

Mandates of the Special Rapporteur on the right to food and the Working Group on the rights of peasants and other people working in rural areas

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(Please use this reference in your reply)

21 July 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to food and Working Group on the rights of peasants and other people working in rural areas, pursuant to Human Rights Council resolutions 58/10 and 54/9.

In this connection, we would like to bring to the attention of the European Union information we have received concerning **Free Trade Agreement (FTA) negotiations between the EU and the Philippines and the implications that this may have on the Philippines' full capacity to realize its obligation to respect, protect and fulfil human rights, especially the right to food, taking into account the proposal to comply with the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV 1991).**

According to the information received:

Negotiations for an EU-Philippines trade and investment agreement were launched on 22 December 2015. On 18 March 2024, the EU and the Philippines announced the resumption of negotiations for an ambitious, modern and balanced FTA with sustainability at its core. The first round of the resumed negotiations was held from 14 to 18 October 2024 in Brussels.

The second round of the resumed negotiations was held between 10 and 14 February 2025 in Manila. Negotiations continued on several chapters, including on Sustainable Food Systems (SFS). The Sustainable Food Systems chapter is a very recent policy innovation in EU trade agreements; the EU-Philippines FTA would be among the first to contain such a chapter – and the first with a developing country in Asia.

A report on the sixth round of the resumed negotiations, the most recent to date, issued on 18 June 2026, states that negotiations on the intellectual property chapter have essentially been concluded. However, negotiations on the FTA are still ongoing, and the agreement has not yet been signed or ratified.

The proposal of the EU on the protection of plant variety rights includes a provision requiring each Party to protect plant variety rights in accordance with the International Convention for the Protection of New Varieties of Plants, as revised in Geneva on 19 March 1991 (UPOV 1991).

The Philippines already has a plant variety protection law that substantially aligns with UPOV standards and goes beyond by providing broader protections

for farmers' rights, reflecting the country's constitutional commitments, socio-economic realities, and obligations under other international instruments recognizing farmers' rights.

Being a member of the World Trade Organization, the Philippines is required to provide protection for plant varieties under article 27.3(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The Philippine Plant Variety Protection (PVP) Act of 2002 created a framework for safeguarding breeders' rights. The law was crafted to strike a balance between the interests of breeders and the rights and needs of farmers and includes safeguards that exceed the standards established under UPOV 1991.

In its examination of the conformity of the Philippine Plant Variety Protection Act of 2002 with the 1991 Act of the UPOV Convention (2007)¹, UPOV found the farmers' exception in section 43(d) of the PVP legislation to be incompatible with the 1991 Act. Section 43(d) states: "The Certificate of Plant Variety Protection shall not extend to: [...] d) The traditional right of small farmers to save, use, exchange, share or sell their farm produce of a variety protected under this Act, except when a sale is for the purpose of reproduction under a commercial marketing agreement. The Board shall determine the condition under which this exception shall apply, taking into consideration the nature of the plant cultivated, grown or sown. This provision shall also extend to the exchange and sell of seeds among and between said small farmers: Provided, [t]hat the small farmers may exchange or sell seeds for reproduction and replanting in their own land." In its comments, UPOV noted, among other things, that "The exchange and sale of seeds among and between the said small farmers in their own land, as provided in the third sentence of section 43(d) of the Law, go beyond the exception of article 15(2) of 1991 Act."

UPOV is an intergovernmental organization that establishes a framework for protecting breeders of new plant varieties through intellectual property rights. The Convention was first adopted in 1961 and then revised in 1972, 1978 and 1991. According to the information received, the 1991 revision significantly expanded the scope of breeders' rights and reduced the ability of farmers to save, use, exchange and sell protected seeds and propagating materials. The 1978 Convention implicitly permitted a broader range of farmers' practices, whereas UPOV 1991 views these practices as limited exceptions to breeders' rights and places constraints on farmers' ability to save, exchange, and sell protected seed. These restrictions are said to have detrimental effects on customary seed systems and the livelihoods of peasants and other people working in rural areas, especially in developing countries where customary seed systems are significant for food production and access to seeds.

