

Agenda Item: International Treaty on Plant Genetic Resources for Food and Agriculture Ratification Support on CLP Agenda

Presenters: Gary Thompson, Hunt Shipman, and Eric Young

Background:

A session at the recent ESS/AES/ARD Workshop in Jekyll Island, GA summarized the background and current status of the International Treaty on Plant Genetic Resources for Food and Agriculture. The International Treaty (IT) has been signed by the USA, but not ratified by the Senate. Workshop attendees heard presentations on background and terms of the IT and the position on ratification from representatives of USDA-ARS, Monsanto, LGU plant breeders, and the American Seed Trade Association.

The IT established a multilateral system for facilitated access to plant genetic resources that uses a standard material transfer agreement (SMTA). Positive features of the SMTA include its administrative simplicity, low-cost access to genetic resources, and provisions for maintaining the resources for research and breeding at the discretion of the developer. However, the SMTA also creates challenges for many breeders, particularly those that use patents to protect intellectual property. Some LGU's and companies have adopted a policy of SMTA-avoidance as a matter of necessity because:

1. Patenting plant breeding inventions triggers costly compliance measures, including mandatory monetary benefits sharing and tracking genetic material in perpetuity.
2. Definition of a plant genetic resource is unrealistic given current breeding practices. In theory, it necessitates the tracking of every gene contained in every accession obtained with an SMTA in every cross. In practice, tracking every accession in perpetuity regardless of whether the material is present or confers any commercial value is cost prohibitive for a breeding program and may be technically impossible.
3. Payment rates are unreasonably high and put the original user (payer) at a competitive disadvantage, while secondary accession (from an initially commercialized cultivar) is unrestricted and free. The commercial restriction triggering payment does not restrict access in markets where a patent cannot be acquired, so a developer has no protection in other markets where competitors will have free access without encumbrance by either a patent or the SMTA.

Due to the SMTA terms, a large pool of plant genetic resources is not available to a significant portion of the public and private sector. The current SMTA-defined value sharing proposition is unacceptable to most institutions and companies, and negatively affects benefits returned to society in the form of improved seed and varieties. Simple modifications could improve the SMTA and facilitate plant breeding broadly, positively impact the conservation and sustainable use of plant genetic resources while also ensuring the fair and equitable sharing of benefits derived from their utilization. However, without Senate ratification, the USA does not have a voice in the discussion or a vote on IT changes, although as a signatory, it is subject to the IT's provisions.

Action Requested: Approve ESCOP's CLP representative presenting this legislative issue to the CLP at its meeting on Tuesday morning, Nov 4.