

International Seed Treaty on major food crops comes into force

The first ever legally-binding treaty on biodiversity for food and agriculture

On 29 June 2004 the International Treaty on Plant Genetic Resources for Food and Agriculture (popularly known as the International Seed Treaty) came into force.



The Treaty will ensure that plant genetic resources for food and agriculture, which are vital for human survival, are conserved and sustainably used and that benefits from their use are equitably and fairly distributed.

To date 54 countries have ratified the Treaty representing a broad range of both developing and industrialised countries.

While welcoming the International Seed Treaty, ITDG calls on the UK government to close a loophole in the Treaty so that major food crops are totally free from patents.

The International Seed Treaty is humanity's insurance policy against future food shocks. The world now has a way of safeguarding the diversity of major food crop seeds for future generations. It is crucial in the implementation of the seed Treaty that the UK negotiators do not water down the principle of free access by farmers and no restrictive patents on these crops.

Some 164 countries negotiated the Treaty under the auspices of the United Nations' Food and Agriculture Organisation (FAO). It should outlaw patents on 64 major food crops but the clause, which bans patents, is open to interpretation. It is vital that the Treaty's governing body, of which the UK will be a member, closes this loophole.

The Treaty legally ensures conservation of the myriad varieties of the world's most important food crops and their free availability to new generations of farmers worldwide. In the past century, 95% of food crop varieties have been lost from farmers' fields.

Four crops – rice, maize, potatoes and wheat – provide more than half the dietary energy of humanity. The loss of the wide diversity of varieties of these crops will have severe implications to the food security of the planet given environmental degradation, pests, epidemics and climate change.

The Treaty will just be a piece of paper if it is not backed by substantial funds from the rich world to support conservation of seeds - not just in seed banks but in farmers' fields where they could be continuously developed. More than a billion farmers in the world's poor countries rely on free access to seeds and replanting seeds saved after harvest. The rights of these farmers should be high on the Treaty's agenda.

The Treaty now opens the way for a similar safeguard on livestock breeds. Countries are now beginning to discuss this, through the FAO. Currently livestock breeds are being lost at twice the rate of seed varieties – 5 per cent annually.



Background:

The International Seed Treaty

The International Seed Treaty (in full, the International Treaty on Plant Genetic Resources for Food and Agriculture – IT PGRFA) is a binding agreement that gives legal force to the conservation of the world's major agricultural seeds and ensures that benefits from their sustainable use will be shared equitably.

The Treaty is a landmark international agreement designed to deal with the rapid loss of [agricultural biodiversity](#). In the past century, 95% of the varieties of food crops have been lost from farmers' fields, with losses running at 2% per year.

The Treaty is at the crossroads between agriculture, trade and the environment, is on a par with trade and environmental agreements, and promotes harmony and synergy across all three sectors. However there are some ambiguities within the treaty, particularly on the issue of patents on seeds.

The Treaty came legally into force this year as a result of the UK, along with other EU member states, depositing their "instruments of ratification" at the Headquarters of the Food and Agriculture Organisation of the United Nations (FAO) on 31 March 2004. It came into force 90 days after the deposition of the 40th ratification – 29 June 2004. Governments that have signed the Treaty are obliged to commit to conserve the diversity of the world's food crops and implement the Articles of the Treaty.

The Treaty covers all plant genetic resources of importance to agriculture, but for some 64 key food crops and 29 forage species it establishes a unique Multilateral System of Access and Benefit-sharing. Benefits are to be shared through information exchange, technology transfer, capacity building, and the mandatory sharing of the profits of commercialisation.

- It should prohibit patents that restrict access to seeds. As such, it provides an alternative model for the governance of the intellectual property associated with plant genetic resources for food and agriculture to the World Trade Organisation's Agreement on Trade Related aspects of Intellectual Property Rights (TRIPs).
- It should ensure realisation of Farmers' Rights, albeit at a national level, through:
 - the protection of relevant traditional knowledge of farmers,

- equitable participation by farmers in sharing benefits derived from the use of seeds,
 - participation by farmers in national decision-making related to the conservation and sustainable use of seeds.
- It also includes a strategy to mobilise funding for the conservation and sustainable use of plant genetic resources. The 1996 intergovernmental Leipzig Global Plan of Action for the conservation and sustainable use of plant genetic resources for food and agriculture agreed in 1996 identified 20 priority activities for achieving this. These include conservation both in farmers' fields and public seed banks.

The Treaty was negotiated by 164 governments under the auspices of the Food and Agriculture Organisation of the United Nations and was agreed by consensus by the FAO Conference on 3 November 2001. The [Convention on Biological Diversity](#) (CBD) has welcomed it as it covers the plant genetic resources of an exceptional set of biodiversity – agricultural biodiversity – that need special treatment. The ratifications of this Treaty are the most rapid of any international agreement in recent history and are evenly spread between industrialised and developing countries.

