



EUROPEAN FREE TRADE ASSOCIATION

Thomas Braunschweig
Public Eye
Dienerstrasse 12
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Your open letters concerning UPOV in free trade agreements

Dear Mr. Braunschweig

As the current Chair of the European Free Trade Association (EFTA), I am writing you on behalf of our four Member States in response to your letters of July 7, 2020, in which you disapprove of the position of EFTA regarding the Convention of the International Union for the Protection of New Varieties of Plants (UPOV Convention) and free trade agreements (FTAs). We take note of your concerns raised in this letter.

Regarding UPOV membership of EFTA countries, Liechtenstein is currently in the process of preparing its accession to the UPOV Convention, which requires a unanimous decision by the UPOV Council. The other EFTA countries are already members.

The sustainable use of agrobiodiversity and ensuring food security and nutrition for all are indeed important tasks that governments, farmers, the private sector and civil society are working towards. FTAs are one type of instruments, next to other policy measures, governments may employ in this regard.

All WTO members have to provide for the protection of plant varieties, either through patents or through a *sui generis* system. The UPOV Convention is the most widespread specific international agreement regulating such protection. This is why, as a starting point for negotiations, EFTA proposes to refer to the UPOV Convention for the substantive regulation of plant variety protection in free trade agreements.

We recognize the fact that many farmers, especially smallholders in developing countries, obtain their seeds through a variety of seed systems. The UPOV Convention, however, only covers new varieties that fulfill the UPOV criteria and does not affect old traditional farmers' varieties.

EFTA does not make the accession to UPOV or the adherence to its rules a prerequisite for the conclusion of an FTA. The objective of any FTA negotiated by EFTA is to provide the best possible solution for all stakeholders concerned. Therefore, EFTA is open to finding alternative

solutions that take into account the situation of all farmers in the partner countries, including those that rely on the so-called informal seed system.

In order to better reflect the importance of both the formal and the informal seed systems, EFTA States have sought a clarification in their approach to FTA negotiations. In the future, in its initial negotiating proposal, EFTA will thus supplement the provisions relating to the protection of new plant varieties with an article on genetic resources and traditional knowledge which references the Convention on Biological Diversity and the FAO International Treaty on Plant Genetic Resources for Food and Agriculture. The article will call upon Parties to implement the international agreements related to IP and genetic resources in a mutually supportive manner. EFTA considers this to be a balanced approach, which we trust addresses the concerns of all farmers in partner countries.

Our respective administrations remain available for a discussion with you to further explain EFTA's approach on a country-by-country basis.

Sincerely yours,



H.E Guy Parmelin
Federal Councillor
Head of the Federal Department of Economic Affairs,
Education and Research
Switzerland

Copies:

- H.E Ignazio Cassis, Federal Councillor, Head of the Federal Department of Foreign Affairs, Switzerland
- Handelskampanjen, Norway
- Liechtensteinische Gesellschaft für Umweltschutz, Liechtenstein