

CIVIL SOCIETY ON EU-INDONESIA COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT (CEPA)

- **Mr. Joko Widodo,**
President of the Republic of Indonesia.
- **Mr. Prof. Dr. Pratikno,**
Minister of State Secretary of the Republic of Indonesia
- **Mr. Muhammad Lutfi**
Minister of Trade of The Republic of Indonesia
- **Ms. Retno L.P. Marsudi**
Minister of Foreign Affair of The Republic of Indonesia
- **Mr. Dr H. Syahrul Yasin Limpo, S.H, M.H**
Minister of Agriculture of The Republic of Indonesia
- **Mr. Djatmiko Bris Witjaksono**
Director General of International Trade Negotiations, Ministry of Trade
- **Mr. Prof (Riset) Dr. Ir. Erizal Jamal, M.Si**
Head of Center for Plant Variety Protection and Agricultural Licensing Ministry of Agriculture

RE :

EU-Indonesia CEPA (Comprehensive Economic Partnership Agreement) Must Not Include Obligation to Join or Implement UPOV 1991.

The undersigned organizations work with and for farmers and agriculture from xx countries. We are aware that Europe Union and Indonesia are negotiating FTA (free trade agreement) or called as CEPA (comprehensive economic partnership agreement). In this regard, we call on the Indonesian government to reject the European Union's proposal that requires Indonesia to join or implement UPOV 1991 or impose any other obligation, and/or limitation in accordance to UPOV 1991.

Agriculture is one of the crucial importances to Indonesia's economy. It is the second biggest source of employment, in particular in the country's rural areas, with around 33% of Indonesia's labor force being employed in the agricultural sector. It accounts for 14% of GDP. 93% percent of Indonesia's total number of farmers is small family farms (i.e. small-holder

farmers). 93% of these farmers have an average land holding of 0.6 hectares.ⁱⁱ Seeds are one of the most basic things for farmers and the agricultural sector. In Indonesia most of the seed is supplied by diverse farmer seed systems. The main pillar of this system is the farmer's right to save, use, exchange, and sell farms save seeds as well as the freedom to breed and sell their breeding seeds.

However, the 1991 Act of the UPOV Convention (UPOV 91) deprives farmers of the right to exchange and sell protected seeds or propagating material. Even saving seeds and replanting on their own fields is prohibited for most plant species and restricted for others. Therefore, UPOV 91 not only jeopardizes the right to food and food sovereignty, but is also a threat to agrobiodiversity.

The UPOV system provides a greatly rigid legal framework and is not suitable for small-holders farmers especially in developing countries. This system was developed in the 60s for seed production modalities in developed countries, especially in Europe. Indonesia and other developing countries have never participated in UPOV negotiations. Therefore, many independent experts recommend that developing countries should not join or implement the UPOV system in their country.ⁱⁱⁱ

The diversity of varieties saved in gene banks and cultivated in fields and gardens across the world, which is an indispensable resource for breeding new crops, relies on functioning farmers seed systems. If we destroy these systems, we harm humanity as a whole. The dangers of inappropriate plant variety protection laws have been highlighted by many different reports and studies in recent years. The main arguments are also summarised in a briefing paper accompanying this open letter.

The Special Rapporteur on the Right to Food, Michael Fakhri, in its last report *"Seeds, right to life and farmers' rights"* where he recommends that UN "Member States should consider: Not pressuring other Member States to join the International Convention for the Protection of New Varieties of Plants in any way. Being a party to that Convention should no longer be required as part of bilateral or regional agreements.ⁱⁱⁱⁱ Member States are strongly encouraged to remove such requirements from current agreements;" For the reasons aforementioned, we demand the Indonesian government to reject the European Union's proposal in the EU-Indonesia CEPA that requires becoming a member of UPOV 91 and/or Implement UPOV 1991"

Finally, we would like to recall Indonesia's support for the "Declaration on the rights of farmers and people working in rural areas" adopted by the Human Rights Council and the United Nations General Assembly which requires States to "take steps to respect, protect and fulfill the Rights of Farmers and Other People Working in Rural Areas". The implementation of this Declaration requires Indonesia to have full policy space in implementing the relevant measures.

Therefore, in the negotiations for the CEPA of Indonesia and the European Union, no one should influence and limit this freedom. Indonesia must have a policy space to protect farmers' seed systems that are suitable for their agricultural systems, protect farmers' local plant genetic resources, and protect the public interest and enable the government to take steps in implementing the Declaration on the Rights of Farmers and people working in the rural areas.

● Signatories,

● END NOTE

- i) <http://www.fao.org/3/i8881en/i8881EN.pdf>
- ii) The UPOV Convention, *Farmers' Rights and Human Rights - An integrated assessment of potentially conflicting legal frameworks* diterbitkan oleh Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) atas nama the German Federal Ministry for Economic Cooperation and Development" (Juni 2015) tersedia di <https://www.giz.de/fachexpertise/downloads/giz2015-en-upov-convention.pdf>; UNDP (2008) "Towards a Balanced Sui Generis Plant Variety Regime", bisa diunduh di <http://www.undp.org/content/undp/en/home/librarypage/poverty-reduction/toward-a-balanced-sui-generis-plant-variety-regime.html>; "Owning Seeds, Accessing Food – A human rights impact assessment of UPOV 1991 based on case studies in Kenya, Peru and the Philippines," Oktober 2014. Tersedia di <https://www.publiceye.ch/en/topics-background/agriculture-and-biodiversity/seeds/owning-seeds-accessing-food/>; Carlos M. Correa et al. (2015), « Plant Variety Protection in Developing Countries: A Tool for Designing a Sui Generis Plant Variety Protection System: An Alternative to UPOV 1991 », APBEBES, bisa diunduh di <http://www.apbrebes.org/news/new-publication-plant-variety-protection-developing-countries-tool-designing-sui-generis-plant>
- iii) Michael Fakhri, "Seeds, right to life and farmers' rights Report of the Special Rapporteur on the right to food", 2022, <://documents-dds-y.un.org/doc/UNDOC/GEN/G21/397/86/PDF/G2139786.pdf?OpenElement>