- [International Treaty on Plant Genetic Resources for Food and Agriculture – International Seed Treaty](#) –  Comprehensive resources and links from the UK Agricultural Biodiversity Coalition.



Securing future food supplies

The Treaty is an insurance for securing future food supplies. It should ensure that the myriad varieties of the world's most important food crops are conserved and are freely available to new generations of farmers worldwide. Although there are many thousands of plants used for food and agriculture, only about a hundred are used widely, and just four – rice, wheat, maize and potatoes – account for more than 50% of the dietary energy of the world's population.

Since the dawn of agriculture 12,000 years ago, humans have nurtured plants and animals to provide food. Careful selection by farmers and gardeners of the traits, tastes and textures that make good food resulted in a myriad diversity of varieties of the relatively few plants and animals we use for food - our agricultural biodiversity. This is the first link in the food chain, developed and safeguarded by farmers, gardeners, herders and fisherfolk throughout the world. Agricultural biodiversity has in-built resilience. It reduces farmers' vulnerability to environmental degradation, new pests and diseases and climate change.

Most of this locally developed agricultural biodiversity is now under threat and needs

urgent actions to halt its privatisation, modification and elimination. International and local actions are needed:

- to counter the rapid loss of these varieties from farmers' fields
- to protect the genetic resources stored in, often poorly maintained, public gene banks, and
- to limit the increasing use of intellectual property rights (IPRs) to claim sole ownership over varieties, breeds and genes, which is further restricting farmers' access.

Agricultural biodiversity, of course, is more than seeds – it is the whole interrelated complex of living organisms that sustain people. But it is the genes that determine the taste, texture and type of food we eat.

Restrictive patents on these genes could negatively affect the food security of over 1 billion smallholder farmers in the developing world. Smallholder farmers' livelihoods are dependent upon the re-planting of seeds saved from the previous harvest. This allows them to select the most appropriate plants for their particular growing conditions. More importantly the seeds are free. Patents on seeds would restrict farmers' ability to grow the food that underpins food security and environmental integrity. Patents also provide the mechanism by which agribusinesses are able to control these resources.

Farmer and Civil Society groups around the world, including ITDG, are campaigning to keep these vital genetic resources in the public domain, free of patents, plant breeders' rights and genetic modification, so that farmers can continue to have access to these resources. The Treaty will play an important role in achieving this.



Challenges

The challenge now is to ensure that the UK and other governments, which have ratified the Treaty and will form the initial Governing Body, provide unambiguous rulings that will prevent patents on seeds. While it is the intention of the Treaty to keep agricultural seeds in the public domain, the article that legislates for this is ambiguous.

The disputed article (12.3.d, below) is in need of definitive interpretation by the Governing Body. The article seems clear enough. "Recipients shall not claim any intellectual property or other rights..." But it then says, "in the form received". Some countries interpret this as meaning Intellectual Property Rights can be granted if changes are made to the genetic resources. But the Governing Body will have to determine what type of changes would be legally accepted as making the resources different from the form in which they were received.

Article 12.3.d "Recipients shall not claim any intellectual property or other rights that limit the facilitated access to the plant genetic resources for food and agriculture, or their genetic parts or components, in the form received from the Multilateral System;"

These ambiguities will need resolution, but the UK has, to some extent, pre-empted negotiation by the Governing Body. The government has accepted the report of its Commission on Intellectual Property Rights which asserts that this Article means that genes extracted from the genetic resources covered by the Treaty and used in new varieties could be subject to intellectual property rights claims. Such an interpretation should be contested by the Governing Body that should ensure that both the seeds and the genetic resources they contain couldn't be subject to IPRs. The Governing Body will also need to ensure that legislation to recognise Farmers' Rights, as described above, is implemented fully in all countries that have ratified the Treaty.

Finally, the Governing Body will need to oblige rich countries to release new and additional resources to fund the work required by the Treaty, especially the implementation of the Leipzig Global Plan of Action's priority activities for the conservation of crop varieties on-farm, and the development of the Global Crop Diversity Trust that will provide an endowment for the long-term protection of seeds in the world's gene banks. The Global Crop Diversity Trust is an international organisation whose goal is to support the conservation of crop diversity over the long term. The establishment of the Trust has involved an historic and unprecedented partnership of the Food and Agriculture Organisation of the United Nations (FAO) and the 16 Future Harvest Centres of the Consultative Group on International Agricultural Research (CGIAR).



A model for governance of genetic resources

The treaty is a model for the governance of all agricultural biodiversity, not just farmers' seeds. It could be used as an alternative to the World Trade Organisation's rules on IPRs on plant genetic resources for food and agriculture. It could also provide the model for all genetic resources for food and agriculture, not just farmers' seeds. A new agreement that will safeguard livestock breeds, also being lost at an alarming 5% per year, and recognise Livestock Keepers' Rights, is this week under discussion at the FAO at an intergovernmental meeting on livestock genetic resources.

