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Seed Markets, Agroecology and the Right to Food

Insights From an Advocacy Journey on the EU Seed Marketing Reform

June 2025

Brot
für die Welt


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EPER**
Bread for all.

Foreword: Why the Right to Food is relevant to EU Seed Laws

Seed diversity in the hands of peasant communities is an important pillar when it comes to ensuring the right to food and the fight against hunger and malnutrition. This is particularly true in countries in Africa, Asia and Latin America, where peasant seed markets are still the backbone of food security. Therefore, Brot für die Welt and Swiss Church Aid HEKS/EPER are both working to ensure that rights to seeds are respected, protected and fulfilled by the European Union (EU), Switzerland (as a member of EFTA) and in countries of the Global South.

When the EU began discussing the seed marketing reform process in late 2019 at the request of its Member States, both organisations embarked on an advocacy project to ensure that this reform would strengthen rather than undermine rights to seeds and seed diversity, including in the Global South. They built on a Policy Coherence for Development Discussion Paper on seeds and food security, titled 'Seed Markets for Agroecology', prepared by ACT Alliance EU and published in December 2020. Although the reform is about regulating seed markets within the EU, the EU functions as a global standard setter and an economic operator or major trader in the global seed market. Its seed regulations impact seed systems in countries of the Global South, be it through trade agreements, procurement rules, donor support, technical assistance and capacity building in third countries, or other mechanisms.

Catering to the needs of all farmers and their diverse seed systems should be at the heart of the reform of the EU's seed marketing legislation, recognising their contribution to the conservation of agrobiodiversity and taking all necessary steps to respect, protect and fulfil farmers' rights to seeds. The same approach should also be taken in the framework of regulations on new genomic techniques, respecting, fulfilling and protecting the right of peasants to maintain, control, protect and develop their own seeds. This means first and foremost regulating new genomic techniques in the same way as genetically modified organisms are regulated. Farm-based seed systems are indeed influenced and shaped by numerous laws and policies that impact the movement of seeds, their use and marketing. In this project, we focused on seed marketing legislation, as it presents an opportunity to foster a supportive environment for farm-based seed systems, all the while making linkages with existing laws such as seed health rules, and parallel legislative reform processes. Since the beginning of this advocacy project, Brot für die Welt and Swiss Church Aid had been building on the experience and expertise of their partners in the Global South, evoking the EU's treaty obligation to consider policy coherence for development in its policymaking. Of importance to development policy is the extent to which the EU's seed marketing laws respect and support farmers' rights to seeds in countries of the Global South, and the extent to which they may harm or advance the EU's commitment to preserve and enhance biodiversity in the EU and beyond.

Rights to seeds are a cornerstone of the human right to food, as enshrined in the International Covenant on Economic and Social Rights (ICECSR) and developed both in the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), and in the UN Declaration on the Rights of Peasants and Other People living in rural areas (UNDROP). This brochure provides an overview of the way seed laws relate to the right to food, and outlines efforts to align them with human rights frameworks. It describes the takeaways from this advocacy journey, which involves combining policy and technical knowledge, teamwork with partners to amplify peoples' voices, and using policy spaces to advance the realisation of farmers' rights to seeds in the EU and beyond. We hope that this brochure will be useful for others embarking on a similar path, and that the takeaways from this advocacy project can be used to engage in future policy processes elsewhere around the globe, but especially in the EU, for example, in the context of the upcoming reform of the Community Plant Variety Rights regime.

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Traditional storage of maize in a peasant household in Honduras. Farm-based seed selection is an important pillar to implement the right to food.

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Glossary

CAC	Conformitas Agraria Communitatis
CBD	Convention on Biological Diversity
CSO	Civil Society Organisation
DUS	Distinct, Uniform and Stable (criteria for plant variety protection and seed marketing)
DG	Directorate General (of the European Commission)
EC	European Commission
EP	European Parliament
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
GMO	Genetically Modified Organism
ICECSR	International Covenant on Economic, Cultural and Social rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
PCD	Policy Coherence for Development (Article 208 EU Founding Treaty)
PRM	Plant Reproductive Material
PVP	Plant Variety Protection
NGT	New Genomic Techniques
OHM	Organic Heterogeneous Material
UNDROP	United Nations Declaration on the Rights of Peasants and People Working in Rural Areas
UPOV	Union for the Protection of Plant Varieties
VCU	Value for Cultivation and Use
VsCU	Value for Sustainable Cultivation and Use
TRIPS	Agreement on Trade Related Intellectual Property Rights
WTO	World Trade Organisation



1. Why the EU Seed Marketing Reform is relevant to the Right to Food

1.1 Why Seed Laws Matter

Seeds are at the core of food production and are highly regulated. Some of these regulations are concerned with the ownership of seeds, such as intellectual property rights including plant variety protection and patents or access and benefit-sharing rules. Some laws ensure the conservation of agricultural biodiversity, while others attempt to protect food safety or public health, preventing the spread of pests, diseases or organisms that could cause harm to the environment.

Seed marketing laws determine which seeds are allowed to be sold on a specific market. Dictated by the perceived needs of the commercial seed market and its users, especially those of the industrial food and feed production systems, seed marketing laws create and shape seed markets, with overarching effects on the movement of seeds and their conservation, selection or development. These laws cover activities such as pre-marketing variety and operator registration, variety release and seed production rules such as quality standards, certification, and seed testing, as well as seed labelling and packaging rules. The way these activities are regulated in the law has a profound effect on seed availability and accessibility and therefore on how agricultural and food systems are shaped. They thus profoundly impact the fulfilment of the right to food.

Seed marketing laws also have a significant effect on farmer seed systems. They may regulate and further restrict the sale, transfer and even exchange of seeds; or on the other hand, they may offer better pathways for the marketing of different seeds adapted to local conditions and diversify the seed market offer to better respond to the needs of peasants.

