

“Ours to have and to Hold”

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By Patrick Mulvany and Don Redding

Just as the Prince of Wales launched a millennium genebank to conserve 10% of the plant kingdom, over in Switzerland a major threat appeared to the future availability of the economically vital seeds that are used to feed the world. Negotiations to keep their ownership in the public domain virtually collapsed, and were only rescued at the 11th hour.

These negotiations on food crops are a 21st century life insurance for humanity against rapid environmental, social and economic changes. Future food supplies will be under threat unless the talks succeed.

At issue is an agreement called the International Undertaking on Plant Genetic Resources for Food and Agriculture, or IU for short. It covers all the major food crops in the world and aims to ensure the conservation, sustainable use and ‘free flow’ of these seeds so that they are "preserved... and freely available for use, for the benefit of present and future generations".

The IU could keep open access to all crop, forage and agroforestry species used to maintain food security, including the 500,000 samples taken from farmers and *already* in public sector genebanks (and which transnational industries would dearly love to patent and exploit) -- as well as the many hundreds of thousands of varieties out in farmers’ fields.

Smallholder farmers, the backbone of the economy in many countries, have developed and managed a wide diversity of seed varieties over centuries.

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Despite the expanding global trade in brand name seeds and foodstuffs, *up to 90 per cent* of the seeds used by these smallholder farmers are saved on the farm and exchanged freely among their networks. These provide food for nearly two thirds of the world's population.

But the patenting of whole varieties and of parts of the genome, and intellectual property rights regimes which support the biotechnology industries, are increasing the rate of appropriation of genetic resources from the South into private ownership in the North -- so-called 'biopiracy'.

The IU would provide specific rules for a particular category of genetic resources useful to mankind which are covered generically by the WTO's TRIPS agreement. TRIPS governs intellectual property rights and obliges countries to have measures for the intellectual property protection of plant varieties. The contentious central articles of the IU would ensure free flow of these genetic resources and reduce biopiracy. It would also ensure that farmers reap benefits from commercial use of the genetic resources they have developed.

Best of all, it would be law - it would be legally binding within the framework of the Convention on Biological Diversity (CBD).

When the nations who have signed the CBD last met, in May 2000, ITDG and partner NGOs brought smallholder farmers from across Africa to the policy table, where they demanded that the International Undertaking negotiations be swiftly concluded. The CBD issued a call for action to that effect.

The CBD has entrusted the UN Food and Agriculture Organisation (FAO) to host the negotiations. A Contact Group of 41 countries is preparing text for FAO's conference of its 180 member states next year, and thence to the CBD in 2002.

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This dual governance structure recognises the importance of agricultural developments to the environment.

In August the Contact Group agreed text on the contentious articles, but at its November meeting in Switzerland, four countries – the United States, Canada, Australia and New Zealand -- reopened that text and blocked progress. It was déjà vu: almost the same group which tried to stall the Biosafety Protocol to the CBD, and the climate change meeting at the Hague.

This group reneged on agreements because they saw them as possibly interfering with the writ of the WTO. WTO and international property rights lawyers were summoned, failed to clarify proceedings, and time ran out.

Failure of these negotiations would result in large companies having unique capacity to provide the seeds needed for the changing global environment and decide which seeds should be available on the basis of their profit requirements, not food security. . Earlier this year, for instance, a large seed company in Mexico ‘delisted’ 2 000 seed varieties, originally collected from farmers, in order to ‘streamline’ its business. Without a legally-binding IU, even more varieties of crops will become extinct, and diversity, food security and livelihoods will suffer.

The FAO Council has not accepted failure. Instead it instructed the Contact Group to meet again in the New Year. But Venezuelan Ambassador Gerbasi, Chair of the Contact Group, believes there must be a serious stepping up of political momentum around the IU if it is to have any chance of progress.

Developing countries and their farmers want it. Dr Tewolde Debre Egziabher, the Ethiopian Negotiator and leader of the African Group, said recently “The IU is a crucial agreement for us and the majority of the South because it will be legally binding on all countries and will ensure that none can register Intellectual

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Property Rights on our farmers' crop varieties: it will recognise our Farmers' Rights. It will also facilitate everybody's continued access to crop varieties the world over and provide us with long overdue benefits from the commercial use of these varieties in plant breeding, for industry and for food. We hope that the EU will increase pressure on its OECD allies to secure this agreement ”.

So what should be done? First, the EU, led by the Swedish Presidency in 2001, must reinvigorate the process and let the four problematic parties know that Europe means business. The EU must seek an agreement that is strong on binding commitments. It should give its negotiators political backing, and a mandate to negotiate at the table without continually returning to their domestic departments and the Council of Ministers.

Second, while it is appropriate that agriculture ministries are leading, this is about agriculture in its environmental context and environment ministers should line up strongly behind the process. .

At stake is the world's access to a set of patent-free genetic resources on which we all depend. Is that not worth an extra push?

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Patrick Mulvany is food security policy adviser and Don Redding head of public affairs for ITDG, a UK-based charity founded by EF Schumacher which uses technology for practical answers to poverty. Contact enquiries@itdg.org.uk

For official information on the International Undertaking see www.fao.org

For a variety of NGO viewpoints see ITDG's website www.oneworld.org/itdg and the UK Agricultural Biodiversity Coalition of the UK Food Group: www.ukabc.org