The Philippines is a lower-middle-income country, and agriculture continues to be a key source of livelihoods and income especially in rural areas. Agriculture is said to provide for approximately 21 per cent of total employment and agricultural production is mainly undertaken by small-scale farmers, the average

¹ See http://www.upov.int/edocs/mdocs/upov/en/c_extr/24/c_extr_24_02.pdf

size of a farm being about 1.3 hectares. Many small-scale farmers continue to rely on the traditional methods of saving, using, exchanging and selling farm-saved seeds and propagating materials, which are crucial in providing access to seeds and maintaining agricultural production.

Farmers' organizations, civil society organizations, researchers and other stakeholders in the Philippines and internationally have raised concerns relating to UPOV 1991. In 2024, 184 organizations around the world signed a joint statement opposing plans for Philippine accession to UPOV 1991. On 14 May 2026, civil society organizations met with the Philippine negotiating panel and relevant government agencies to discuss the ongoing FTA negotiations. During the meeting, civil society organizations reiterated their opposition to UPOV 1991-related commitments and called for the protection of farmers' rights and seed sovereignty.

It is also reported that a petition signed by 456 Filipino farmers' and Indigenous Peoples' organizations was submitted on 19 May 2026 at an EU-Philippines stakeholder consultation, urging both negotiating parties to delete the UPOV provision in the proposed agreement. Representatives of civil society organizations met officials of the European Commission on 27 May 2026. According to available information representatives of the European Commission confirmed that the EU reiterated its intention to seek full alignment with UPOV 1991 while acknowledging the sensitivity of the issue and indicating that discussions are still ongoing.

While we do not wish to prejudge the accuracy of the information made available to us, it is our understanding nevertheless that an FTA requiring Philippine law to be in accordance with UPOV 1991 would necessitate deleting section 43(d) of the current PVP Act of the Philippines, a provision which reflects a conscious policy choice to recognize and protect the customary seed systems and collective practices of Indigenous Peoples, peasants and other people working in rural areas, which remain essential to agricultural biodiversity, food security, and the realization of farmers' rights.

We wish to welcome the inclusion of a chapter on Sustainable Food Systems in the draft agreement, which reflects a commendable recognition by both Parties of the importance of embedding sustainability considerations in trade policy.

We feel compelled, however, to draw attention to the fact that the ongoing negotiations between the EU and the Philippines, to the extent that the EU continues to propose compliance with UPOV 1991 as part of the FTA, may have potential negative implications for the enjoyment of human rights by Filipinos, in particular the right to food, by restricting farmers' rights including their ability to save, use, exchange and sell farm-saved seeds and propagating materials. If accepted, the proposed commitment would severely limit the Philippines' ability to maintain and further develop a PVP system that is responsive to its national circumstances, development needs and human rights obligations, diminish customary seed systems, decrease agricultural biodiversity and undermine the livelihoods of small-scale farmers who rely on the ability to save, exchange and sell seeds saved on the farm.

The right to food is enshrined in article 25 of the Universal Declaration of Human Rights and in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes the right of everyone to an adequate standard of living, including adequate food, and to the continuous improvement of living conditions. Read together with article 2(2) of the Covenant, this right must be guaranteed without discrimination of any kind. It finds specific expression, in respect of seeds, in article 19 of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), adopted by the General Assembly on 17 December 2018, which recognizes the right of peasants and other people working in rural areas to maintain, control, protect and develop their own seeds and traditional knowledge and to save, use, exchange and sell their farm-saved seed and propagating material, and which calls on States to ensure that seed policies, plant variety protection and other intellectual property laws respect and take into account the rights, needs and realities of those who work the land.

The proposed compliance obligation could place the Philippines in a position of tension with its obligations under article 2(4) of UNDROP. This provision provides that States shall elaborate, interpret and apply relevant international agreements and standards to which they are party in a manner consistent with their human rights obligations as applicable to peasants and other people working in rural areas. Conditioning the FTA on adherence to UPOV 1991 may subordinate the fundamental rights of Filipinos to rigid commercial intellectual property regimes, in a manner that would appear difficult to reconcile with this provision.