Difference between Plant variety protection and seed marketing rules

PLANT VARIETY PROTECTION REGULATIONS

define who owns and controls seeds and their use

Plant variety protection, sometimes also referred to as plant breeders rights, grants intellectual property rights, as a monopoly limited in time over the use of **protected varieties**. Required by the World Trade Organisation's Agreement on Trade-related Aspects of Intellectual Property Rights (WTO TRIPS Agreement). Plant variety protection can be designed in accordance with the Conventions of the International Union for the Protection of New Varieties of Plants (UPOV) or other sui generis mechanisms. Adopted at the request of the seed industry to meet its needs, UPOV Conventions require plant varieties to be distinct, uniform and stable (DUS)¹ and grant rights to exclude others from using protected varieties except in limited cases.

Farmers' varieties cannot meet DUS criteria, as these plant populations seek out a certain degree of heterogeneity to adapt to changing local conditions and practices and evolve over time.

Farm-based seed systems are impacted by plant variety protection rules as the saving, exchange and sale of protected varieties is prohibited except in the strict confines of the farmers' privilege, in clear conflict with human rights to food and seed. Such impact is greater in rules enacted according to the 1991 UPOV Convention, which extend the prerogatives of plant breeders to the multiplication of seeds, as well as to harvested material compared to the 1978 UPOV, thereby encroaching on the rights to save, exchange and sell seeds.

SEED MARKETING REGULATIONS

define the kind and quality of seeds that can be marketed

Seed marketing regulations, especially those of the EU, are based on two pillars. They establish pre-marketing **variety and operator registration** rules, based on DUS criteria through a variety's official description, or non-DUS criteria through an officially recognised description in derogation regimes. In addition, they contain generally **strict seed production rules** (where seed lots need to be certified through pre-marketing testing and controls), as well as labelling and packaging rules. They regulate the quality and traceability of seeds of **registered varieties** that are sold or distributed in a given territory.

When seed marketing regulations **define 'seed marketing'** in a broad way (e.g. to include all transfers of seed), they prohibit important practices of seed saving and exchange between farm-based seed systems. When they link DUS criteria, developed for variety protection, to access to the seed market rather than to a monopoly, they prohibit the use of the seeds of farmers' varieties that cannot be registered, in conflict with human rights to food and seed. Farm-based seed systems use other tools for managing seed quality and their sourcing or marketing, such as mutual aid or community seed banks, as well as alternative mechanisms such as the Participatory Guarantee System or the Quality Declared Seed system.

1.2 Why Seed Rights Matter

The EU has a clear obligation to respect, protect and fulfil rights to seeds, as prescribed by the UNDROP, the UN Declaration on the Rights of Peasants and Other People working in rural areas, which is built on the right to food enshrined in the International Covenant on Economic and Social Rights (ICECSR) and on the International Treaty on Plant Genetic Resources for Food and Agriculture, the ITPGRFA. The EU also has economic and diplomatic leverage to maintain and advance the rights of farmers enshrined in these instruments. All national seed laws and policies need to be aligned with rights to seeds, allowing farmers, peasants and people living in rural areas to save, exchange and sell their own seeds. They should diversify the seed market to ensure the availability of locally adapted seeds.

¹ **Distinct.** A distinct plant variety has at least one important characteristic that is different from other varieties included in the national list. **Uniform.** A uniform plant variety has individual plants that share the same important characteristics. **Stable.** A stable plant variety remains unchanged after 'repeated propagation', for example, reproduction from seeds, cuttings, bulbs or other plant parts. www.gov.uk/guidance/dus-protocols-for-testing-plant-varieties

They should build tools and safeguards to protect the knowledge held by rural, peasant and indigenous communities, and ensure their participation in policy-making processes.

International instruments on farm-based seed systems and the right to food

International Treaty
on Plant Genetic
Resources for Food
and Agriculture

Article 9. Recognition of the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.

9.2. Responsibility of national governments, as appropriate, and subject to their national legislation, take measures to protect and promote Farmers' Rights, including:

- a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture;
- b) the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture; and
- c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

9.3. Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed / propagating material, subject to national law and as appropriate.

UNDROP

Article 19.1 Peasants and other people working in rural areas have the right to seeds ..., including:

- a) the right to the protection of traditional knowledge relevant to plant genetic resources for food and agriculture
- b) the right to equitably participate in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture
- c) the right to participate in the making of decisions on matters relating to the conservation and sustainable use of plant genetic resources for food and agriculture
- d) the right to save, use, exchange and sell their farm-saved seed or propagating material.

19.2. Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge.

Article 20.2. States shall take appropriate measures to promote and protect the traditional knowledge, innovation and practices of peasants and other people working in rural areas, including traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems relevant to the conservation and sustainable use of biological diversity.

19.8. States shall ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants and other people working in rural areas.

Convention on
Biological Diversity

Article 8.j. Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

1.3 Why Seed Diversity Matters

The advocacy project “Seed markets for Agroecology”² is built on the belief that both the diversity of farming practices and the genetic diversity of seeds, seedlings or other propagating material are paramount to a transition towards ecological and socially just food systems that are based on the right to food. The essential element of this transition is the active participation of stewards of agrobiodiversity, i.e. seed savers, researchers, breeders, and most importantly, peasants and farmers, especially those who not only use but conserve, manage and adapt genetic diversity on their farms. A transition that builds on interaction and participation minimizes dependency on external inputs, values diverse forms of knowledge and experience, and empowers producers and communities. Robust scientific evidence demonstrates that agroecology increases climate resilience. Farmers and local communities using agroecological approaches and open pollinated seeds are better equipped to cope with the climate crisis.³

Both international science-policy spaces such as the FAO Commission on Genetic Resources⁴, and scientific literature across disciplines point to the dire reality that we are losing agricultural diversity, both between and within species. But this diversity plays an important part in designing resilient pathways towards sustainable agricultural production and food systems. Agrobiodiversity is instrumental for the fulfilment of the right to adequate food, which relies highly on such diversity. Agrobiodiversity provides resilience towards shocks, whether economic, due to market fluctuations, or environmental, due to climate change. It also reinforces social bonds in rural areas, reflecting and preserving the history, culture and characteristics of localities, evolving with them and through their efforts.

Distinct, Uniform, Stable: Impact of DUS criteria

DUS criteria are used to distinguish a protected variety from another. They are distinct, uniform and stable: Distinctiveness to make sure the variety is different from those in the market. Uniformity to assess whether individual plant units within the variety show too many dissimilarities. Stability to ensure that the variety remains true to type across cultivation cycles.

