

International workshop on India-EU collaboration in seed sector development and PVP

22-23 February 2018
New Delhi-India

agenda

IPC-EUI

EU-INDIA INTELLECTUAL PROPERTY COOPERATION

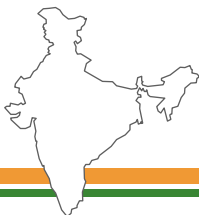


This Project is funded by the European Union and
implemented by the CGPDIM and EUIPO

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22-23 February 2018

New Delhi-India



JOINTLY ORGANIZED BY

Protection of Plant Varieties & Farmers Right Authority,
(Department of Agriculture, Co-operation and Farmers Welfare;
Ministry of Agriculture and Farmer's Welfare, Govt. of India)

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Department of Industrial Policy & Promotion,
(Ministry of Commerce & Industry, Govt. of India)
Community Plant Variety Office and the EUIPO (European Union)

.....
**With the support of The German Federal Ministry of Food and
Agriculture**

.....
Ministry of Agriculture, Nature and Food Quality, The Netherlands

INDIAN REPRESENTATIVES:

1.	Department of Agriculture, Cooperation and Farmers Welfare
2.	Protection of Plant Varieties and Farmers' Rights Authority
3.	Indian Council of Agricultural Research and its institutes
4.	State Agricultural Universities
5.	Council of Scientific and Industrial Research
6.	Ministry of Environment, Forest and Climate Change
7.	National Biodiversity Authority
8.	Department of Industrial Policy & Promotion, Ministry of Commerce
9.	National Horticulture Board
10.	Agriculture Councillors of Embassies in India
11.	Agricultural and Processed Food Products Export Development Authority (APEDA)
12.	Industry Associations (The Confederation of Indian Industry (CII), The Federation of Indian Chambers of Commerce and Industry (FICCI), The Associated Chambers of Commerce and Industry of India (ASSOCHAM) etc.)
13.	Seed Associations (National Seed Association of India, The Federation of Seed Industries of India (FSII) etc.)
14.	Farmers Associations
15.	Other organizations (Research and Information System for Developing Countries (RIS), National Seeds Corporation Limited etc.)



EU REPRESENTATIVES:

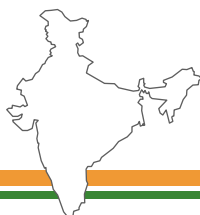
16.	Dr. Stefan Haffke, BSA Federal Plant Variety Office, Hannover, Germany
17.	Mr. Kees van Ettekoven, Senior PVP Policy Advisor NAKTUINBOUW, Roelofarendsveen, The Netherlands
18.	Mr. Marien Valstar, Senior Policy Officer Ministry of Agriculture, Nature and Food Quality, The Hague, The Netherlands
19.	Mr Francesco Mattina Vice President- CPVO, Angers, France
20.	Mr. Peter Button Vice Secretary General - UPOV, Geneva, Switzerland
21.	Ms. Yolanda Huerta Legal Counsel- UPOV, Geneva, Switzerland
22.	Mr. Christophe De Vroey First Secretary, DG TRADE, EU Delegation to India
23.	Mr. Wouter Verhey, Counsellor for Agriculture, Embassy of the Kingdom of the Netherlands, India
24.	Mr. Michael Kessler Counsellor for Food and Agriculture, Embassy of the Federal Republic of Germany, India

REPRESENTATIVES FROM EU BREEDER'S ASSOCIATIONS:

25.	Mr. Dieter Rücker, Head (Oil & Protein Plants Division) BDP, Bonn, Germany
26.	Ms. Judith de Roos-Blokland, Legal Counsel Plantum, Rotterdam, The Netherlands
27.	Ms. Szonja Csörgő, Director-IP & Legal Affairs European Seeds Association, Brussels, Belgium
28.	Dr. Edgar Krieger, Secretary General CIOPORA, Hamburg, Germany
29.	Mr. Bruno Etavard, Board member of CIOPORA LE CANNET DES MAURES - France
30.	Ms. Alexandra Boensch, Seed Law Expert BDP, Bonn, Germany

EUIPO/PROJECT REPRESENTATIVE:

31.	Mr. Sachin Arora IPC-EUI, Project Expert
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INTRODUCTION

Enforcement of Intellectual Property Rights(IPRs) in Agriculture, led to the “Plant Patent Act, 1930” in USA and formation of the *Union Internationale pour la Protection des Obtentions Végétales* (UPOV) or the International Union for the Protection of New Varieties of Plants in 1961 in Europe which was subsequently revised in 1978 and 1991. As on Oct 26, 2017, there are 75 members covering 94 states as part of the UPOV convention including regional organisations as African Intellectual Property Organization (OAPI) and the European Union. India has been an observer to the UPOV Convention.