Restrictive intellectual property standards may also adversely affect the realization of food sovereignty, a right safeguarded under article 15(4) of UNDROP. Customary seed systems are not merely an agricultural input; they are the bedrock of peasant autonomy, cultural heritage, and economic survival. To the extent that the proposed requirements restrict or penalize the traditional practices of saving, exchanging, and selling seeds, they risk transferring control over vital agricultural resources from local communities to commercial entities. This dynamic could also jeopardize the right to an adequate standard of living for peasants, as articulated in article 16 of UNDROP, by increasing farming input costs and eroding rural self-sufficiency.

Noting the concerns already raised by civil society actors, we recall that article 10 of UNDROP affirms the right of peasants and other people working in rural areas to active and free participation in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods. This participation right is reinforced by article 2(3) of UNDROP, which is particularly explicit as regards international agreements: it provides that, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of those who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

Such a commitment would moreover limit the policy space available to the Philippines under article 27.3(b) of the TRIPS Agreement, which permits Members to protect plant varieties by patents, by an effective *sui generis* system, or by any combination thereof – an option the Philippines has exercised through the PVP Act of 2002, in a manner consistent with its obligations under article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture to protect and promote farmers' rights, including the right to save, use, exchange and sell farm-saved seed. Article 9 of that Treaty recognizes the significant contribution that local and Indigenous communities and farmers, in particular those in centres of biodiversity, make to the conservation and development of plant genetic resources, and directs Contracting Parties to safeguard and promote farmers' rights, encompassing the protection of relevant traditional knowledge, the right to participate equitably in the sharing of benefits and in national decision-making on the conservation and sustainable use of plant genetic resources, alongside the right to save, use, exchange and sell farm-saved seed and propagating material, in accordance with national law. The flexibility preserved by article 27.3(b) is precisely what enables a State to give effect to these obligations; a requirement to adhere to UPOV 1991 would foreclose that space and disturb the balance those instruments were designed to protect.

The consequences of such a commitment would not only affect the right to food of those who produce food but also of the communities who depend on these farming systems. Seed systems are foundational to food systems as a whole: the diversity they sustain underpins the capacity of crops to adapt to a changing climate, the resilience of national food supplies to pests, disease and price shocks, the nutritional diversity of consumers' diets, and the stability and affordability of food supply. A contraction of farmer-managed seed systems and higher concentration of control over plant genetic resources by commercial breeders would therefore have implications extending well beyond peasants and small-scale farmers, affecting the collective pool of plant genetic resources upon which the food security of present and future generations depends.

We note in this regard the conclusions of intergovernmental scientific bodies concerning the importance of crop genetic diversity for food security and for the quality of food. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), finds that global agrobiodiversity is declining, including genetic resources for food and agriculture, with consequences for food system resilience, food security and nutrition, and that unsustainable agricultural practices have reduced food diversity and quality.² The Food and Agriculture Organization of the United Nations, in its Third Report on the State of the World's Plant Genetic Resources for Food and Agriculture, describes such resources, which encompass the genetic diversity of farmers' varieties and landraces, as "the essence of sustainable agrifood systems," and documents that farmers continue to maintain and improve significant genetic diversity of locally adapted varieties and landraces on-farm, underscoring their continuing centrality to agricultural biodiversity, resilience and food security.³

² IPBES, Summary for Policymakers of the Thematic Assessment of the Interlinkages among Biodiversity, Water, Food and Health (Nexus Assessment) (2024), p. 23, section A3.

³ FAO, The Third Report on the State of the World's Plant Genetic Resources for Food and Agriculture, FAO Commission on Genetic Resources for Food and Agriculture Assessments (Rome, 2025).