Livestock Breeds and Livestock Keepers' Rights

At a [meeting in Kenya last year](#) leaders of traditional livestock and pastoralist communities, organisations, academics and government representatives and ITDG signed up to what was called [The Karen Commitment to Livestock Keepers' Rights](#). This called for the FAO to begin negotiating a legally binding treaty for on livestock genetic resources based on the International Seed Treaty. It also raises issues that should be addressed by FAO's draft Code of Conduct on Biotechnology, developing

this Code to include issues concerning the possible genetic modification of livestock.

ITDG and the International Seed Treaty

ITDG is an international NGO that specialises in working with poor communities to increase technological capability. Its grassroots agricultural work in three continents builds the capacity of poor women and men to use technologies sustainably for food production and environmental management, and underpins its advocacy on agricultural and environmental issues.

ITDG has closely followed the Treaty negotiation process at FAO over the past 10 years. With its partners, ITDG successfully lobbied the successive conferences of the Convention on Biological Diversity to call for a speedy conclusion of a Treaty that should be fair, equitable and comprehensive.

ITDG's research with smallholder farmers highlights their view of the critical importance of agricultural biodiversity, how they sustainably manage their seeds and share these, for example through [Seed Fairs](#), and what support they require to provide the incentives they need in order to continue doing so on behalf of humanity. In our view, an effective Treaty is essential to the global governance of these resources, to safeguard livelihoods, improve food production, implement Farmers' Rights and reward farmers for the essential on-farm conservation of agricultural biodiversity.



Further information

[International Treaty on Plant Genetic Resources for Food and Agriculture – International Seed Treaty](#) –  Comprehensive resources and links from the UK Agricultural Biodiversity Coalition.

[International Seed Treaty comes into force - but will it undermine farmers efforts to conserve diversity?](#) –  "While the achievement of bringing this new Treaty into law is significant there is much work to do to make sure its laudable purposes are not undermined ..."

[2004: the Year of Livestock Keepers Rights?](#)

A summary of October's International Meeting of Indigenous Livestock Breeding Communities in Nairobi, presented at CBD/COP7. ITDG East Africa and the League for Pastoral Peoples facilitated this four-day workshop for representatives of indigenous livestock keeping communities.

- [International Meeting of Indigenous Livestock Breeding Communities, Nairobi, October 2003](#)
- [Karen Commitment on on pastoralist/indigenous livestock keepers' rights,](#)

- [agreed at the workshop](#) —UKabc
- [Report on the meeting from ITDG-EA's KIT newsletter](#)
- [Statement by Patrick Mulvany of ITDG on Agricultural Biodiversity and Livestock Keepers Rights at COP7](#) —UKabc

Sustaining Life and Livelihoods: The Global Commons

ITDG pages on the context of the debate about biological diversity.

- [*Sustaining Agricultural Biodiversity*](#)
A summary of NGO actions since 1996, and an agenda for action on GMOs, trade, intellectual property rights, biopiracy and genetic resource conservation and development
- [*Preserving the Web of Life*](#)
The fast-disappearing varieties of crops, livestock breeds and aquatic organisms threaten the planet's web of life. Urgent action is needed to restore this vital component of biodiversity so essential to food security and ecosystem integrity.
- [*Agricultural Biodiversity*](#)

Background

- [EU signs International Seed Treaty](#)
- [ITDG at the Convention on Biodiversity COP7](#)
- [International Seed Treaty at CBD/COP7](#)
- [ITDG at the World Food Summit 2002](#)
- [Seeds, Breeds and People - the fight over genetic resources](#)
ITDG helped to run a workshop at the NGO Forum for Food Sovereignty on genetic resources, 10 June 2002
[Workshop final report](#)
- [Genetic Futures seminar 2002](#)
- [Sustaining Agricultural Biodiversity and the integrity and free flow of Genetic Resources for Food and Agriculture](#) ITDG/ETC/GRAIN background paper June 2002
- [Genetic contamination threatens a vital reservoir for plant breeding](#) : press release May 2002
- ITDG on the [International Undertaking on Plant Genetic Resources for Food and Agriculture](#) which became the Seed Treaty
- [ITDG's Sustaining Life and Livelihoods campaign](#)
- ITDG pages on [COP5](#) and [COP6](#)
- [ITDG's position on related issues](#), including GM crops, biodiversity, A Genuine Development agenda and the Human Development Report

Links

- [International Treaty on Plant Genetic Resources for Food and Agriculture](#) – official FAO site

- [Food and Agriculture Organisation of the UN \(FAO\)](#)
- [FAO press release on the Treaty](#)
- [UKabc - the UK Agricultural Biodiversity Coalition](#) — 
- [ETC, formerly the Rural Advancement Foundation International \(RAFI\)](#)
- [Genetic Resources Action International \(GRAIN\)](#)
- [World Food Summit 2002](#)
- [NGO/CSO Forum for Food Sovereignty](#)
- [SciDev.net, 2 April 2004: Global seed treaty gets the go-ahead](#)

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