

About Seed Savers and the Svalbard Global Seed Vault

As noted on Seed Savers' website in February of 2008, a deposit of 485 varieties from SSE's central collection was made to the Svalbard Global Seed Vault in Norway.

The Svalbard Global Seed Vault is managed by NordGen (the Nordic Genebank) under a tripartite agreement between the Government of Norway, the Global Crop Diversity Trust, and NordGen.

The Vault operates like a safety deposit box. As specified in the depositor's agreement signed by SSE, the seeds deposited by SSE are available only to SSE. There is no transfer of ownership of the seeds that are deposited.

No corporate money was received in relation to the seed vault. Norway paid the complete cost of the construction. The Global Crop Diversity Trust and Norway are financing operating costs.

A list of donors to the Global Crop Diversity Trust can be found on their website. These donors do not get access to seeds unless they deposited them themselves. Most of these donors (including Syngenta and Pioneer/DuPont) made unrestricted donations to the Trust for its endowment prior to the Seed Vault's being built and without knowledge even of the possibility of its construction. The Trust's endowment covers many things other than the rather small operating costs for the Seed Vault. Other donors to the Trust include a wide range of developed and developing countries (for example, the U.K, Australia, Germany, Sweden, Switzerland, Ireland, Ethiopia and India, plus a farmers' organization in Australia – GRDC).

Because the seed varieties that SSE has in its central collection are pre-existing, they cannot be patented. (And if it should ever happen due to human error, there is legal recourse to annul the patent.) Varieties can be used for breeding purposes and a completely new variety that is a derivative of one of these varieties could be patented. This has always been the case, consistent with US law; this fact is completely unrelated to the Vault. Anyone who wanted to use seeds from SSE's collection for breeding and/or patent work has had that ability since Heritage Farm became a Listed Member in the annual Yearbook. The only way to prevent the use of varieties in breeding programs that might result in creation of a patented variety would be to stop member exchanges, stop distributing seeds from the collection, and stop selling seeds through the catalog.

The patenting of a new variety that has an older variety from SSE's collection in its pedigree does not change the legal status of the SSE variety, prohibit subsequent access to or use of that variety, or restrict its use in additional breeding programs.

In 2004, an International Treaty on Plant Genetic Resources for Food and Agriculture came into force. The result of years of negotiations, the Treaty aims to promote the conservation of crop diversity as well as access to and benefit sharing from its use. To date, some 120 countries plus the European Community are members. The Seed Vault

has no direct relation to the Treaty. If the International Treaty has any impact on intellectual property rights at all, however, it's to prevent the patenting of varieties accessed under its provisions. The Treaty does not establish new IPR rules or law. National legislation typically prohibits the patenting of any pre-existing object. The Treaty reinforces this by prohibiting, by contract, any form of intellectual property rights (such as patents or plant variety protection rights) being applied to anything "in the form received." Thus, there are potentially two forms of "insurance" against the patenting of any variety in the Seed Vault: (a.) national legislation, and (b.) contractual provisions under the Treaty between provider and recipient of seeds. Before the Treaty, there was only law.

The emerging international norm is to have each distinct variety conserved in one facility where it can be managed under international standards, plus Svalbard. SSE falls short of this, as its own seedbank does not meet international standards. And at Fort Collins (the U.S. national genebank), the duplicate SSE collection that is stored there is not "managed" (i.e., the seeds are not available for viability testing, regeneration, distribution, etc.). In this context, having seeds from SSE's collection in Svalbard is the least we can do – and the most we can do - to provide credible conservation and robust protection for the seed varieties that members have entrusted us to preserve.