Industrial plant breeding caters mainly to industrial and monocultural crop production and builds on successful commercial varieties. This is why the DUS criteria list has been considerably enlarged over time, resorting even to the use of molecular markers, as examiners need more and more elements to distinguish modern varieties from one another.

DUS criteria can almost never or rarely be met by open-pollinated varieties that agroecological farmers use and develop, favouring heterogeneity and adaptability to local conditions in their plant varieties and populations. Over time, DUS criteria have been incorporated into seed marketing rules. By now, they have developed into a prerequisite for marketing seeds and have become a discriminator against seeds and diversity managed by farmers, thereby endangering the right to food.

² ACT Alliance EU (2020), Seed markets for Agroecology. See https://actalliance.eu/wp-content/uploads/2020/12/201221_seed-markets-agroecology.pdf

³ FAO and Biovision (2020), The potential of agroecology to build climate-resilient livelihoods and food systems. See <https://openknowledge.fao.org/server/api/core/bitstreams/be28f249-a8fc-4233-a543-a20203ee8b4b/content>

⁴ FAO (2019), State of the World's Biodiversity for Food and Agriculture. See <https://www.fao.org/interactive/state-of-biodiversity-for-food-agriculture/en/>

1.4 Why Seed Markets Matter

Seed marketing legislation can help prevent biodiversity loss by creating conditions that are beneficial to the conservation and sustainable use of genetic diversity. It can also exacerbate such loss by outlawing or disregarding farm-based seed systems and the diversification of the seed market. The EU precautionary principle resonates with concerns over new genomic techniques felt by peasant communities, who have the right to maintain, control, protect and develop their own seeds. They must therefore be protected against contamination, and they must know what kind of seeds they purchase on the market; such transparency can be provided in seed markets.

In line with legal obligations under the ITPGRFA and the UNDROP, seed legislation could advance towards the realisation of human rights to seeds by:

- 1 Allowing for farm-based seed systems and conservation varieties to be outside the scope of commercial marketing because of their contribution to the dynamic management of agrobiodiversity.
- 2 Improving the supply of seed diversity in the commercial market and establishing adapted marketing pathways for non-uniform plant material.
- 3 Providing safeguards and mechanisms to protect local and traditional knowledge held by farming communities and ensure their participation in policy-making and technical processes that impact them.

The EU seed marketing reform makes it possible to address indirect or common drivers in global seed markets in which the EU acts as a major trader, as an economic operator or global donor. Assessing the external dimension of the EU's legislative initiative helps to identify drivers, pressure points and political responses to market forces and dynamics. PCD – policy coherence for development – serves as an analytical tool that identifies spillover effects, provides strategic foresight and highlights geopolitical significance.

1.5 Why PCD Matters

The EU Treaty (Article 208) affirms the principle of PCD, Policy Coherence for Development, which requires the EU to consider development objectives in its (domestic) policymaking and its contribution to the fight against hunger and malnutrition. The voluntary guidelines to the right to food emphasise the direct interlinkages with farmers' and peasants' right to seeds.

Brot für die Welt and Swiss Church Aid HEKS/EPER join AFSA, the Alliance for Food Sovereignty in Africa in their struggle for peasants' right to seeds, which is paramount to robust, diverse agricultural systems and farmers' sovereign choice, as outlined in their proposal for farm-based seed systems.⁵ Southern civil society organisation networks and partners express their concern over ongoing pressures and the increasing capture of their seed systems and local seed markets. For example, rules on local procurement and local content requirements in EU trade agreements jeopardise public policy options to support and privilege local and farm-based seed systems to tackle global biodiversity loss and support agroecological food systems. African, Asian and Latin American civil society partners call for 'peasant' agroecology to be fully recognised in their national agricultural policies and under climate adaptation or biodiversity measures.



Local maize breeding at the 'Grow Biointensive Agriculture Center of Kenya' (G-BiACK)

⁵ AFSA, Proposed legal framework for the recognition and promotion of farmer-managed seed systems-fmss- and the protection of biodiversity, (no publishing date provided), see <https://www.farmersrights.org/getfile.php/133453-1693478865/Dokumenter/fmss-legal-framework-2022.pdf>

The EU better regulation guidelines⁶ address PCD concerns. They prompt the institutions to look at the impact on food security, trade and finance in developing countries, including effects like undermining local production, redistribution of value, measures affecting climate adaptation, and social impact on human rights or on ecosystems. The guidelines emphasise the environmental impacts of any policy initiative, such as the impact on biodiversity, soil quality, land use changes, or the effect on ecosystem services and natural capital.

DeSIRA report

The DeSIRA report on seed laws harmonisation in Africa⁷

The EU DeSIRA, Development Smart Innovation through Research in Agriculture initiative supports the transformation of agriculture and food systems through agroecological approaches. Deriving from the Commission's work on PCD, the DeSIRA study on seed laws harmonisation in Africa affirms the EU's human rights approach in support of farmers' rights to save, reuse, and exchange or sell farm-saved seed, and acknowledges the influence of the EU on seed laws in Africa through economic and trading relations.

The study provides an overview on farmers rights in African treaties and instruments that do or do not recognize farmers' rights. Its analysis demonstrates that farmer seed systems are more strictly regulated in Africa and allow for less flexibility for marketing of traditional and farm-managed seeds compared to the EU, even though 70 percent of marketed seed stem from farm-based seed systems. The study concludes that DUS-compliant seed policies that are detrimental to biodiverse seed offers in Africa should be corrected. As the level of adoption and application of different international or regional instruments varies across the continent, Africa would benefit from increased coherence.

The African Union guidelines for the harmonisation of seed regulatory frameworks^[1] mention farmers' rights. The Arusha Protocol provides explicit considerations for farmers' rights by broadening the farmers' privilege provisions. The regional economic communities in Southern Africa, SADC, and in West Africa, ECOWAS, provide for opportunities to register landraces and indigenous varieties. However, in Eastern and Southern Africa, COMESA excludes farmer participation in agricultural and seed policy making.

