

The Biodiversity Convention

Issues That Affect Us All

The first Conference of Parties meeting of the Biodiversity Convention will be held in the Bahamas from November 28 to December 9, 1994. But there are fears that it may not address some serious deficiencies in the Convention, specifically, its' lack of coverage of ex-situ germplasm collections existing prior to the Convention; and, GATT-IPRs (intellectual property rights) that threaten agricultural biodiversity and foster monopoly control of genetic resources. (Ex-situ means out of its' original site or place of origin, e.g., genetic material taken out of a plant and kept in a gene bank). In the August 1994 issue of Third World Resurgence, the Third World Network explains these concerns.

It is not clear who owns and controls the 'ex-situ' collections existing before the Convention came into force. The status of, and access to, ex-situ collections have major implications for biodiversity, especially in relation to food and agriculture. Worldwide, ex-situ collections amount to a massive 4.2 million accessions, including over 2 million accessions of cereals and half a million of food legumes. Unique accessions are thought to be about 50 percent of this total number, and for certain major crops may represent nearly all of the world's remaining diversity.

The Convention's recognition of states rights over biological resources could be undermined if these rights are not given to crop genetic resources collected from their territories before the Convention came into force. These ex-situ gene bank collections are held under the control of the Consultative Group on International Agricultural Research, CGIAR, system, CGIAR works with basic food crops like rice, wheat, potatoes, maize, beans and livestock, fish and forests; under private sector control and under national government control.

Most Significant Collections

While crop germplasm collections are established in about 130 countries, 53 percent of the accessions are located in developed countries, about 12 percent in international centres controlled by Northern countries and only about 36 percent in developing countries, but much of this material is also kept in the North. CGIAR centers hold approximately 35 to 40 percent of the unique samples.

Globally, they may be the most significant collections as they provide the enhanced germplasm that feeds more than half the world's people, it represents control over a significant percentage of the world's food resources.

What is CGIAR?

CGIAR has 18 international agricultural research centres (IARC) thus it is the world's largest international agricultural research network. Created through a World Bank initiative with the Ford and Rockefeller Foundations in 1971, it has no legal identity and no binding rule or bye-laws.

Each centre has its own Board of Trustees, BOT, collectively supported by a small secretariat at the World Bank in Washington DC and a Technical Advisory Committee at FAO in Rome. While the World Bank, UNDP and FAO are the three co-sponsors of the CGIAR, it is actually understood to be the group of about 40 governments and foundation donors (almost all in the North) that meets informally twice a year.



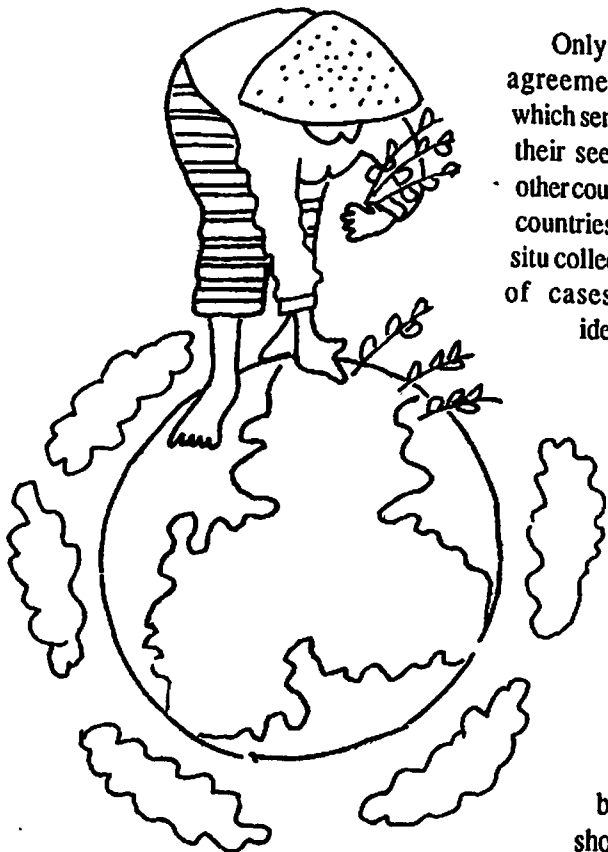
Kora Dandan-Albano

Key Positions

The 18 BOTs represent nationals of 51 countries but 10 industrialised countries control 57 percent of all Board seats, and more than three-quarters of all key committee Chairs are held by industrialised countries. More accurately, four countries, the U.K., Australia, Canada and U.S.A. have half or more of all key staff and nominated posts, they dominate every phase of CGIAR activity. (Information on the CGIAR was provided by Pat Mooney of the Rural Advancement Foundation International, RAFT).

