

(**Dar es Salaam, Harare, Kampala, Johannesburg**). The African Regional Intellectual Property Organization (ARIPO) has proposed a draft regional harmonized policy and legal framework on Plant Variety Protection (PVP), based on the International Union for the Protection of New Varieties of Plants (UPOV) Convention of 1991. The draft legal framework, if adopted, will have significant adverse consequences for small-scale farmers that dominate the agricultural landscape of ARIPO member states,

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as well as for food security, agricultural biodiversity and national sovereignty in Africa.

African civil society organizations (CSO) have submitted a detailed critique to ARIPO on the 6 November 2012, expressing their grave concerns with regard to the fundamentally flawed process involved in developing the draft PVP policy and legal framework, as well as with the legal framework itself. According to Mariam Mayet of the African Centre for Biosafety “The legal framework will not only facilitate the theft of African germplasm and privatization of seed breeding. It will ensure the unhindered creation of a commercial seed market, where the types of seeds on offer are restricted to commercially protected varieties within a context where farmers’ rights to freely use, exchange and sell farm-saved seed are seriously eroded.”

The African CSO submission is available at <http://tinyurl.com/a4v5gte> .

According to Michael Farrelly from the Tanzania Alliance for Biodiversity, “the proposed ARIPO law does not take into account the 4.8 million smallholder farmers in Tanzania who depend on agriculture for their livelihoods, with the vast majority using farm saved seed to ensure their food security. The proposed legal framework is intent on handing over Tanzania’s food and seed sovereignty to foreign corporations, reducing the availability of local plant varieties, weakening Tanzania’s rich biodiversity, and denying millions of farmers the right to breed and share crops needed to feed their families.”

“We are deeply disappointed with ARIPO for adopting the UPOV 1991-style PVP law and completely ignoring the *African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders* . The Model law is much more appropriate in meeting the needs of ARIPO member states in addressing poverty and the challenges of climate change” said Moses Mulumba from Center for Health, Human Rights and Development (CEHURD) in Uganda.

The legal framework has been developed by the ARIPO Secretariat in consultation with an elite club consisting of the UPOV Secretariat, multiple actors from the seed industry including

CIOFORA, the African Seed Trade Association (AFSTA), the French National Seed and Seedling Association (GNIS)) and foreign organizations such as the United States Patent and Trademark Office (USPTO) and the European Community Plant Variety Office (CPVO).

The participation of farmers, farmer movements and civil society organizations has been conspicuously absent.

“It is unimaginable that ARIPO could facilitate and encourage African governments to adopt a comprehensive UPOV 1991 law without first ensuring that all stakeholders are thoroughly consulted. Before any further action or decision is taken, it is essential for ARIPO to undertake comprehensive consultations with all relevant stakeholders and desist from rushing governments into adopting the draft legislation.” said Andrew Mushita from the Community Technology Development Trust, Zimbabwe.

The ARIPO Administrative Council is expected to meet in Zanzibar on 26-30th November 2012 to discuss inter alia the legal framework and decide whether ARIPO should join UPOV 1991. Decisions will also be made with regard to ARIPO's regional office granting and administering of PVP centrally.

Civil Society groups in Africa, reiterate their calls on ARIPO member states to:

- **Reject the development of the ARIPO PVP legal framework on the basis of UPOV 1991 and for ARIPO states not to join UPOV;**
- **Support the development of a legal framework that acknowledges the contribution of farmers as breeders and upholds and promotes the customary practices of small-scale farmers;**
- **Reject the development of a legal framework based on a “one grant system” (whereby the ARIPO office has the power to grant and administer breeders' rights on behalf of all the Contracting states);**
- **Provide adequate opportunities for consultations with farmers, farmer movements and civil society organizations before any further work is undertaken; and**
- **Make available publicly all information with regard to the process and timelines involved in developing the draft regional policy and legal framework.**

¹ ARIPO member states include the following countries: Botswana, Gambia, Ghana, Kenya,

Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sierra Leone, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe

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