The study describes how things went wrong with the endorsement of UPOV-91 in the absence of marketing laws and seed protection for farmer-managed seed systems. It argues that much more flexibility is needed to create frameworks that protect and boost farmers' right to seeds. To this end, existing EU programmes in support of non-state actors could be extended to farmers' organisations in Africa, in line with provisions on the realisation of farmers' rights in the framework of the Plant Treaty and the Right to Food.

^[1] AUC/DREA/C/036 - Call for proposal 2020; African Continental Seed Harmonisation (ACSH) initiative 2021

⁶ The better regulation guidelines set out the principles that the European Commission follows when preparing legislative proposals. The guidelines apply to each phase of the law-making cycle. It ensures evidence-based and transparent EU law-making that considers the views of those that may be affected. See https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf

⁷ Peter Munyi (2022), Current Developments in seed laws harmonisation in Africa, Report to the European Commission DeSIRA-LIFT, the Development Smart Innovation through Research in Agriculture programme



2. The EU Seed Reform Proposal

The European Commission's Regulation proposal⁸ for the marketing of plant reproductive material was published on 5 July 2023, together with the proposal on products of new genomic techniques. The latter highly risks hampering rights to seeds, especially the right of peasants and farmers to control their seeds, while the seed marketing proposal provides some starting points for enacting proportionate rules for the different seed systems that exist in Europe, despite important shortcomings. On 19 March 2024, the European Parliament's Agriculture Committee voted on the seed file in favour of increasing seed diversity and affirming farmers' rights to sell and exchange their own seeds under specific conditions or within (some) limitations. The EU Council's position on the file was still being awaited at the time of writing, before tripartite negotiations (trilogues) to decide on the definitive rules that will govern many seed actors, both within and outside the EU. Advocacy and lobbying activities on the EU seed marketing reform were based on the comprehensive analysis and knowledge of (1) the current applicable law and (2) the new proposal of the EU Commission, as well as the elaboration of (3) amendments presented during the co-legislation process by the European Parliament, and (4) recommendations for the ongoing tripartite negotiations between the Commission, the European Parliament and the EU Council.

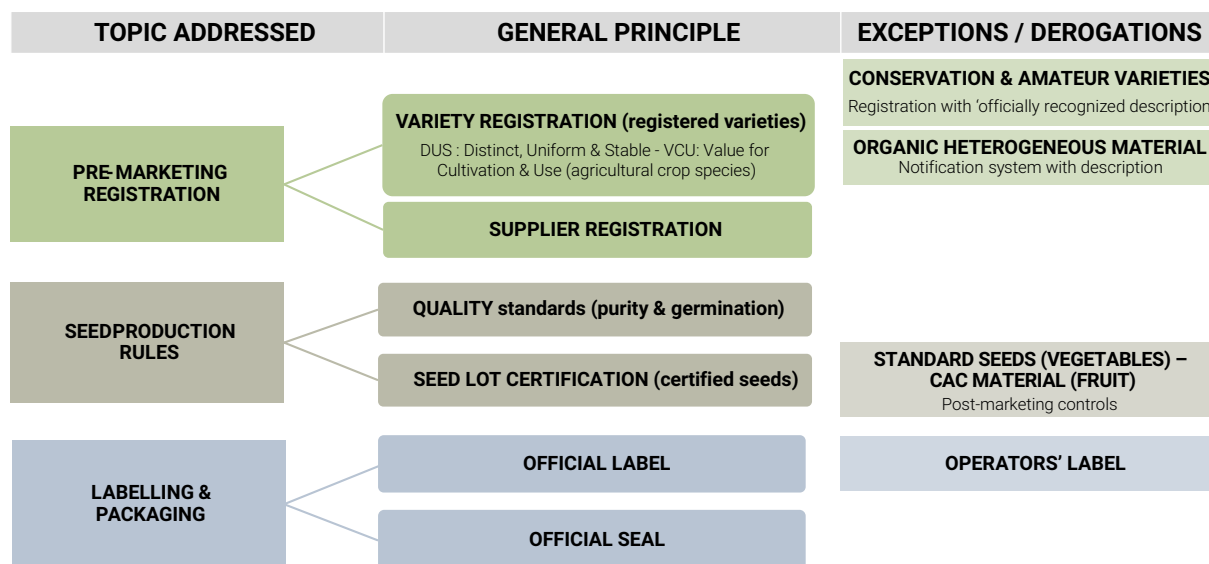
Providing distinct rules to different market actors in respect of the principles of subsidiarity and proportionality in the EU Single Market will make the EU fit for inclusive growth. In line with the EU's obligations under the ITPGRFA and the Convention on Biological Diversity, seed savers, farmers, conservation networks and community seed banks should not have to comply with seed laws made for the seed industry.

We believe that the seed marketing legislation should establish proportionate rules that are tailored to the needs of seed users, maintaining standards that align with those users' values and practical circumstances, while also evaluating the actual scope of sanitary or fraud risks associated with seed exchanges in small quantities.

⁸ [Procedure File: 2023/0227\(COD\) | Legislative Observatory | European Parliament \(europa.eu\)](#)

2.1 Current EU Seed Legislation

In the EU, the main principle of seed marketing legislation is that only **'quality certified seeds'** from registered varieties can be officially marketed, bearing an official label and seal. Both variety registration and seed quality controls are done prior to the marketing of seeds, by public authorities acting in line with the 12 EU Directives that regulate crop-specific seed markets. Even though the objectives of the EU seed marketing legislation have gradually been adjusted to consider the principles and obligations arising from international environmental law (such as biodiversity conservation), the policy continues to focus mostly on stringent requirements for entering the EU seed market and only activating market tools for the needs of industrial crop production.



Graph 1: General principles of current EU seed marketing legislation

Pre-marketing registration requirements apply either to the operator selling the variety, or the variety itself. In many cases they apply to both. The rationale behind the registration of market operators is to ensure traceability and facilitate controls, allowing public authorities to potentially trace back any compliance, quality and health issues that might arise. In most crop species, the EU seed market Directives also require the registration of plant varieties in their national (and then the EU) catalogues before they are allowed on the market. For this, plant varieties need to be Distinct, Uniform and Stable, following the same criteria needed to obtain an intellectual property title giving a competitive advantage on that same market for a limited period.

