

International Frameworks Regulating the Access and Benefit-sharing of Plant Genetic Resources

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Abstract

Developments in agricultural and pharmaceutical industries are very much dependent on plant genetic resources. Individuals and firms of developed countries used to acquire resources freely from biodiversity-rich developing countries, and obtained patents that were developed from the resources. Cases of biopiracy aggravated developing countries, which resulted in recognising the sovereign rights of States over their natural resources as depicted in the Convention on Biological Diversity. According to the Convention, access to genetic resources shall be subject to prior informed consent of the contracting party providing such resources, and benefits arising from the commercial development of the genetic resources should be shared with those providing such resources. How to implement the CBD provisions can be seen from the Bonn Guidelines that were adopted by the Conference of the Parties to the Convention in 2002. The Guidelines set responsibilities for both the user and the provider of germplasm, as well as detailed steps that may realise the goal of access, prior informed consent, mutually agreed terms, and benefit-sharing. In order to safeguard agricultural research that can be held back by the restriction of

accessing germplasm as set by the framework of CBD/Bonn Guidelines, the legally-binding “International Treaty on Plant Genetic Resources for Food and Agriculture” was adopted by the 180-nation FAO conference on November 3, 2001. The Treaty designated sixty-four major food and forage crops into a multilateral system that all the Contracting Parties agree to facilitate the access of the crop germplasm within the system, and to share in a fair and equitable way, the benefits arising from the utilization of these resources. Other non-legal binding codes of conduct concerning germplasm collecting and transfer, and recently discussed certificated systems for germplasm were also discussed. Taiwan as a sovereign state possesses tremendous high plant diversity within her tiny territory. However the agriculture of this country relies heavily on foreign genetic resources. Legislation of these kinds should follow a delicate balance between the roles of provider and user.

Key Words : Plant genetic resources, bioprospecting, biopiracy, Convention on Biological Diversity, International Treaty on Plant Genetic Resources for Food and Agriculture, Bonn Guidelines, prior informed consent, benefit sharing.