



RAFI News Release

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International Undertaking on Plant Genetic Resources:

Seeds Saved in Spoleto

Nobody's going to become a millionaire but "San Fernando di Spoleto" and his Survivors have cast out The Weakest Links

A rare tiff with the seed and biotech industries over intellectual property will leave the USA and Australia outside looking in on a new agricultural genetic resources treaty. Next steps: the FAO Commission in June and the World Food Summit in November?

Umbridge in Umbria: Following six days of bitter negotiations, governments are close to agreement on a binding treaty to conserve and share the genetic resources of the world's major food crops. Under the deal, which may be adopted by Heads of State at the World Food Summit in Rome November 9-15, governments will "facilitate access" to millions of scientifically important seed accessions stored in national and international gene banks. Central to the South's acceptance of the deal (which has pitted South against North for more than six years) is an industry offer to accept mandatory taxation of its global seed royalties for the crops to be "facilitated". The tax is to be ploughed back into agricultural development. The USA, Australia, Canada and New Zealand adamantly oppose the tax scheme. Europe, Africa, Asia, Latin America, and Japan support the treaty.

The negotiations were hosted by the Italian Government in the ancient Umbrian city of Spoleto, better known for its truffles than its seeds. Forty-one governments, industry, and civil society organizations attended as part of a UN Food and Agriculture Organization (FAO) contact group to prepare the treaty for the 160 countries that are in the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA); The Commission convenes in Rome June 24-30 en route to the World Food Summit in November.

San Fernando di Spoleto: Credit for the victory, after years of acrimonious debate, goes to Venezuela's Ambassador Fernando Gerbasi, Commission Chair. "San Fernando di Spoleto" as he was dubbed by observers, bargained hard – forcing recalcitrant OECD countries to back off; and cracking skulls among his fellow Latin Americans. As in previous meetings, Gerbasi launched his proposals by asking delegates, "Who wants to be a Millionaire?" One European delegate opined, "In the end the issue became who wants to be a Survivor." However, the game show closest to reality might have been "The Weakest Link" as Europe and the Group of 77 and China (the developing countries) adopted text on benefit-sharing and intellectual property that would drive at least the USA and Australia out of the treaty. Until Spoleto, six countries (Australia, Canada, USA, and New Zealand in the OECD; and Brazil and Colombia in the South)

have held up agreement for years. Many delegates now feel that New Zealand and Canada will break ranks. The feeling is almost universal that the USA will not accept the treaty and that Australia (arguably rivaling Brazil as the least diplomatic delegation) will be kept out

The Spoleto Stiletto: If the four OECD states are “The Weakest Link”, the two Latin American states are widely regarded as “The Missing Links”. At mid-point in the debates, as it became clear that a working consensus was forming - another state, reading from a prepared text - twice referred to the “terrorism of the centers” when discussing the treaty participation of the International Agricultural Research Centres (the Green Revolution centres known as IARCs). It’s understood that Gerbasi insisted that the offending Ambassador explain himself and/or withdraw the insult. In doing so, the unrepentant diplomat actually broadened his accusation to encompass four other governments in the room. If Gerbasi was canonized by the Spoleto negotiations, his fellow Latin American became the “Spoleto Stiletto”.

Progress and pitfalls: Despite all the fireworks, progress was achieved on all the tough topics. The list of crops whose exchange is to be “facilitated” by governments for scientific research expanded substantially. Constraints were established on intellectual property rights on the shared genetic resources. Steps were taken toward a more equitable sharing of benefits for developing countries and the international centers were invited to become major actors in benefit sharing.

Improving the Menu: More than 350 civil society organizations (CSOs) from 59 countries signed onto a letter inspired by the Intermediate Technology Development Group (ITDG) (UK) and The Berne Declaration (Switzerland) supporting a long list of crops that should be exchanged freely among researchers. The CSOs also demanded that crop genetic resources remain in the public domain free of intellectual property. The letter – together with a similar set of demands from Via Campesina (the global federation of small farmers’ organizations) - was presented to the meeting at its opening. On the eve of Spoleto, only five crops were on the table. Three late nights later, the list had jumped to 30 crops with another 18 possibly to be added after further consultations. While this remains a long way from the 100+ species that CSOs would prefer, it is better than many anticipated. On the final day, San Fernando pulled a rabbit out of his hat and offered the possibility of a technical study and expert working group to take on the crop lists issues prior to the Commission’s June meeting.

Compromising patent compromise: The most anticipated squabble of Spoleto flickered past the delegates with hardly a blink. Supported by the rest of the G77, Africa came into the meeting insisting that no intellectual property could be allowed on “facilitated” crops. North America and the ‘Down Under’ states were up for patenting everything. Europe wanted the freedom to protect varieties or other genetic material that was not “essentially derived” from the treaty seeds. With little debate and despite the modest opposition of the “Weakest Link” states, (the USA and Australia, at least, knowing they would not be parties to the treaty), an ambiguous understanding was struck that will allow both Africa and Europe to declare victory – but will also guarantee that the genetic material exchanged through the treaty will remain in the public domain even if material derived from it is patented. RAFI and other CSOs consider the South’s concessions unnecessary and damaging to long-term food security.