DUS tests are generally conducted according to UPOV protocols. In addition to DUS, other tests are required in agricultural crop species, examining the variety's 'Value for Cultivation and Use' (VCU) in agricultural crop species in the EU, and testing the added value of the variety in the field. But VCU tests are done under conditions that rely heavily on external inputs such as synthetic fertilizer and hence discriminate against agroecological seeds from farmer-managed seed systems.

Once a variety is registered, its seeds or plant propagated material can only be marketed according to specific **seed production rules**. While certified seed is the strictest category that is mandatory for most species, EU seed marketing laws have exceptions such as standard vegetable seeds or fruit CAC (Conformitas Agraria Communitatis) material that follow lighter rules and controls.

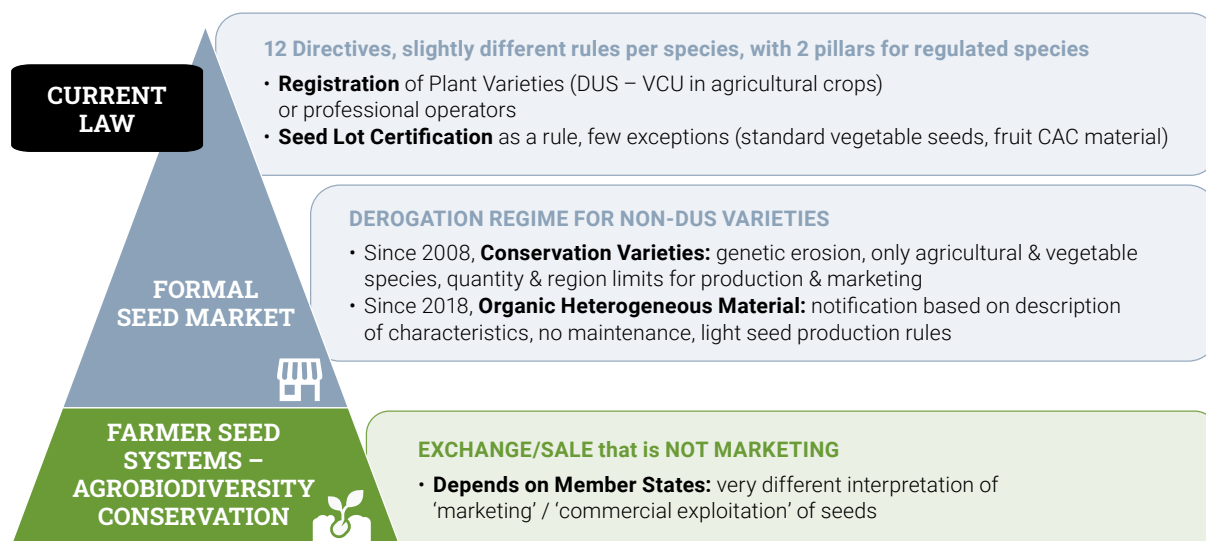
Some derogations were adopted back in the 1990s to allow for the marketing of seeds from less uniform



Peasant farmer in North Kivu, Democratic Republic Congo: Local seeds are usually best adapted to the respective climatic and geographical conditions.

varieties: a) the conservation variety regime for agricultural crop and vegetable species, threatened by genetic erosion, which can be marketed with quantitative limits in their region of origin (in addition to the so-called amateur variety regime for vegetable seeds to be sold in small packages), and b) organic heterogeneous material established under the EU Organic Regulation 2018/484, which permits the sale of seeds from material notified to competent authorities on the basis of a description of characteristics rather than DUS tests.

What falls outside the scope of seed marketing rules is sometimes even more important than what is regulated by them. Indeed, the notions of ‘professional operator’ or ‘marketing’ can have pronounced effects on farm-based seed systems and the conservation of seed diversity.



Graph 2: Rules on formal seed market and farmer seed systems in currently applicable EU legislation

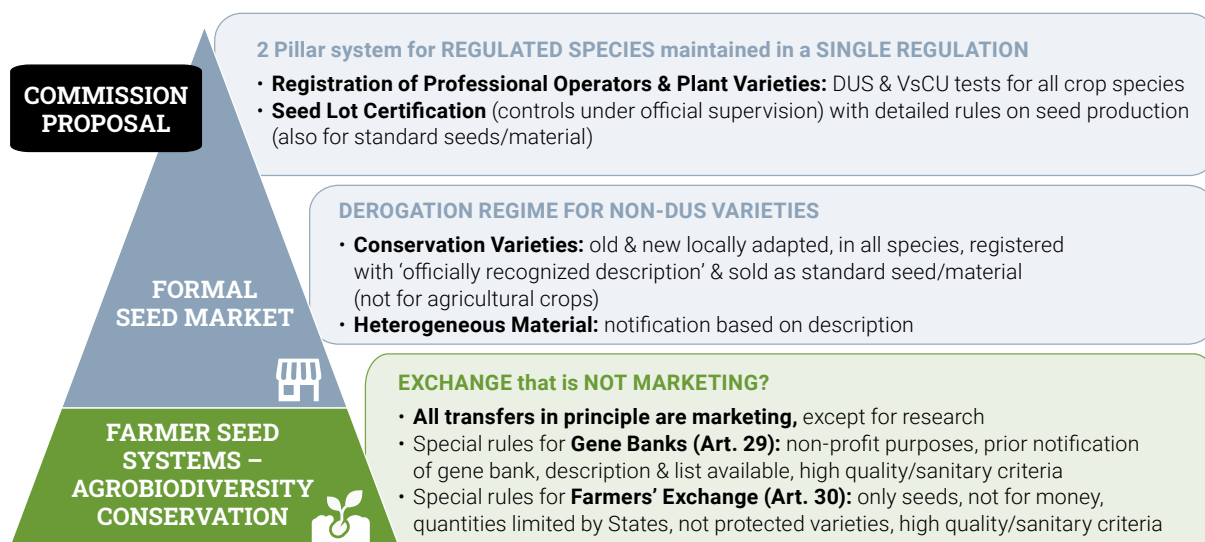
2.2 The new Seed Law Proposal by the European Commission

The EU seed marketing laws are undergoing a major reform. **The EU Commission proposal published in 2023** comes ten years after a first unsuccessful attempt, which was blocked due to its potential detrimental impacts on biodiversity.

