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Letter to the Editor

11 March 2026

GLOBAL OUTCRY: Do Not Join UPOV 1991

Sahabat Alam Malaysia (SAM) and the Malaysian Food Sovereignty Forum (FKMM) have submitted an international petition to the Malaysian Prime Minister, Dato' Seri Anwar Ibrahim. This petition signed by 97 international, regional, and national based organisations from across the globe urge the Malaysian government to carefully reconsider the intention to join the UPOV 1991 Convention. Through the petition, this coalition of organisations urges that the essential protections already existing within our own Protection of New Plant Varieties Act 2004 (PNPV Act 2004) are not abolished solely to comply with the stipulations of UPOV 1991.

One of the main reasons for this objection is that the existing law, namely the PNPV Act 2004, has proven effective in offering a balanced legal framework. This Act successfully protects the rights of commercial plant breeders, while simultaneously maintaining the rights of farmers to save, use, exchange, and sell seeds from their own farms. Additionally, the existing act also provides essential protective measures to prevent biopiracy against Malaysia's plant genetic resources as well as providing policy space for the government to protect public and national interests, of which such protections do not exist within UPOV 1991 Act. Accession to UPOV 1991 is feared to undermine this existing system, which is currently regarded as well structured and effective.

Furthermore, there are concerns that the proposed amendments to the PNPV Act 2004 to comply with UPOV 1991 would open the path to a sharp increase in seed prices, support foreign dominance over Malaysia's seed sector, and subsequently erode the nation's seed and food sovereignty. The situation has been further exacerbated by the recent actions of the Ministry of Agriculture, where they submitted a full set of amendments to the PNPV Act 2004 in accordance with UPOV 1991 to the UPOV Council. This was done by circumventing a transparent and democratic process, without any meaningful consultation with those most affected, particularly small-scale farmers and indigenous communities.

At the global level, the UPOV 1991 Convention remains one of the most controversial international instruments, where it has sparked a series of protests and constitutional challenges. For example, the Supreme Court of Honduras and the High Court of Kenya have both declared laws related to UPOV 1991 as unconstitutional. Moreover, international experts, including the UN Special Rapporteur on the Right to Food, have consistently advised developing countries to avoid joining UPOV 1991. Conversely, this instrument is seen as being conceptualised only to advance the commercial interests of the European seed industry, with developed countries such as the Netherlands, Germany, France, Switzerland, the United States, and Japan emerging as its primary beneficiaries.

SAM and FKMM very much hope that the Prime Minister of Malaysia will consider this petition and grievance for the sake of protecting the rights of local small scale farmers and the nation's food sovereignty. We urge the government to demonstrate leadership by halting the proposed UPOV amendments and to continue defending our existing PNPV Act 2004 that has proven its effectiveness.

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