In 2016, the number of plant genera and species for which there were agreements between members of UPOV for cooperation in the examination of distinctness, uniformity and stability were totalling 1,971. The number of applications for plant variety protection increased from 15,017(in 2015) to 16,455 (in 2016). The number of PVP titles granted increased from 12,409(in 2015) to 12,550 (in 2016) and there were a total of 117,427 titles in force in 2016.

PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS (PPV&FR) ACT, 2001 IN INDIA

Plant variety protection through Plant Breeder's Rights was brought into major focus by the General Agreement on Tariffs and Trade (GATT), a multilateral instrument governing international trade. GATT negotiations in Uruguay Round led to the establishment of World Trade Organisation (WTO) in 1995. Article 27.3(b) of Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) under WTO, provides that members shall provide for the protection of plant varieties, either by patents or by an effective sui generis system or by any combination thereof. India, a founder member of WTO, having ratified TRIPS, passed the PPV&FR Act in 2001 to establish an effective system of protection of plant varieties and farmers' rights in harmonisation of the UPOV system of Novelty, Distinctness, Uniformity and Stability. Hence, both the UPOV legislation(s) and India's PPV&FR Act, 2001 are sui generis in principle.

The breeder's rights granted and obtained in India can be enforced only in India as an Intellectual Property Right is lex loci in nature. If breeder's rights have to be obtained outside India then a breeder must apply for it separately under the applicable national legislation.



Indian PVP legislation provides protection for the following:

1. New Varieties: as per UPOV principles
2. Extant Varieties:

- a) Varieties notified under Seeds Act, 1966 (varieties tested for VCU)
- b) Varieties of Common Knowledge
- c) Farmers' Varieties: India is endowed with agro-biodiversity and secondary centres of origin or diversity for a large no of crop species, e.g., Rice, Brinjal, Citrus, Coconut, millets etc. Traditional communities domesticate, conserves, improves wild types or landraces and brought to niche cultivation. Indian legislation acknowledges farmers as breeders and provides for registration of such farmer varieties. It also provides for Farmers' Rights (whereas UPOV acknowledges Farmers' privileges in some cases); community rights, national gene fund, benefit sharing, compulsory license that essentially secure livelihoods of small/subsistence farm holders.

BILATERAL CO-OPERATION BETWEEN INDIA AND FEDERAL REPUBLIC OF GERMANY IN EXPERIENCE SHARING IN PVP

A Joint Declaration was signed at Berlin on April 11, 2013 between the Department of Agriculture and Co-operation, Ministry of Agriculture, Govt of India and Ministry of Food, Agriculture and Consumer protection of the Federal Republic of Germany on the cooperation in the field of agriculture. This agreement opened a new era of partnership on plant variety protection (PVP), DUS testing and PBR between the German Association of Plant Breeders' (BDP); Federal Plant Variety Office (BSA-Bundessortenamt); PPV & FR Authority and National Seed Association of India (NSAI) to help both the countries in understanding and exchanging of experience and information.

The objective of the Indo-German cooperation project on seed sector development is to identify and describe the potential for improving the politico-legal framework and for augmenting production, processing and marketing of high quality seeds in India. The current two-year intensification phase (2017-2018) of the project "Indo-German Cooperation on Seed Sector Development" builds on the expert dialogue that has been conducted at the national level since July 2013. The areas of seed production and seed certification were also integrated into the bilateral co-operation project since 2017. In addition to the activities with the partners at national level, selected pilot measures related to seed production and seed certification are being implemented in the southern Indian state of Telangana during the ongoing phase.

In November 2015 two seed sector experts from the Netherlands participated in a project event. In the meantime, a fruitful exchange evolved, so that several joint workshop(s) could be conducted which have been attended by President and senior officers from BSA, representatives from Govt of The Netherlands; NAKTUINBOUW; Community Plant Variety Office of the EU to deliberate and interact



with Indian counterpart(s) from National Agricultural Research Systems (ICAR/SAUs/CSIR/ICFRE), seed industry representatives, legal fraternity and farmers. Exchange visits of Scientists and PVP personnel from India, Germany and The Netherlands have been undertaken at various ICAR institutes and State Agricultural Universities and UPOV HQ, NAKTUINBOUW and BSA.