The new proposal considers any and all transfers of seeds as marketing. It requires all operators, including those who merely produce seeds, to register as a general premise, even if the new proposal leaves some space and more flexibilities for seed exchanges and sales happening for conservation (Art. 29) and between farmers (Art. 30). In essence, the EU Commission proposes to considerably expand the scope of the seed marketing legislation, encroaching on farm-based seed systems by imposing standards that are not suited to their needs.

For the first time, the concept of the dynamic management of agrobiodiversity based on farmers’ seed exchange finds its way into a binding EU instrument. This long-overdue acknowledgment of farmers’ contributions to the conservation and sustainable use of agrobiodiversity represents an important effort to formalize their roles and functions within legal frameworks. However, the limited attention and space granted to farm-based seed systems in the proposed Regulation may undermine the agency and flexibility needed to effectively recognise and support farm-based seed systems, ultimately failing to fully respect and fulfil farmers’ rights to seeds. Although formalizing these systems in a legal act is a step toward recognizing farmers’ rights, it poses a risk of imposing restrictive boundaries that could have detrimental and unintended consequences, potentially misrepresenting their diversity and various organizational models by placing them into restrictive niches.

The proposal also wishes to diversify the EU seed market, potentially offering farmers better access to locally adapted seeds. It no longer restricts the EU seed market to DUS varieties, and introduces an enlarged concept for conservation varieties (defined as old landraces but also newly bred, locally adapted non-DUS varieties) to be marketed without quantity limits for all crop species. It also authorises seeds from non-organic heterogeneous material in the EU market. Furthermore, it also eases the burden on the seed industry by allowing certain tests to be carried out by supervised and authorised operators; even though the general market access is made more stringent with a mandatory test for varieties’ value for sustainable cultivation and use in all crop species.



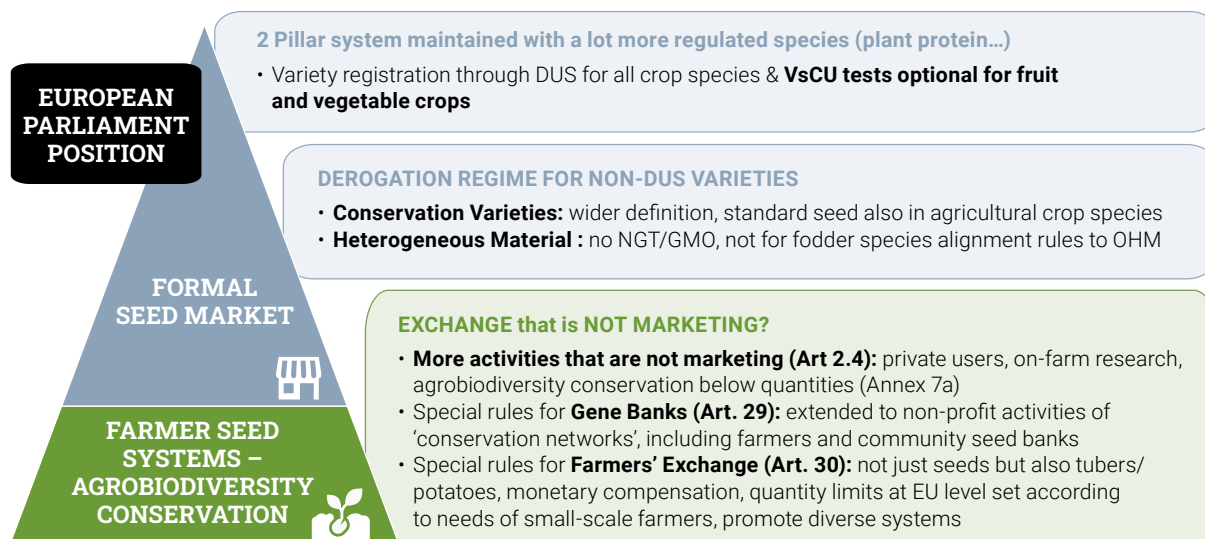
Graph 3: Rules on formal seed market and farmer seed systems in the European Commission Proposal of July 2023

2.3 The European Parliament's Position

The European Parliament plenary vote in April 2024 took positive steps towards the realisation of farmers' rights and seed diversity, as it:

- exempts activities of 'conservation networks' aimed at the dynamic conservation of agrobiodiversity below certain quantities (Annex VIIa), as well as on-farm research from the scope of the seed marketing legislation,
- adopts tailored and proportionate rules for conservation networks and the exchange and sale of seeds by farmers beyond the quantities of Annex VIIa, including the opportunity to exchange all types of plant reproductive material and receive monetary compensation, with quantity limits considering the needs of small-scale farming to be adopted by the EU Commission,
- adapts the specific market access regimes of conservation varieties and heterogeneous material to ensure the diversification of the seed market; offering an enlarged concept of conservation varieties and non-organic heterogeneous material, which is direly needed to support agroecological production and grant farmers access to seeds of varieties adapted to their growing conditions.

These positive steps have been received critically by the seed industry and industrial farmers. They claim this will lead to sanitary problems and create parallel markets of low seed quality. However, the existing EU plant health regulation 2016/2031 applies to all exchanges of seeds, whether these are marketed or not. Stringent rules are triggered by the mere 'movement' of seeds and includes comprehensive traceability requirements. As a result, any exemptions introduced in the seed marketing reform will not compromise nor injure seed health.



Graph 4: Rules on formal seed market and farmer seed systems in the position of the European Parliament adopted in April 2024

2.4 Comments and Recommendations by Brot für die Welt and Swiss Church Aid HEKS/EPER

Based on discussions and exchanges with partners from the Global South and EU associations active in seed policy, Brot für die Welt and HEKS/EPER affirm that the reform should be guided by three core principles:

- (1) the recognition of the EU's role as a global actor,
- (2) the need to avoid corporate capture while ensuring meaningful civil society and peasant participation,
- (3) ensuring alignment with the right to food and the rights to seeds as per UNDROP and ITPGRFA obligations.

