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## Trade deals threaten peasant farmer's stewardship of seed biodiversity

Skilful selection and nurturing of the seeds best suited to a particular location are at the heart of peasant farming and agroforestry systems. The resulting agrobiodiversity of hundreds of thousands of crop varieties and animal races found in peasants' fields around the globe provides the corner stone of the world's food system. Peasant farmers and the local varieties that they developed are still feeding the majority of us. By contrast, industrial agriculture dominated by a small number of transnational corporations has drastically reduced the agrobiodiversity of crop varieties grown. It has also encroached rapidly on the land that peasant farmers rely on to produce food and on peasants' access to the diversity of seeds which forms the basis of peasant farming and agroforestry systems.

For millennia farmers have saved, exchanged and replanted seeds year after year, and this practice has created the enormous agrobiodiversity that the world now has. This has always been a thorn in the side of the corporate seed industries that are set on controlling the global seed market, and thereby reducing seed diversity. They want farmers to buy their seed every year, and are continuously pushing governments to adopt ever more stringent laws and treaties to force farmers into the corporate seed market.

One of the main avenues to control farmers' access to seeds are trade agreements. Over 20 years ago, corporate seed corporations successfully lobbied for governments to include the obligation into the World Trade Organisation (WTO) agreement that all countries provide for intellectual property rights on plant varieties. This basically means that companies can claim ownership rights over the seeds they develop and the genetic materials they contain, thus preventing farmers to do what they have done for millennia: save, exchange and improve seeds. This was an important starting point for the corporate seed industry and they haven't stopped pushing their agenda since then. Their next objective was to get countries to join UPOV, the Union of Protection of new Varieties of Plants, a convention that grants intellectual property rights over seed varieties. At the same time that corporate seed companies were lobbying for intellectual property rights on plant varieties to be enshrined into the WTO agreement, the UPOV convention was also amended. In 1991 UPOV eliminated the right of farmers to save and exchange seeds that were "protected" – owned by companies that had acquired UPOV titles on them. In combination, these two developments provided the perfect route for companies to secure more control over the world's seed supply.

### **Bilateral and regional trade deals used to further strengthen corporate control over seeds**

In the past decade, bilateral and regional trade agreements have been used to further strengthen corporate property rights over seeds. In July of this year, GRAIN published a new dataset with a list of trade agreements that do precisely this. (1) Trade deal after trade deal is signed by governments to include requirements that countries subscribe to the corporate UPOV rules or otherwise strengthen intellectual property rights over the biodiversity in their countries. The requirements written into these trade deals therefore amount to nothing less than legalised theft, given that these corporate seeds were originally developed from seed varieties developed and nurtured by peasants.

Among the most recent bilateral and regional trade agreements that further restrict farmers' control

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over the seeds they cultivate are:

- The EU-Canada Comprehensive Economic Trade Agreement (CETA), which is currently on a bumpy road towards ratification. It gives seed companies in Canada and the EU new powerful tools to enforce intellectual property rights against farmers through seizures of seeds and injunctions based on mere suspicion of infringement, including seed saving.
- The EU Economic Partnership Agreements (EPAs) with African countries which commit all signatories to hammer out new standards on intellectual property rights, including on seeds.
- The US government, in the meantime, is regularly pushing its trade partners to live up to their intellectual property rights commitments. In a recent report it criticises Chile and Colombia for failing to adopt the most recent 1991 version of UPOV (UPOV91, which eliminates the right of farmers to save and exchange protected seeds), as they agreed to do under their 2003 and 2006 bilateral trade deals with the US government.
- The Trans-Pacific Partnership (TPP) binds 12 countries from Asia and the Americas to join UPOV 91. This, in turn, will oblige many of them to clamp down on farmers' ability to save seeds from protected varieties. The US biotech and seed industry believe that this Treaty also opens the door to the patenting of plants more generally and they call TPP the "greatest tool" yet for imposing higher intellectual property standards not only in Asia, but globally.

There have been some efforts at the UN level to protect the rights of farmers and local communities over the biodiversity that they have nurtured over centuries. One is the Seed Treaty negotiated and agreed 15 years ago at the Food and Agriculture Organization of the UN (FAO). It includes a clause on Farmers Rights that recognises the right to "save, use, exchange and sell farm-saved seed". At the same time, however, the Seed Treaty also recognises corporate intellectual property rights on seeds. At a recent official meeting about the topic, held in October 2016 in Indonesia, the peasant movement La Via Campesina expressed strong disappointment that after 15 years, the Treaty has done little to implement and secure farmers' rights. The movement called, again, on Treaty member countries to stop negotiating intellectual property agreements and laws that undermine and criminalize peasants' rights to seeds. (2)

Another UN treaty dealing with the issue is the Convention on Biodiversity (CBD) which adopted the Nagoya Protocol in 2010. The Protocol is focused on access to, and the sharing of benefits from biodiversity. In theory, this protocol provides for prior informed consent and a protection of the rights of local communities. In reality, however, the Protocol has been criticised for reducing seeds to a mere commodity rather than regarding them as an essential element of people's cultural heritage. In June 2016, a Constitutional Court ruling in Guatemala suspended the Protocol's implementation in the country (see article in this bulletin), in large part as a result of campaigns by indigenous peoples' and farmers' organisations who argued that the goal should be to protect biodiversity, not to commercialise it. (3)

The good news amidst the decade-long aggressive corporate encroachment on farmers' control over the seeds they use is that opposition against trade and intellectual property right deals is growing by the day, and mobilisations against the privatisation of biodiversity are a central part of this opposition. In many countries, such as in Chile, Argentina, Colombia and Guatemala, social movements have successfully challenged new seed laws. In others, new trade deals are increasingly being contested from the streets. Here lies our strength to keep biodiversity in the hand of indigenous peoples, peasant farmers and local communities.

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**GRAIN**

<https://www.grain.org/>

(1) GRAIN (2016). New trade deals legalise corporate theft, make farmers' seeds illegal.

<https://www.grain.org/article/entries/5511-new-trade-deals-legalise-corporate-theft-make-farmers-seeds-illegal> .The data set is available for download at:

<https://www.grain.org/attachments/3939/download>

(2)La Via Campesina and ITPGRFA (2016). At Consultation on Farmers' Rights, La Via Campesina demands a working group in the Treaty comprising peasants' organisations, to help implement peasants' rights.

<https://viacampesina.org/en/index.php/main-issues-mainmenu-27/biodiversity-and-genetic-resources-mainmenu-37/2149-itygrfa-at-consultation-on-farmers-rights-la-via-campesina-demands-a-working-group-in-the-treaty-comprising-peasants-organisations-to-help-implement-peasants-rights>

(3)Karen Hansen-Kuhn, IATP (2016): Seeds of Corporate Power vs Farmers' Rights: We need to start tilting the field back in favor of farmers and the environment.

<http://www.iatp.org/blog/201609/seeds-of-corporate-power-vs-farmers-rights-we-need-to-start-tilting-the-field-back-in-fa>