CONVENTION COUNTRY PROVISION AS PER ART 31 OF PPV&FR ACT, 2001

A country which had acceded to an international convention for the protection of plant varieties to which India has also acceded or a country which has a law on protection of plant varieties on the basis of which India has entered into an agreement for granting plant breeders' rights to the citizens of both the countries is defined as Convention Country as per the PPV&FR Act, 2001. In other words, convention country means a country with which India has entered into a treaty for mutual and reciprocal recognition of registration of plant varieties provided the applicant of the convention country applies in India within a period of 12 months from the date of filing of application in the convention country. With a view to fulfilment of a treaty, convention or arrangement with any country outside India which affords to citizens of India similar privileges as granted to its own citizens the Central Government will by notification in the Official Gazette declare such country to be a convention country. If the applications have been made in several convention countries the period of 12 months is computed from the date on which the earliest application was made. The registered breeder from a convention country is not entitled to file infringement suit in respect of events which took place prior to the date of application of registration under the Act. Where any country notified as convention country does not accord to citizens of India the same rights in respect of registration of plant varieties as it accords to its own nationals then no national of such country shall be entitled either solely or jointly to apply for registration of a variety in India. This is basically a provision for reciprocity.

Plant Variety Protection is a territorial right and therefore it is effective only within the territory of India. However, filing an application in India enables the applicant to file a corresponding application for the same invention in convention countries, within or before expiry of twelve months from the filing date in India. Therefore, separate protection should be obtained in each country where the applicant requires protection of his invention in those countries. There is no protection valid worldwide.

An assessment is being made on the process including formal requirements for Germany and The Netherlands to acquire the status of Convention Country that requires confidence building measures between the relevant PVP offices, plant breeders and institutions, exchange of information and understanding of the PVP laws.

SEED TRADE

Global seed industry is expected to grow from \$45 billion in 2012 to \$92 billion in 2020 with a CAGR of 9.4% annually. Indian seed industry is worth \$2.7 billion with an annual CAGR of 12-13% and currently the 6th largest player globally but as per the global share of exports, India ranks 26th. The vast majority of Indian population being dependent on agriculture and varied climatic condition creates an enormous opportunity for domestic as well as foreign players in seed production and trade. During 2014, India's total export of agri commodities to EU was \$5078.90 million while import was \$629.159 million. Access to quality seed and planting material as a part of integral agricultural inputs, trade promotion policy approach has a positive impact on the food security and agricultural development with a focus to double farmers' income by 2020. An effective system of protection of plant varieties plays an important role in securing rights of plant breeders that shall encourage more investment in R&D and consequent better varieties, newer technologies for sustainable agricultural production.



ABOUT THE WORKSHOP

The joint workshop is an important tool to improve the understanding of each other systems and bringing a harmonised approach closer. Such an approach would be very important for European breeding companies to invest in the Indian market and to deliver improved plant varieties to Indian farmers. Recently a large set of questions, asked by European breeding companies were clearly answered by PPV&FR Authority, giving many clarifications. These questions are now as FAQ's on PPV&FRA website. This clarity is important for building confidence with Indian and European seed companies and gives an opportunity to involve seed companies even more in this collaboration. Building upon these positive developments, the participation from UPOV, CPVO, Germany and the Netherlands, as well as relevant seed associations (BDP, Plantum, CIOPORA) in this 2 days workshop shall provide opportunity to participants to understand and deliberate about various issues related to PVP. During the workshop, presentations will be given by Indian authorities, UPOV, CPVO and seed sector associations, both from India and from Europe.

OBJECTIVES OF THE WORKSHOP

The joint workshop shall help:

- To create a forum of interaction between plant breeders, seed associations & PVP offices for EU and India
- To strengthen skills and knowledge of the Plant Variety Rights legislation in the EU-CPVO, India and UPOV
- To build a framework on Convention Country arrangement for mutual recognition of PVP legislations with the member countries at EU with India
- To facilitate trade in seed and horticulture sector

To strengthen information sharing network amongst EU and PPV&FRA

PROGRAMME STRUCTURE OF THE WORKSHOP

Day 1 – open to registered persons

(Family picture will be taken during the first coffee break)

1. General Explanation of the Indian market for propagation materials (seeds and fruits and ornamentals), PPV&FR law, objectives and current developments by Ministry of Agriculture and Farmers Welfare/PVP&FRA
2. General introduction of UPOV, key elements of the UPOV Convention for delivering benefits to society by Mr. Peter Button, Vice Secretary-General, UPOV
3. Explanation of the EU (CPVO) system as a regional system and current developments: How has the EU implemented UPOV?
4. Wrap-up of the morning session: Q&A's to the speakers
5. Farmers' Association, India: vision, ambitions
6. Breeders Association, India: vision, ambitions
7. Breeders Associations EU (Plantum, BDP, CIOPORA, ESA): Vision, ways forward
8. General panel discussion, Indian PVP&FR law and the UPOV Convention. Goal: reciprocally improved understanding