“JUSCANZ get no satisfaction”: The easy compromise over patents comes largely from an industry proposal made in Tehran last year. ASSINSEL, the Nyon-based International Association of Plant Breeders (alias the seed industry) brokered a deal among its member companies that would have companies give a percentage of the royalties they make on patented germplasm (extracted from the treaty’s crop lists) back to a fund administered by the treaty’s intergovernmental body. Although the royalty share was undetermined, most delegations

acknowledge that the sums involved will be miniscule to modest. Nevertheless, the Group of 77 took the industry offer as recognition that the North “owes” the South for accessing genetic resources that are overwhelmingly from developing countries. Later in the negotiations, Norway and Japan expanded the original industry offer to make it mandatory and broad enough to encompass not only patents but also a form of agricultural intellectual property for plant varieties known as Plant Breeders’ Rights. Industry went along with the change, but the Weakest Link states did not. Arguing variously that a tax on royalties could contravene the WTO, that it could snarl germplasm flows for public breeding institutes, or that it could transgress the rights of indigenous farming peoples, the four OECD states repeatedly tried to re-open negotiations on the accepted text at contact group meetings in Neuchatel and Rome. At each point they were rebuffed.

After the contact group, the notice board in the Spoleto lobby bore an altered reference to a JUSCANZ (Japan, USA, Canada, Australia, New Zealand) meeting calling to mind the old Rolling Stones hit, The sign read, “JUSCANZ get no satisfaction”.

But there’s still lots of “dirty action”: No one believes that the assault on the treaty (either through the Weakest Links or through JUSCANZ) is over. “The impudence of any one of these four governments using the defense of indigenous farmers’ rights as an excuse to block the agreement is mind-boggling,” one observer commented, “If they want to do something for indigenous farmers they should give them back their farm land – not cry crocodile tears over royalty payments. The diplomats made a mockery of Indigenous Peoples and their rights.” On the closing day, one of the Weakest Links again tried to breach the agreement by proposing that countries not adopt crops in general but that each government append “designated lists” of crop germplasm they are prepared to exchange. By this cumbersome ploy, the delegation argued that their concerns regarding royalty taxes might be reduced. At least one other industrialized country in Asia seemed to see merit in the strategy. The G77 and Europe are alarmed. ASSINSEL holds its annual meeting in Sun City, South Africa short weeks before the FAO Commission will consider the treaty. Seed companies will be under intense pressure from the four governments to withdraw or amend their offer. “In agreeing to pay royalty taxes on a crop basis rather than on an accession basis, the companies managed a very cheap and uncomplicated PR coup. If they revert to the accession-by-accession approach there could be fighting over the origins of every single patent and endless accusations of biopiracy.”

Not quite the “Full Montreux”: San Fernando di Spoleto got the breakthrough he has been working for. But the victory is not yet complete. Even before the contact group was created, the Venezuelan ambassador convened an informal consultation in Montreux, Switzerland. At the meeting, Gerbasi unveiled his “Chairman’s elements” for the treaty (currently known as the International Undertaking on Plant Genetic Resources). “The treaty is still not quite the full Monty,” observers regret, “There remains very little real money on the table to promote the conservation and enhancement of agricultural biodiversity. Governments have failed to block all intellectual property incursions on food security. And, while the world’s scientists and breeders will have access to humanity’s most important crop germplasm, the world’s farmers have got little from the deal. Farmers’ Rights – a proposal made by civil society in 1985 and adopted by FAO in 1989, has been marginalized. “The words are great,” observers agree, “but the strong language that gives farmers the right to save and exchange any seed under any conditions – a direct challenge to Monsanto’s seed contracts and Terminator technology – is left to national legislation. There is no recognition of Farmers’ Rights as a Human Right and an integral part of the Right to Food under UN covenants.” Farmers organizations and civil society will be coming to the public FAO Commission meeting June 24-30 to protect the gains that have been won and to re-open the negotiations on Farmers’ Rights. “If the negotiations can’t be reopened, we will

call for an extraordinary resolution from the Commission to send Farmers' Rights to the UN High Commissioner on Human Rights in Geneva. Since the USA seems to have little influence on the High Commission, there is a reasonable chance of making progress there," Pat Mooney of RAFI comments.

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RAFI (the Rural Advancement Foundation International) is an international civil society organization based in Canada. RAFI is dedicated to the conservation and sustainable use of biodiversity, and to the socially responsible development of technologies useful to rural societies. RAFI is concerned about the loss of agricultural biodiversity, and the impact of intellectual property on farmers and food security.