

AFSTA MOTION ON EFFICIENT *SUI GENERIS* SYSTEM FOR PROTECTING NEW PLANT VARIETIES

(Adopted by AFSTA GA on 25th March 2001 in Cairo)

“AFSTA, the African Seed Trade Association, promotes and supports professional plant breeding as a source of new varieties to improve food supply in Africa and help alleviating poverty.

AFSTA recognises that, to achieve these goals, facilitated and regulated access to genetic resources as well as protection of intellectual property are needed in Africa as elsewhere in the world.

In addition, plant breeding is a costly and expensive exercise that requires an effective cost recovery mechanism for continuity in the generation of new crop technology.

UPOV was therefore established to promote cost recovery through the protection of new varieties from illegal use. The UPOV form of plant variety protection has been widely adopted by both African and international communities in order to enhance and/or promote investment in crop technology development.

Therefore AFSTA appreciates the current effort made by OAU to develop African model legislation for the protection of the Rights of local communities, farmers and breeders and for the regulation of Access to Biological Resources.

However, a review of the OAU proposal by AFSTA members reveals a number of concerns:

- The proposal is probably too ambitious and, in trying to embrace all the issues, is complicating the whole concept of access to genetic resources and protection of intellectual property.
- There are no clear mechanisms of effective protection of new plant varieties and of new crop technology to give incentives to plant breeders. Therefore it is doubtful that it complies with the provision of the TRIPS agreement for a *sui generis* system and in particular its article 27.3.b.
- As regards protection of plant varieties, the model is not in harmony with the UPOV convention. Several African countries have acceded or are in discussion for accession. The adoption of the model would, as it is, create a division among various African countries.

The adoption of the OAU model law as it is presented would undermine:

- The seed industry development in African countries.

- The collaboration among African countries having adopted a different plant protection system.
- Investment in agricultural development and thus the food security.

AFSTA is willing to participate in the further discussion on developing a new model beneficial to agricultural development in Africa in providing the practical expertise of its members.

That position is clearly in line with AFSTA established mandate and objectives”