The EU seed marketing legislation should be viewed and scrutinized with regard to its **enhanced flexibility**. This could be considered to offer options for adapting to local conditions, while respecting the diversity of agricultural and seed systems. Assessing the likely impacts of seed marketing changes on the Global South, Brot für die Welt and HEKS/EPER recommend that:

- **Positive discrimination towards agroecology and local seed systems** is provided for, ensuring that agricultural genetic diversity is valued as a foundation of agroecological practices, rather than merely as a breeding resource for private entities.
- **Farmers should be empowered to exchange seeds through mutual aid** with appropriate requirements that reflect the characteristics of farm-based seed systems. Additionally, they should have access to locally adapted varieties, both conservation varieties and heterogeneous material, especially those that do not require the use of synthetic inputs, as part of the diversification of pathways to the EU seed market and a just agroecological transition.
- **To address global biodiversity loss and ensure food security**, the EU must enhance its actions to conserve genetic resources and seed diversity, not only in gene banks, but also in local ecosystems. It is essential that small yet sufficient amounts of seeds can circulate freely outside the scope of commercial regulations, which should focus solely on market activities.
- **Such a 'conservation exception' will help diversify the genetic basis** necessary for adapting to local growing conditions, thereby supporting global food security and climate resilience. Such exemptions intended for conserving agrobiodiversity and empowering farmer-based seed systems will not jeopardize the EU seed market, nor compromise plant health.
- The EU seed law should provide for a proportionate and adapted regime for **the marketing of locally adapted varieties**, whether conservation varieties (both old and new) or heterogeneous material. Locally adapted non-DUS varieties have proven to be better equipped to adapt to lower-input agroecological production, especially in marginal areas and local markets rooted in territories and communities.
- **All seed users should have the right to an informed choice** about the seeds they are purchasing or receiving. **Transparency** regarding breeding methods and access to information about relevant intellectual property rights is essential to protect both farmers and breeders from potential patent infringement and to provide informed choices for all seed users. In line with the European Parliament position, both national and EU Variety Registers should contain mandatory information both on the existence of intellectual property rights that could restrict the use of the seeds, and also on the breeding techniques used to develop the varieties, especially when they involve biotechnology and gene editing.



"Trueque de semillas": Event for seed exchange in Consacá, Nariño, Colombia

Furthermore, the reform should build synergies across EU policies by fostering a more **democratic and participative governance structure**:

- The EU must consider including provisions for **meaningful stakeholder participation in the governance** of seed marketing legislation. This includes **consulting stakeholders** at various stages of variety registration, establishing an open appeals system, and imposing reporting obligations for the European Commission. The seed marketing reform could and should design a governance system that is aligned with its newly added objectives, as it now explicitly aims to contribute to the conservation and sustainable use of agrobiodiversity.
- The legislation should build effective **safeguards to protect traditional knowledge** held by farming and local communities. Only minor procedural improvements have been suggested by the EP, allowing stakeholders to provide documentation on the identity and denomination of varieties for which a registration request has been made. But this is a weak threshold against the misappropriation of farmers' varieties and their names.

In summary, the future EU seed marketing regime must exclude farmer and peasant seed systems from extensive regulatory frameworks that only increase the bureaucratic burden. This calls for establishing a specific user-friendly regime governing the exchange and sale of seeds between farmers, ensuring access to high-quality locally adapted varieties, and providing transparency on breeding and production methods.

By establishing clear and easy-to-follow rules and limits for conservation activities and farm-based seed systems, we think that the EU could provide legal certainty to numerous seed savers and farmers who engage in seed production and transfers for the purpose of conservation; all the while diversifying the EU seed market by allowing the marketing of standard seeds of conservation varieties, both old and new, along with heterogeneous material in all crop species.

The EU should also be held accountable for ensuring that its external measures in the Global South do not impose stricter rules than those applicable within its borders, aligning its trade policies and funding with these principles.

By implementing these principles, Brot für die Welt and HEKS/EPER believe that the EU seed marketing reform can contribute to an agroecological transition towards sustainable, resilient, and equitable agricultural systems that respect farmers' rights, promote local adaptation and contribute to the fulfilment of the right to food.



3. A Joint Advocacy Journey

3.1 How we Made our Voice(s) Heard

The advocacy project Seed Markets for Agroecology on the EU seed marketing reform explored and used policy spaces to amplify peoples' voices, with a view to realising the human right to food and farmers' rights to seeds. Activities started back in 2020 and are ongoing in 2025.

2020: A scoping exercise in 2020 led to the publication of the PCD Discussion Paper on Seed Markets for Agroecology, examining the international aspects of the EU seed marketing reform. From the start of the preparatory phase of the EU reform in early 2021, the project sought feedback from Southern partners on their concerns and priorities on these issues. As a result, draft PCD recommendations for the EU seed marketing reform were developed.

2021: Despite the EU's treaty obligation on PCD, EU institutions were reluctant to fully recognise the PCD links with the EU seed marketing laws which mainly govern the EU internal market. To improve understanding on PCD, the project engaged with two different European Commission departments, bringing together DG INTPA on international partnerships and DG SANTE, responsible for the seed marketing dossier. The project also reached out to European civil society organisations active with regard to the seed marketing dossier, such as seed savers and peasant and organic movements, to raise awareness on the international dimension of the EU reform, echoing the concerns and priorities identified with Southern partners.

2022: PCD recommendations for EU institutions were drawn up calling for no harm to be done to peasants' right to seeds, to increase EU action to tackle biodiversity loss and to build synergies with other EU policies to enhance resilient agricultural and food systems for all. Even though the European Commission has not included a PCD chapter in their impact assessment of the EU seed law reform, DG INTPA was effectively mobilized by the project team, resulting in a comparative scoping study published in 2022 on the realisation of farmers' right to seeds and participation in the DeSIRA study on current developments in seed laws harmonization in Africa.

