

Seeds for All

A Position Paper on the International Undertaking on Plant Genetic Resources

A legally-binding International Undertaking on plant genetic resources (IU), linked to both the Food and Agriculture Organization (FAO) and Convention on Biological Diversity (CBD) is essential for global food security. It is the only agreement that could ensure the conservation and the sustainable use of plant genetic resources for food and agriculture (PGRFA), and the fair and equitable sharing of benefits back to farmers, arising from the use of these resources.

It would:

- ❖ assure global food security in the long term.
- ❖ reward the enormous contribution that farmers all over the world have made to the conservation and development of plant genetic resources, and ensure the continuity of this work in the future.
- ❖ give traditional knowledge the same status as scientific plant breeding.
- ❖ include the distinctive requirements of PGRFA in the Convention on Biological Diversity.
- ❖ conserve the enormous but rapidly decreasing diversity of PGRFA developed by farmers over centuries
- ❖ keep PGRFA in the Public Domain.

Because of the above and the interdependence on PGRFA between countries and the impossibility for bilateral tracking of origin and use of these resources, the IU is an indispensable instrument for these resources. NGOs are calling for the rapid conclusion to the negotiations on the International Undertaking.

We all benefit from the contribution that the diversity of PGRFA has made to food security, but the farmers who developed and sustain this diversity have received little recognition and no incentives.

The NGOs and Farmers' Organisations that participated in the Global Forum on Agricultural Research, held in Dresden in May 2000, adopted a statement which called, among other things, for '*the immediate completion of the International Undertaking*', taking into account '*the contributions to the world's food system and the research needs of farming communities*'.

At the same time, NGOs participating in the COP-V of the Convention on Biological Diversity in Nairobi issued similar calls: "*The Parties to the Convention must send a strong message to FAO to rapidly complete the harmonisation of the International Undertaking on Plant Genetic Resources with this Convention to include forceful Articles on Farmers' Rights; a multilateral system of Access, outlawing proprietary ownership through patents and Plant Variety Protection of all designated materials and the genes they contain; and Benefit Sharing related to end use i.e. food security.*"

History

The 1983 voluntary IU is being renegotiated by countries through the FAO Commission on Genetic Resources for Food and Agriculture to bring into harmony with the Convention on Biological Diversity (CBD) as a legally-binding instrument. As such, it will necessarily contribute to the objectives of the CBD through its focus on the conservation and the sustainable use of PGRFA, and the fair and equitable sharing of benefits arising from the use of PGRFA.

But, given the distinctive nature, origin and problems of PGRFA and the farmers' knowledge embodied in these, the IU will need to provide a framework which simultaneously permits free and facilitated access and exchange, through a multilateral system of access to the resources, and recognises and provides incentives to farmers and their communities for their historical and current contributions to the development of PGRFA, through the implementation of internationally recognised Farmers' Rights.

For the last five years there have been ongoing negotiations to try to secure an international agreement on access to and use of the Plant Genetic Resources for Food and Agriculture (PGRFA), developed in farmers' fields and stored in national, regional and international genebanks. The Intergovernmental Commission on Genetic Resources for Food and Agriculture (CGRFA), housed within the UN Food and Agriculture

Organisation, is charged with leading these negotiations. The aim is to secure an International Undertaking (IU), adapted to be in harmony with the Convention on Biological Diversity (CBD).

During this time, the mandate and scope of these negotiations, as agreed by the FAO and supported by Decisions of the Conference of the Parties to the CBD (COP Decisions II/15, III/11, IV/6, V/9)¹ has been constantly questioned by some countries. The conflict is largely between those who wish to see farmers and other stakeholders have free multilateral rights of access to, and benefit sharing from, genetic resources they have developed and use to maintain food security; and those who support bilateral arrangements and the encroachment of intellectual property rights and law into these areas.

Demands for an IU that will make a difference

In general:

- ❖ We need a clear political statement for new and additional funding to implement the IU.
- ❖ We demand that serious, legally binding benefit sharing, in accordance with the CBD, is implemented in the IU.
- ❖ Because there are many lessons to be learned, the IU needs a mechanism for reviewing the agreement. With fixed reviews, the IU could be signed earlier, because some questions, which cannot be solved now, could be negotiated in the following years.
- ❖ The IU needs a strong, independent and open-ended Commission, with representation from Farmers' Groups and Civil Society Organisations, to control the implementation.
- ❖ No Patents or IPRs as defined in the UPOV system, should be taken out on the material, including the germplasm and the genes it contains, received through the multilateral agreement.
- ❖ An obligation to implement Farmers Rights in all countries.