These findings are consistent with the analysis of the International Panel of Experts on Sustainable Food Systems (IPES-Food), which has documented how the progressive extension of proprietary control over plant varieties, through plant patenting, the UPOV framework and the TRIPS Agreement, has accompanied a pronounced concentration of ownership in the global seed and agricultural input sector, to the detriment of the diverse, community-managed seed systems that underpin local and regional food production worldwide.⁴ IPES-Food has further cautioned that these dynamics are being intensified by the digitalization of agriculture and by the appropriation and patenting of genetic information derived from seeds long stewarded by peasant and Indigenous communities, narrowing agricultural biodiversity at the very moment when greater diversity is required to withstand climate and market shocks.⁵

We also wish to recall in this respect the report of the former Special Rapporteur on the right to food to the Human Rights Council, entitled "Seeds, right to life and farmers' rights" (A/HRC/46/43). That report observed that, because humankind depends upon plants for food, fibre and functioning ecosystems, nothing less than the right to life is at stake where farmers' seed systems are inadequately protected; that such seed systems are integral to the world's genetic and cultural diversity and foundational to all food systems; and that the more a seed system recognizes and supports farmers as stewards of seeds held in trust for humankind, the more fully it gives effect to human rights. The report accordingly recommended that States refrain from exerting pressure on other States to accede to the International Convention for the Protection of New Varieties of Plants, or from requiring adherence to that Convention as a condition of bilateral or regional trade agreements. It further recommended that States align their seed systems with the International Treaty on Plant Genetic Resources for Food and Agriculture and with international human rights law, including the ICESCR, the UNDROP, and the United Nations Declaration on the Rights of Indigenous Peoples.

In light of the above, we call upon the European Union, and upon the European Commission acting on its behalf, to reconsider its proposal that the Philippines adhere to UPOV 1991 and to remove any reference to that instrument from the draft Free Trade Agreement, thereby preserving the policy space necessary for the Philippines to maintain and further develop a plant variety protection system suited to its national circumstances and consistent with its international human rights obligations. We further call upon the European Union to ensure that decisions carrying such far-reaching consequences for peasants, small-scale farmers, Indigenous Peoples and rural communities are taken with their effective and meaningful participation and, in the case of Indigenous Peoples, in accordance with their right to free, prior and informed consent; a rights-based approach to food systems governance requires that those whose livelihoods and seed systems are directly affected be able to take part in the decisions that shape them.

⁴ IPES-Food, *Too Big to Feed: Exploring the impacts of mega-mergers, consolidation and concentration of power in the agri-food sector* (2017).

⁵ IPES-Food, *Head in the Cloud: Challenging the false promise of digital agriculture and cultivating innovation from the ground up* (2026).

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned situations.
2. Please indicate the position of the EU regarding the role of and connections between formal and informal seed systems in developing countries where agriculture, especially small-scale farming, plays a substantial role in the economy, serving as a significant source of livelihood and employment and how this position is taken into account when alignment with UPOV 1991 is proposed in the context of FTA negotiations.
3. Please provide details regarding any actions that the EU has implemented or is contemplating to undertake to safeguard, protect and promote the rights of Filipinos as described herein, as well as to ensure the participation of peasants, small-scale farmers and rural communities, and of their representative organizations, and the free, prior and informed consent of Indigenous Peoples, in the ongoing negotiations.
4. Please indicate whether the EU has undertaken any human rights impact assessment, food security assessment, environmental/biodiversity assessment or social impact assessment concerning the possible effects of requiring compliance with UPOV 1991 in the context of trade agreements. If so, please also share the outcomes of these assessments as they relate to the right to food and food security.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from the European Union will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We also request that the present communication be shared with Commissioner Maroš Šefčovič, Directorate-General for Trade, Commissioner Jozef Síkela, Directorate-General for International Partnerships, MEP Bernd Lange, Chair of the European Parliament Committee on International Trade, and MEP Mounir Satouri, Chair of the European Parliament Subcommittee on Human Rights.

Please be informed that a similar letter has been sent to the Government of the Philippines.

Please accept, Excellency, the assurances of our highest consideration.

Sofia Monsalve Suárez
Special Rapporteur on the right to food

Shalmali Guttal
Chair-Rapporteur of the Working Group on the rights of peasants and other people
working in rural areas