc laws should be proposed.
  - A change of the EU legislation is certainly necessary since it presently does not really protect genetic resources, but simply regulates their eventual commercialization as seeds. In other words, we would invite to keep a clear distinction between the two (i.e. PGR conservation and seed market for wider needs).
- From Lorenza Paoloni (Università degli Studi del Molise, Italy). She focussed on the term "collective property" which does not refer to a generic idea but to a specific concept.
  - "Collective property" is the property on genetic resources heritage of the farmer communities or of the rural local communities, while the individual property over each good (seed, plant, etc.) belongs to the single farmer (the owner).
  - Another clarification is needed to explain the second term of "collective rights". Who is the holder of this kind of rights? It cannot be a generic person but a well-qualified person. Also in this case "collective rights" belong to the rural communities and not to a single and unqualified farmer.
- From Walter de Backer, DG SANCO, Brussels.
  - His input helps to finalise the document. We were invited to better stick to the widely accepted definitions and terms for nomenclature and also, to better introduce our work in the agricultural evolution and the need of seed regulations.
  - Our exchange pointed out the needs to better describe the particularity (even for the vocabulary) of the informal system in Europe, and to distinguish what is on the market and what is on the farms.
  - He emphasised to clearly distinguish at all stages between situations in the EU, in other developed countries/regions and in developing countries. Whenever

situations are described or appreciation of situations is given it should be clear which type of region is concerned.

- For him, the report contains a number of interesting ideas that surely will be explored in the context of the elaboration of a Commission proposal for the review of the EU legislation on marketing of seed and plant propagating material.

- From Gebhard Rossmanith, Bingenheimer Saatgut
  - He pointed out the problem with the conservation variety regulation relating to the lot-provisions and the bureaucracy to manage/verify them. Therefore for them this "possibility" to market special varieties is too burdensome to be manageable. And he knows from others (cereal-farmers, traders) that many see these obstacles. For that this regulation is hindering much more than it helps. He suggested that the new way with "varieties without intrinsic value" might be much better.
  - Another interesting question had arisen from the discussion: what about new open pollinated population enough homogenous to be accepted and used in the professional market gardening which can fulfil the requirements of the regular DUS tests in most points?