Day 2

1. Legal session, topics for further collaboration; focused discussions on the basis of the feedback on the previous day. In depth study/discussion/comparison of Indian PVP&FR law, the EU Community Plant Variety Regulation and the UPOV convention with representatives of CPVO, UPOV, Plantum, BDP, CIOPORA, ESA, Germany, Netherlands.
2. Presentation of recommendations of the 2 days workshop



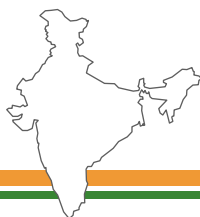
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**Day 1
22 Feb, 2018**

10:00	Welcome and brief about the workshop	Dr. R.C.Agrawal, Registrar General
10:10	PPV&FR law, objectives and current developments	Dr. K.V. Prabhu, Chairperson, PPVFRA
10:30	General introduction of UPOV, key elements of the UPOV Convention for delivering benefits to society	Mr. Peter Button, Vice Secretary-General, UPOV
11:00	Inaugural remarks by the Secretary, DoA&FW. Government of India	Dr. S.K.Pattanayak
11:30	Tea break	
11:45	Explanation of the EU (CPVO) system as a regional system and current developments: How has the EU implemented UPOV?	Mr Francesco Mattina, Vice President- CPVO
12:15	National IPR policy: making strategies for boosting innovation in agriculture	Mr. Rajiv Agrawal, Joint Secretary, DIPP, GOI
12:35	Wrap-up of the morning session	Q&A's to the speakers
13:00	Lunch Break	
14:00	Breeders Associations of EU: Vision and way forward	Plantum, BDP, CIOPORA, ESA (15 minutes each)
15:00	Farmers/Breeders Association of India: vision, ambitions	
15:20	Legal aspects related to varietal protection	Ms. Yolanda Huerta: Legal Counsel- UPOV, Geneva, Switzerland

Day 1
22 Feb, 2018

15:40	Tea Break	
16:00	Legal issues in varietal protection in India	Dr. Malathi Lakshmikumaran, Legal Council
16:20	Panel discussion: Indian PVP&FR law and the UPOV Convention. Goal: reciprocally improved understanding	Moderator: Mr. Kees Van Ettehoven Panellists: CEOs of Seed Companies, Legal Councils of India and EU
17:00	CBD/UPOV/NBA/PPVFRA: Issues of international consensus	Mr. Rabi Kumar- Secretary, National Biodiversity Authority



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**Day 2
23 Feb, 2018**

10:00	Protecting Researchers Rights and post commercialization Benefit Sharing (Field Crops)	Dr. A.K.Singh, Head, Genetics, IARI and Dr. Vilas Tonapy, Director, Indian Institute of Millet Research
10:20	Protecting Researchers Rights and post commercialization Benefit Sharing (Horticultural Crops)	Dr. Pritam Kalia, Former Head, IARI and Dr. Dinesh, Director, Indian Institute of Horticulture Research
10:40	Protecting Hybrids vs. parents in seed propagated materials	Dr. T.K.Nagarathna, Registrar, PPVFRA
10:50	Protecting Hybrids vs. parents in vegetative propagated materials	Dr. SA Desai, Registrar, PPVFRA
11:00	Convention Country between India, Germany and Netherlands: Way Forward	Mr. Marien Valstar, DG (Agro)
11:30	Tea Break	
11:45	Focused discussions on the basis of the feedback on the previous day.	Moderator- Mr. Marien Valstar, DG (Agro)
13:00	Lunch Break	
14:00	Discussion/comparison of Indian PVP&FR law, the EU Community Plant Variety Regulation and the UPOV convention	Representatives of CPVO, UPOV, Plantum, BDP, CIOPORA, ESA, Germany, Netherlands.
15:30	Tea Break	
15:45	Presentation of recommendations of the workshop	

For Technical queries, please write to:

Dr. R.C. Agrawal

Registrar General

Protection of Plant Varieties and Farmers' Rights Authority

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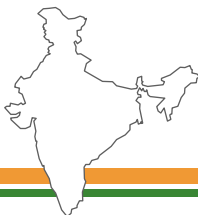
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Department of Industrial Policy and Promotion
Ministry of Commerce & Industry
Government of India



Kingdom of the Netherlands



CPVO

Community Plant Variety Office



EUIPO

EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE

With support from



Federal Ministry
of Food
and Agriculture

by decision of the
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