



biowatch
SOUTH AFRICA

biodiversity | food sovereignty | agroecology | social justice

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12 December 2020

The Director-General
Department of Agriculture, Land Reform and Rural Development
Attention: Dr Noluthando Netnou-Nkoana

By email: NoluthandoN@daff.gov.za

CC by email: AngelineD@daff.gov.za

**Biowatch SA submission
on the 'Accession to the International Treaty on Plant Genetic Resources
for Food and Agriculture'**

(in response to the public notice published in the Government Gazette on
13 November 2020)

Thank you for the opportunity to provide input on South Africa's consideration to accede to the International Treaty on Plant Genetic Resources for Food and Agriculture ("the Treaty").

In this regard we submit the following comments (see overleaf).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rose Williams', is placed on a light grey rectangular background.

Rose Williams
Director

Biowatch South Africa supports the decision to accede to the International Treaty on Plant Genetic Resources for Food and Agriculture (“the Treaty”).

The main reasons for this are as follows:

- 1) To ensure that the legal environment protects and supports the rights of smallholder and subsistence farmers to save, plant, exchange and sell seed and to counter the extensive and exclusive rights given to formalised and corporate plant breeders through the Plant Breeders’ Rights Act, which was recently amended to include the stringent provisions of the International Convention on the Protection of New Varieties of Plants (UPOV’91).

In this regard we re-iterate our request that South Africa withdraws its signature to UPOV’91, and rather confines our membership to UPOV’78 as allowed for developing countries. This will enable South Africa to include greater protection in our national legislation for the rights of smallholder farmers to save, exchange, sell and plant seed within farmer-led seed systems.

Greater protection for farmers’ rights will also support South Africa in its obligation to respect, protect and fulfil the rights of subsistence producers and rural communities to save and exchange seed as outlined in Article 19 of the Declaration on the Rights of Peasants and Other People Working in Rural Areas which was adopted in December 2018.

We look forward to a review of the current legislative framework and budgets with a view to ensuring the implementation of farmers’ rights. This includes clarification and protection for smallholder rights to save, exchange, sell and plant seed within the Regulations to the Plant Breeders’ Rights Act and Plant Improvement Act.

- 2) We also support accession to the Treaty to enable South Africa to enter into negotiations as a Party to the Treaty in order to protect the rights of farmers as well as South Africa’s diverse plant genetic resources from exploitation and piracy.

In this regard we note the following with great concern:

- The inadequate contributions made to the multi-lateral system (MLS) of the Treaty by corporations and governments that are deriving the greatest benefit from access to plant genetic resources patiently developed by smallholder farming communities.
- That the use of Digital Sequence Information (DSI) from our plant genetic resources (crops or otherwise) must be regulated to ensure equitable benefit sharing. We request that the Department involve and consult civil society in developing understanding of DSI, and consult with us in contributing to the South African position towards negotiations under the Nagoya Protocol and amendments to the Treaty (in particular, the Standard Material Transfer Agreement) to ensure that DSI is adequately included and regulated.

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