



POLICY BRIEF

Time to Fully Domesticate the International Treaty on Plant Genetic Resources for Food and Agriculture

**Focusing on the Realisation of Farmers' Rights and
Supporting Farmer-Managed Seed Systems**

1. INTRODUCTION

The adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty) in 2001 and its coming into force in 2004 arose from a desire by the international community to cooperate in a global effort for the conservation of Plant Genetic Resources for Food and Agriculture (PGRFA). The Treaty is based on agreement by the global community of the critical need to support the conservation and sustainable use of agrobiodiversity. PGRFA are recognised as the building blocks of agricultural production, and food and nutrition security at global, regional, national and local levels.

The Zambian government joined the Treaty after ratifying it in 2006 because it believed in its objectives and appreciated the benefits that would accrue to the country and its people. The Treaty is a legally binding instrument. Zambia, as a Contracting Party, is under obligation to take the necessary administrative, institutional, policy and legislative measures to implement its provisions.

Among the key principles and values of the Treaty is the recognition of the *role of farmers and farming communities* in the development and maintenance of crop diversity. This includes variety development and improvement, and maintaining the diverse agroecological production systems in which they exist. The resultant genetic resource base is the foundation of global agriculture and crop production today. The Treaty therefore includes an Article on Farmers' Rights, with provisions for:

- a) the protection of traditional knowledge of farmers;
- b) ensuring equitable sharing in benefits arising from use of their crop diversity;
- c) protecting Farmers' Rights to use, save, exchange and sell seeds grown on their farmlands;
- d) ensuring that farmers participate in decision making on matters affecting the conservation and sustainable use of their crop diversity and local seed systems.

This, in practice, requires Contracting Parties to put in place institutional, policy and legislative measures that ensures the necessary support to farmers and farming communities.

The low level of implementation of the Treaty provisions in Zambia – especially the realisation of Farmers' Rights – does not correspond well with the value the country attached to the importance of the Treaty when it ratified it.

It is generally observed that the country has not done enough to put specific policy and legislative measures in place to implement provisions of the Treaty. This has raised concerns from a wide section of stakeholders working to support the cross-cutting development outcomes of food and nutrition security, public health and biodiversity conservation. Globally, climate change and the Covid-19 pandemic has contributed to the urgency for agro-biodiversity protection and the need to scale up local diversified agro-food systems.

Arising from these concerns, a number of efforts have been made by various actors at global, regional and national levels. Efforts at global level include those spearheaded by the Treaty's Governing Body through the Treaty Secretariat, while Zambian civil society and farmers have been calling for attention to the gaps in implementation for a number of years.

A series of engagements with concerned stakeholders, including government, farmers and consumers have taken place over the past years. This includes support to the National Plant Genetic Resources Committee (NPGRcom), conducting research and publication of policy briefs, including this one - **'Time to Fully Domesticate the International Treaty on Plant Genetic Resources for Food and Agriculture'** - that serves as a call to the Zambian government to take necessary measures required.

2. WHY IS THE TREATY AND REALISATION OF FARMERS' RIGHTS IMPORTANT IN ZAMBIA?

The Treaty relates to crop diversity and aims at ensuring its conservation and continued accessibility for crop development, thereby sustaining farmers' production, productivity and national nutrition security. This necessitates support for on-farm management of crop diversity, including strengthening farmer seed systems, which are based on farmers' varieties. Farmers place significant value on different varieties based on their diverse and often unique characteristics. It is for this reason that the Treaty has included provisions for Farmers' Rights, considered critical in supporting on-farm management of crop diversity, ongoing development of new varieties and building farmers' resilience to climate disruption.

Article 9 on Farmers' Rights is thus a key component of achieving the objectives of the Treaty. It aims at supporting the needs, interests and knowledge systems of traditional smallholder farmers and farming communities. Provisions under Farmers' Rights are **important for over 2 million smallholder farmers in Zambia, whose agriculture is based on the cultivation of traditional varieties developed and maintained through the local farmer-led seed system.** Realisation of these rights could enable farmers and farming communities to continue breeding their varieties and maintaining the resilience of the agro-ecological farming systems in which they exist.

