

## **The International Seed Treaty of the FAO – An Agreement with Growing Pains**

**Report from the third session of the Governing Body for the International Treaty on Plant Genetic Resources for Food and Agriculture in Tunis, June 1-5, 2009**

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The International Seed Treaty came into effect in 2004 and has already been ratified by 120 countries. From June 1 to 5, the Governing Body of the treaty, which includes all countries that have ratified the treaty, met for its third session in Tunis.

Much like the Governing Body's previous session in 2007, this year's proceedings were dominated by issues of finances or, more to the point, the lack thereof. Only an extraordinary contribution from the Italian government has allowed the treaty-secretariat to continue functioning in recent years. Various OECD-countries (e.g. Germany and the UK) have made no contribution at all to the core administrative budget. Despite the dire funding situation the signatories failed to agree on a set of financial rules for the treaty. At issue was the question whether voluntary member contributions should be based on the indicative scale used by the UN. The G77, Norway, and Switzerland welcomed the scale; Canada opposed it; the EU was split and thus without a voice. The decision was set aside for the next session of the Governing Body (Indonesia, 2011).

The benefit-sharing fund, designed to allow the implementation of the treaty notably in developing countries, is still fairly empty too. (In a first funding cycle some \$550,000 were awarded to 11 projects). NGOs and farmers' organizations attending the Tunis-meeting published a declaration in which they criticized the member countries' unwillingness to contribute and demanded a change in the benefit sharing mechanism. Sustainable funding requires mandatory payments tied to the sale of commercial seed products and not, as is currently the case, a regime

based mostly on donations. Still, a definite fundraising target was set: by December 2014 the fund is expected to raise \$116 million, or approximately \$21 million per year – a rather modest goal for a treaty with 120 signatories charged with securing world’s basic food resources. A review of the benefit sharing mechanism and a debate about ways to improve it had been scheduled for Tunis but were postponed to the next session ‘for lack of available data’. This makes no sense at all. Even now it is obvious that the mechanism lacks the capacity to generate the steady stream of income required to keep the fund stocked. What is really needed is the political will to tap into the source that generates the profits of the seed industry – namely the sale of all commercial seeds. Given the serious shortcomings on the financing and benefit sharing side, developing countries have refused to start negotiations on compliance. They probably fear that compliance procedures might be used to force them to contribute their own collections before the benefit sharing mechanism actually yields the desired results. For obvious reasons this cannot be accepted by them. Once you have given everything away you have no leverage in the fight for adequate benefit sharing.

Also delayed was another open question regarding the multilateral system: should companies be granted facilitated access even if they don’t integrate their own collections into the multilateral system? Until now – and for yet a while longer due to the delay agreed by the 3rd Governing Body – all legal entities have free access to the multilateral system. That includes users who benefit from the system without making any contribution: companies that have not opened their collections and countries which have yet to ratify the treaty. This imbalance should be corrected soon or it will be difficult to attract additional active stakeholders to the process. Why would anyone agree to contribute to the system or ratify the treaty if the benefits can be had free of charge?

For the many farmers’ organizations and NGOs present at the proceedings the negotiations over the implementation of farmers’ rights (Article 9) were crucial. Keeping in mind the limitations of this treaty article for an effective implementation of farmers’ rights, the Tunis negotiations may actually be considered somewhat of a success. With Canada initially opposed, the passage dealing national legislation was especially contested. The parties finally agreed on the following formula: *“The Governing Body – (xi) Invites each contracting Party to consider reviewing and, if necessary, adjusting its national measures affecting the realization of Farmers’ Rights as set out in Article 9 of the International Treaty, to protect and promote Farmers’ Rights.;*”

It is now up to farmers’ organizations and NGOs to urge their governments to review national laws and measures. But another part of the resolution might actually be even more significant in future discussions:

*“The Governing Body – (xiii) Requests the Secretariat to convene regional workshops on Farmers’ Rights, subject to the agreed priorities of the Programme of Work and Budget and to the availability of financial resources, aiming at discussing national experiences on the implementation of Farmers’ Rights as set out in Article 9 of the International Treaty, involving, as appropriate, farmers’ organizations and other stakeholders.”*

Holding such workshops will not only require funds but a genuine commitment to hearing those farmers who actually make an effort to preserve crop variety and are fighting an uphill battle because their rights as farmers are being curtailed.

Potentially even more promising for the implementation of farmers’ rights is Article 6 of the International Treaty (sustainable use) but the outcome of the discussions about Article 6 was very disappointing indeed. It is hard to see how the next Governing Body will assess progress regarding the implementation of Article 6 if states no longer report to the Governing Body directly (as was the case at the Tunis meeting) . Still, the treaty secretariat has been charged with developing a toolbox *„to assist countries in the design of measures to promote sustainable use”*. A draft for this toolbox is to be discussed at the next session.

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For more information see:

International Treaty website (English, Spanish, French): [www.planttreaty.org](http://www.planttreaty.org)

IISD website with daily reports from the negotiations: <http://www.iisd.ca/biodiv/itpgrgb3/>

Statement of farmers’ organizations and NGOs about financing and benefit sharing:

[http://www.evb.ch/cm\\_data/CSO\\_Statement\\_Payments\\_GBIII-EN.pdf](http://www.evb.ch/cm_data/CSO_Statement_Payments_GBIII-EN.pdf)

Declaration by Via Campesina on the Seed Treaty:

[http://www.viacampesina.org/main\\_en/index.php?option=com\\_content&task=view&id=734&Itemid=37](http://www.viacampesina.org/main_en/index.php?option=com_content&task=view&id=734&Itemid=37)

Article of Berne Declaration (BD) on access to seeds and the sharing of benefits in the international treaty (2006): <http://www.evb.ch/p25013294.html>