Gene Bank Collections not Safeguarded

It is a scientific principle that to safeguard gene bank collections they be duplicated in another location, but after 23 years less than 36 percent of IARC accessions are duplicated in a second location, and less than 9 percent are duplicated under any written agreement in a location with long-term storage capabilities. Less than 25 percent of duplicated IARC germplasm locations are in developing countries. Most duplicate samples are swapped between IARC's or within the US, U.K. or Japan.



Only 26% of 91 CGIAR agreements with countries which sent duplicate samples of their seeds to gene banks in other countries have developing countries as recipients of ex-situ collections, in the majority of cases the U.S.A. was identified by the CGIAR as the seed recipient.

Development Aid, Commercial Deals and Ex-situ Collections

The CGIAR's gene banks and plant breeding program should meet the needs of

small farmers in Asia, Africa and Latin America, yet, at a government seminar in Australia early in 1994, officials said that the benefit of the CGIAR to Australian agriculture over the past 20 years was at least AUS\$3 billion, and the direct benefit of IARC research to Australian wheat in 1994 is at least AUS\$136 million. In return, Australia customarily gives the CGIAR only about US\$4-6 million per annum, a most lucrative commercial deal!

Industrialised countries are reluctant to explore how they benefit from their 'aid' contributions to the CGIAR, but there is general recognition that the reverse flow of benefits is enormous. Italian authorities place the CGIAR's support to the national pasta industry at US\$300 million each year and ten years ago, the OECD (Organisation for Economic Co-operation and Development) concluded that the benefit to the US wheat economy was at least half a billion dollars per annum and more recent estimates by other researchers place the value at closer to US\$1.7 billion.

In Trust for the Global Community or Biopiracy?

The collections are held 'in trust for the global community' but this is fraught with problems. Firstly, the global community is not uniform and does not reflect an identity of interests. On the one hand, are the original owners of these resources, the farmers whose rights need to be protected through recognising and giving effect to a farmers' rights regime. On the other, are TNCs (Transnational Corporations) that take the resources freely from the collections but want IPR (intellectual property rights) protection for the commodities they create after having freely accessed them. Now with GATT, developing countries must enact IPR regimes modelled on the IPR paradigm of the industrialised North and some countries want to subject the Convention to the strict IPRs of TNCs.

Secondly, resources were not intended to benefit TNCs through IPR claims for commodities they create from the freely accessed material. The farmers and the biodiversity nations were and are the owners of these resources, they are the only real recognisable beneficiaries for whom these

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collections are held in trust. The concept of trusteeship, therefore, must clearly state that these resources are held in trust for the owners (farmers) and the contributors (bioresource-providing nations). They should have the right to regulate access consistent with the concept of sovereign rights over biological resources now clearly recognised by the Convention.

Collections under the jurisdiction of national governments in the North are generally claimed by them to be their property, despite the fact that the resources were freely obtained from countries of the South. The Conference of Parties should determine ownership, control and rights of ex-situ collections of biological materials, and the rights of farmers, indigenous peoples and the countries originally providing the resources should be recognised and formally established.

Intellectual Property Rights

In the paper, 'Agricultural biodiversity and the Convention', the Genetic Resources Action International, GRAIN, says that IPRs are amongst the most serious threats to agricultural biodiversity.

The Convention specifically allows for the patenting of genetic materials so resource-poor farmers and communities are ripped off by rich companies. Effectively, the current patent system as applied to biodiversity, recognises the inventive activities of individuals and companies with access to laboratories and technology, while completely

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GRAIN calls on the Convention on Biological Diversity to start deliberations on a protocol on agricultural biodiversity to be undertaken with the FAO, such a protocol should:

- * establish effective mechanisms to conserve agricultural biodiversity in-situ, ex-situ, and on-farm
- * provide for the recognition of the rights of farmers and local communities over their genetic resources and indigenous knowledge, and establish effective mechanisms to implement these rights
- * establish international rules for access to and benefit from the ex-situ germplasm collections set up prior to the Convention.'

ignoring the intellectual value of innovations carried out by farmers and communities at the local level. Unless this inequity is corrected, the Convention will legitimise this biased and inequitable situation.'

Gender is an organizing principle in society and in many cases gender distinctions have worked against women's autonomy and welfare, thus Isis believes that the rights of women farmers and producers must be explicitly recognized in all discussions on the Biodiversity Convention and be made clear in all its documents, and in documents and discussions by NGOs.

Source: 'Why The Ex-Situ Collections Are So Crucial' by Gurdial Singh Nijar, 'Agricultural biodiversity and the Convention' by the Genetic Resources Action International, GRAIN in Third World Resurgence, No. 48, August 1994, from Third World Network, 228 Macalister Road, 10400 Penang, Malaysia.