2023: The European Commission published its proposal for a regulation in July 2023. It responded to some of the concerns raised by the project such as specific provisions on farmers' seed exchange, easier pathways to seed marketing adapted to agroecological farming and promoting agrobiodiversity. The project team analysed and compared the Commission reform proposal with its PCD recommendations. Amendments were formulated and circulated to influence the position of the European Parliament, in cooperation with civil society organizations in Europe and several regions in the Global South.

2024: Early in 2024, the European Parliament discussed the file in the Environment Committee and in the Agriculture Committee. The year 2024 was a crucial juncture, when PCD recommendations needed to be translated into concrete amendments tabled for vote in the European Parliament. For this, outreach to generate support for the demands of the advocacy campaign was needed. As elaborated during the earlier webinars, changes made to the EU seed marketing rules will directly or indirectly impact and influence negotiations on seed laws in Africa or other third countries. PELUM and AFSA members demonstrated how the exchange of expertise on seed marketing rules help advance the realisation of the rights to seeds. In April 2024, the EP plenary vote adopted the final report on the file by the rapporteur, MEP Herbert Dorfmann, with amendments bringing the legislation closer to the right to food.

A participatory approach to advocacy strategy				
2020 Launch of Inception Impact Assessment – Study on options for EU seed marketing reform	2021 - 2022 Formal Impact Assessment Process at EU level (stakeholder consultation)	2023 Publication of EU Commission proposal for new EU seed marketing Regulation	2024 EU co-decision process: Negotiation positions of EU Parliament & Council of the EU	2025 Finalisation of Council of the EU position on the reform – Launch of tripartite negotiations (trilogues)
<ul style="list-style-type: none"> ACT Alliance EU Discussion Paper on Seed Markets for Agroecology 	<ul style="list-style-type: none"> Webinar with Southern partners on external impacts of the EU seed reform Webinar with EU actors active in EU seed laws on Policy Coherence for Development in the EU seed reform PCD recommendations on EU seed marketing Webinar on international dimensions of the EU seed marketing reform (with partners from the Global South and CSOs active in the EU) Meeting with high-level representatives of European Commission Directorate General for International Partnerships (DG INTPA) & Directorate General for Plant Health and Food Safety, responsible for the seed file (DG SANTE) DeSIRA study published (DG INTPA) 	<ul style="list-style-type: none"> Technical note on amendments to the EU seed marketing Regulation proposal (refining policy demands into more detailed amendments) Meeting with DG INTPA & DG SANTE 	<ul style="list-style-type: none"> Full list of amendments towards the right to food and peasants' right to seeds (sent to members of the European Parliament, especially those sitting in the Committee on Agriculture & Environment) Meetings of partners from Global South & other EU development organisations to support their involvement in the process (AFSA, CIDSE, Pelum) 	<ul style="list-style-type: none"> Organisation & support of webinar addressing representatives of Council of the EU, together with the Agroecology Coalition and EU CSOs active in organic farming, seed saving and peasant organisations (co-organisation with IFOAM Organics Europe, Demeter International, European coordination Via Campesina, FIAN Belgium, Geneva Academy, Arche Noah & Dachverband Kulturvielfalt)

3.2 Our Advocacy Strategy Learning Journey

In April 2025, negotiations are still ongoing between the European Council, the new European Parliament and the EU Commission. Results are not expected before 2026.

As this brochure is outlining and attempting to demonstrate, Brot für die Welt and HEKS/EPER believe that seed marketing laws are an important piece of legislation and are key to advancing farmers rights. This is essential for robust seed systems and environmentally and socially just food systems based on the right to food, particularly in countries of the Global South.

Brot für die Welt and Swiss Church Aid HEKS/EPER recognise that using a PCD approach will not change the premises of current EU seed marketing laws and will not provide for a distinct and secure legal framework for farm-based seed systems. However, the PCD approach can and has demonstrated the capacity to open new spaces for effective participation that help to forge respect for international agreements. Applying a PCD approach allows for the use of policy instruments and institutional actors in support of human rights frameworks outside the direct remit of the decision-making process. While this may only lead to gradual change, it can provide important anchor points for further advocacy by other actors and may set a precedent in enshrining farmers' rights to seeds and the right to food in seed laws. Acknowledging and appreciating that different actors will pursue different advocacy strategies, Brot für die Welt and Swiss Church Aid HEKS/EPER welcome their contribution through this distinct approach.

A step-by-step approach to advocacy strategy

1. Identify domestic EU policy issues of relevance to Global South

Identify PCD angle and relevance, in consultation with partners.
Study and prepare PCD arguments of relevance to the EU legislation at stake.
Understanding PCD as door opener, limited to incremental change, rather than a game changer.

2. Start in time and stay in for the long term

Early birds secure a seat in the process.
Continuity increases credibility and competence.

3. Ensure capacity and expertise on process, participation, and content

Use PCD entry point to trigger meaningful participation in the process.
Study the process. Get to know its structure. Identify key moments in the legislative trail.
Tap into existing technical expertise on seed marketing laws.

4. Build alliances

Build strategic alliances with European seed diversity advocates and with peasant and farmer organisations.
Partner with those knowledgeable about and committed to the EU lobbying file.

5. Develop differentiated advocacy positions

Move beyond complete rejection of the proposed law.
Participate with informed inputs to increase uptake in regulatory process.
Formulate recommendations translated into concrete amendments for decision makers.

6. Be aware and explicit on your roles, supply and complete them duly

Be clear on your mandate. Know on whose behalf you are speaking.
Be honest on the limits of your role and your influence in the legislative process.
Be accountable to partners on why their participation matters.
Share lobby power to advance Southern partner voices in EU policy spaces.
Build trust to engage your constituencies.

7. Share and co-create knowledge on advocacy strategies

Identify your influence and gaps at different levels and layers of the strategy.
Run reality checks and ensure feedback loops: Did we make progress? Is it actionable?
Explore and jointly work on how to make best use of the EU's influence on its African Union counterpart and vice versa.

8. Design light structure that can be maintained and financed

Institute a light advocacy campaign structure to remain flexible and focused.
Contribute to partner lobby competence.
Move beyond single issue and seek synergies with broader cross-sectoral frameworks.

Publishing Information

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Photos:

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Page 2, 8, 10, 11: HEKS/EPER

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