Specifically:

1 Legal Character

The IU should be a legally binding instrument adopted as a protocol to the CBD and under the auspices of the FAO. Where other existing international agreements are in conflict with the objectives of the IU and could cause damage or threat to PGRFA, the IU has to have precedence.

2. Coverage of the multilateral system of access and benefit-sharing

The multilateral system should cover all PGRFA, especially that which is of importance to food security in any specific locality. A clear demarcation between PGRFA and other genetic resources that are regulated under the CBD could be achieved by listing the species or genera that should be included in the IU.

3 Access and Benefit-Sharing and Financial Incentives

Access and benefit-sharing should be regulated within a multilateral system which is part of the IU.

Access to germplasm, facilitated through the multilateral system, would itself be a major benefit to all stakeholders. To do so, access has to be provided to all PGRFA, *in situ* and *ex situ*, acquired both before and after the coming into force of the CBD. To guarantee a facilitated access to all germplasm exchanged through the multilateral system, the material, germplasm, genes and derivatives thereof,

¹ The landmark 1996 Buenos Aires COP Decision III/11 on the conservation and sustainable use of agricultural biodiversity echoes the three objectives of the CBD and contains paragraphs that include *inter alia* decisions on a multi-year Programme of Work to promote the positive and mitigate the negative impacts of agricultural practices on biological diversity in agro-ecosystems and their interface with other ecosystems and promote the objectives of the CBD with respect to genetic resources for food and agriculture. In Annex 1, it describes the problems and possibilities for agricultural biodiversity in different agricultural systems. The Decision also highlights the need to establish a relationship with WTO on matters concerning trade and agricultural biodiversity, and it encourages the FAO to complete the negotiations on the International Undertaking to be in harmony with the CBD.

should be excluded from patenting and from IPRs like the UPOV system. If Access is facilitated in this way, future breeding work and Farmers' Rights will be supported.

Benefits should be shared through the fair and equitable sharing of the results of research and development, incentives and other public sector measures and the benefits arising from commercial utilisation of PGRFA for plant breeding and food. In addition, extra financial incentives could be secured through a global fund resourced from government grants and intergovernmental programmes.

These grants, income and revenues should be under the political control of the Conference of the Parties to the IU and be used to contribute to agreed plans and programmes to implement Farmers' Rights and to support PGRFA conservation and sustainable use (e.g. the Leipzig Global Plan of Action) in particular in developing countries.

4 Farmers' Rights

The Farmers' Rights are crucial for the conservation and development of PGRFA. The wording of the composite draft text, adopted by the eight regular session of the commission on genetic resources for food and agriculture (CGRFA, April 99) is as yet incomplete as it:

- does not provide international rules on Farmers' Rights (the present draft still makes them subject to National legislation). Such rules should include the prohibition of any biological methods (e.g. Terminator Technologies) that prevent farmers from saving seeds.
- does not guarantee farmers their inalienable rights to save, use, exchange and sell seeds and other propagating material and, in the case of seeds and other material restricted by national law, the right to sell them in their customary manner and markets.

Timetable

The CBD has reiterated its willingness to consider the renegotiated IU as a legally-binding instrument linked to FAO and the Convention, possibly as a Protocol. (Decisions III/11 and V/9). The CBD also calls upon "...Parties to coordinate their positions in both forums." (Decision V/9). The timetable for achieving this before COP 6 in 2002 is tight and requires agreement of the finalised text at FAO's Council in November 2000, so that it can be discussed by SBSTTA 6 in 2001. An alternative timetable might be its adoption by the FAO Conference in November 2001 and its presentation directly by the FAO Conference to the CBD, as originally called for in CBD Decsison III/11. This still gives little negotiating time for completion - the pressure is on. **Donor governments are therefore urged to find sufficient funds to enable rapid completion of the negotiations within this timeframe.**

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Also see: <<http://www.ukabc.org/iu2.htm>>; <www.evb.ch/bd/food.htm> and <www.grain.org>.