3. STAKEHOLDER CONCERNS AND ISSUES RAISED

A number of stakeholders, including ZAAB members, have **expressed concerns over the lack of concrete action by government to domesticate the Treaty, in particular Article 9- Farmers' Rights.** This renders little policy and programmatic support for farmers' seed

systems, which is a critical input and determinant of productivity and resilience of sustainable farming systems in Zambia.

Zambia, as part of the African group during the negotiations leading to the adoption of the Treaty, pushed for the inclusion of Farmers Rights in the Treaty as a key component to take care of interests and needs of the majority of its smallholder farmers and farming communities. It is therefore disappointing that little or no efforts are being made to implement the provisions of the Treaty in Zambia, in particular Article 9 on Farmers' Rights.

Although there are some provisions in some of the existing legislations, which may be used to realise farmers' rights and support farmer-managed seed systems, Zambia has not put in place any specific policy and legislation for these purposes.

Research conducted through the ZAAB network has, among other things, revealed the low level of awareness and knowledge about the Treaty, and Farmers' Rights in particular. Related to this is the absence of a common understanding of what Farmers' Rights are in the Zambian context and their critical importance as the basis of agricultural diversity and nutrition security.

Stakeholders are also concerned with the significant changes affecting the seed system in Zambia, mainly arising from the revisions to seed legislative frameworks and policies to align with regional frameworks (COMESA and SADC in particular), as well as harmonised biosafety frameworks. Seed legislation changes have long lasting and wide implications. It is of concern that these changes are occurring in the absence of national guiding policy that provides a comprehensive and balanced framework that takes care of the country's complex seed system.

4. RECOMMENDATIONS FOR ACTIONS REQUIRED

The ZAAB network calls for government to address policy and legislative gaps in the implementation of the Treaty, particularly Farmers' Rights. Necessary policy and programmatic support needs to be implemented through broad and inclusive engagement, cooperation and fair representation encompassing all concerned stakeholders, particularly farmers.

Based on past research conducted by ZAAB expert advisory group, deliberations of the National PGR Committee, and the outcome of extensive dialogue among key stakeholders, the following measures and their associated practical steps are recommended.

a) Application of Relevant Provisions of the Protection of Traditional Knowledge Genetic Resources and Expression of Folklore Act 2016.

An analysis of this Act reveals that the application of some of its provisions may be used to implement some aspects of the Treaty, in particular realisation of Farmers' Rights under Article 9, as well as some provisions of the CBD, in particular Article 8(J), related to the protection of traditional knowledge. Government, through the Ministry of Lands, Natural Resources and Environmental Protection has already adopted this Act as a legal framework to provide for the domestication of the Nagoya Protocol.

Actions to be taken:

- i) Ministry of Commerce and Trade, through the Patents and Companies Registration Agency (PACRA) should work closely with the Ministries of Lands, Natural Resources and Environmental Protection and Agriculture, to push for the approval of the regulations.
- ii) The three Ministries should ensure that draft regulations are reviewed to ensure that appropriate clauses to meet requirements to implement provisions of Farmers' Rights as outlined in the Treaty are incorporated before their submission for approval. The review should involve the ZAAB members, farmer representatives and other key stakeholders.
- iii) The Ministry of Agriculture should request the Ministry of Commerce and Trade, and its agency PACRA, to delegate to the Zambia Agriculture Research Institute (ZARI) the role of administering particular clauses of the Act to implement provisions of Farmers' Rights. ZARI houses the national focal point for the Treaty in Zambia and also undertakes various programmes and activities that are aligned towards the implementation of the country's obligations under the Treaty, including hosting the National Genebank, which holds and maintains the country's crop diversity, including farmers' varieties.

b) Exempt exchanges and sales of farm-saved seed from the scope of current national seed certification and control regulations.

