

IPGRI and UPOV find common ground

IPGRI and the International Union for the Protection of New Varieties of Plants (UPOV) recently concluded two days of talks to define areas of common interest. “I think we have come a long way in understanding one another’s positions”, said Dr Emile Frison, Director General of IPGRI. “We are looking forward to working further with UPOV.”

Rolf Jördens, Vice Secretary-General of UPOV, also welcomed the talks, saying, “in general our aims are compatible and mutually supportive”.

UPOV exists to provide and promote an effective system of plant variety protection, in order to encourage the development of new varieties for the benefit of society. IPGRI focuses on using plant diversity to help farmers improve their livelihoods and secure their food supply, sustainably and without damaging the environment.

On the basic need for access to a wide range of diversity, the two parties are in complete agreement. “You cannot use something that you do not conserve”, Jördens observed. To which Frison added, “and there is no point conserving something that you will never use”. Both organizations also want to promote the transfer of appropriate technologies to developing countries.

Smallholder farmers, especially in marginal areas, use highly diverse plant populations, often called landraces, to minimize the risk of crop failure; the variability inherent in these populations means that they can cope with variable environmental conditions. There have been worries that under UPOV plant breeders could obtain varieties from farmers and then commercialize them, effectively usurping the farmers’ efforts in creating and maintaining those varieties. But farmer landraces are generally not varieties as understood by the UPOV Convention. Someone who simply reproduced them without breeding work would not be able to obtain protection.

By the same token, plant variety protection does not prevent farmers from making use of new and improved varieties in maintaining the diversity and

dynamic adaptability of their landraces. The UPOV Convention specifically exempts private and non-commercial use by farmers.

An issue for further discussion is how plant breeders' rights legislation might affect the informal seed supply systems that smallholder farmers operate to meet their needs. Such systems are often based on barter and reciprocal agreements. UPOV allows the use of protected material "for private and non-commercial purposes". It is not clear whether smallholder farmers following their traditional patterns of local exchange are engaged in private and non-commercial uses. IPGRI will make technical contributions on this issue to UPOV's Administrative and Legal Committee, based on its *in situ* conservation projects with smallholder farmers. It was noted that internal seed supply systems would not be affected if these did not involve protected plant varieties.

In the past, critics have said that when countries join UPOV and enact legislation that confers plant breeders' rights, availability of local varieties and access to that genetic diversity decreases. This is not the case, because plant variety protection and national seed registration systems are separate. In some cases seed registration laws prohibit the sale of material not protected by plant variety protection laws. This is an issue of national legislation and is beyond the purview of UPOV, but is something that IPGRI may focus on.

The International Treaty on Plant Genetic Resources for Food and Agriculture will come into force on 29 June 2004, with its provision of a multi-lateral system for access and benefit sharing. UPOV and IPGRI both welcome the principles of unrestricted access and of benefit sharing. Because the UPOV Convention exempts the use of protected materials by breeders (including farmer-breeders) and for research it is entirely in keeping with the principle of maintaining access to materials for scientific advancement.

In seeking variety protection, a breeder has to show that a variety is distinct from all other varieties "whose existence is a matter of common knowledge". A detailed description of the variety's characteristics is a crucial part of determining the identity of a variety. IPGRI has devoted considerable effort to

compiling and publishing lists of descriptors that are generally used to characterize plant populations and traditional varieties or landraces accurately, while UPOV has developed many Test Guidelines for the description of improved varieties. There is scope for the two organizations to work together to harmonize the basis for descriptions, which could make the process of identification more efficient.

IPGRI sees the conservation of protected varieties that are no longer commercially available as an area for potential future research to work towards the adoption of conservation and user-friendly policies on the part of national governments and genebanks.

IPGRI is an observer at meetings of UPOV, including its Administrative and Legal Committee. The two organizations agreed to investigate fuller participation and to keep one another informed of upcoming meetings and to share draft papers and the like.