

International Regime on Access and Benefit Sharing

A Regime to Combat Biopiracy?



Convention on Biodiversity

- Article 3: objective to share benefits
- Article 15 – 19, a legal chaos
- Working Group on Access and Benefit Sharing and on 8j (traditional knowledge)
- Bonn Guidelines
- WSSD: “to negotiate an international regime on benefit sharing”
- Negotiations focus on “disclosure requirement in patent agreements” = evidence that some benefits have been “shared”

FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR)

- Adopted in November 2001, 1st meeting June 2006, established standard contract
- Establishes Access and Benefit Sharing regime (multilateral system) for 64 crops
- “Access”? Patents are possible, but unclear when exactly
- “Equitable share” is 1.1% of selling price = estimated 2.31 million USD per year in total
- Farmer’s rights are recognized but in words only



World Intellectual Property Organization

- Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
- Considers to consider something binding
- Recognizes that private intellectual property rights are not suited to the protection of traditional knowledge and the holistic and collective nature of knowledge
- Wolf in sheep's clothing?

World Trade Organization

- Agreement on Trade Related Intellectual Property Rights: obliges countries to respect (illegitimate) patents and other IPRs
- “Business opportunities for Market in Traditional Knowledge and Genes”
- Discussions focus on disclosure requirement
- Only African group protested against patents, but they seem silenced
- Doha negotiations are hibernating, but not dead yet
- Bilateral trade agreements are equally dangerous

Draft Declaration on Rights of Indigenous Peoples



- Recognizes rights of Indigenous Peoples to resources on their territories, this includes genetic resources
- Adopted on 29 June 2006 by UN Human Rights Council.....
- But African countries in UN General Assembly needed “more time for consideration” ..after 25 years of negotiations

Convention 169 of International Labour Organization

- Adopted June 1989
- “The social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected”
- “The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.”

No Regime without Participation