This will entail amending the current Plant Variety and Seeds Act of 1995 or amending its regulations. The current seed laws, which are largely based on UPOV, promote the interest and businesses of private seed companies, the majority of which are foreign multinational corporate entities that in 2019 held more than 80% of Zambia's maize and vegetable seed markets, while neglecting and restricting the seed business of majority of players in the informal seed system.

Actions to be taken:

- i) Zambia must not join The International Union for the Protection of New Varieties of Plants (UPOV). In order to make the necessary amendments to the seed laws to include clauses that allow for the exemption of farmers' seed and bring them into the realm of commercial production and marketing, Zambia should not be a member of UPOV 91. To this effect, **government, through the Ministry of Agriculture is requested to withdraw its application to join UPOV.** Not being a member of UPOV does not in any way disadvantage the Zambian seed industry, while aligning to UPOV91 will harm the growth of the informal seed sector, which is an important component of the Zambian seed system, and the wider Human Rights.
- ii) The Ministry of Agriculture is requested to consider **developing and adopting a national seed policy** that provides a necessary policy framework, which is holistic and comprehensive and supportive of the critical farmer-managed seed system. **The Ministry of Agriculture, through the Seed Control and Certification Institute (SCCI) is called upon to spearhead this process**, with the involvement of all key stakeholders.

c) Wider promotion of on-farm management of crop diversity

This will enable smallholder farmers have access to a diverse source of seed, including on farm-saved seed. Wider promotion of on-farm management of crop diversity can be achieved by including strategic necessary interventions in the National Agriculture Policy and other relevant national action plans and development programmes.

Actions to be taken:

In order to promote on-farm management of crop diversity and support farmer-managed seed systems, Government, through the Ministry of Agriculture is called upon to take the following actions:

- i) Undertake the identification **of custodian farmers and farming communities** that are acknowledged by their communities of playing special roles in the development and maintenance of crop diversity, including local traditional farmers' varieties and associated knowledge.
- ii) Create a platform for developing **a common understanding of Farmers' Rights** by collecting and examining different perspectives of what Farmers' Rights are, and establish community registries and catalogues on agrobiodiversity, including documenting work already done on community registries and catalogues. The Ministry of Agriculture through ZARI and the Department of Agriculture, Extension Branch, should ensure that these activities are streamlined into ongoing programmes.
- iii) Support calls for the establishment of a sub-committee on agrobiodiversity under the National Biodiversity Strategy and Action Plan (NBSAP) for the implementation of the Convention on Biological Diversity (CBD) in Zambia. This should lead to strengthening of linkages between agencies responsible for the implementation of CBD and the

Treaty. **The Ministry of Agriculture is called upon to closely work with the Ministry of Lands, Natural Resources and Environmental Protection to render support for the establishment of this sub-committee.**

- iv) Establish a Working Group (WG) for the domestication of the Treaty, including the realisation of Farmers' Rights.
- v) Spearhead and scale-up awareness creation and educational campaigns and programmes to increase knowledge and appreciation on the importance of the Treaty and agrobiodiversity in relation to supporting sustainable food systems and the important role farmers play in this regard. The involvement of influential individuals ('**champions**') to achieve high impact is recommended.
- vi) Consider uplifting **the position of the National Genebank by transforming it into a separate department or institute**, with increased level of authority and budgetary support. Its current position as a programme unit under ZARI does not correspond well to the importance attached to agrobiodiversity as a foundation for sustainable agriculture and food production.

Government, through its relevant agencies is expected to shoulder the main responsibility for taking necessary actions or steps required. The ZAAB and farmer associations will continue to avail themselves to work closely with government in this regard. The implementation of some of the measures can ride on ongoing programmes and activities targeting smallholder farmers, such as those on the promotion of crop diversification and management and use of agrobiodiversity on-farm, promotion of household food and nutrition security and agriculture sector adaptation strategies related to climate change.