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The Other BioSafety Protocol

The 'biocrats' that set rules for the movement of GM seeds must now set rules for the movement of conventional seeds. If they fail, they will plunge poor farmers and consumers into perils at least as great as those they sought to forestall from transgenics.

Last year in Montreal, governments meeting under the auspices of the UN Convention on Biological Diversity (CBD) overcame considerable odds to establish a leaky but legally-binding protocol that will determine the cross-border movement of genetically-modified (GM) seeds. Now the same governments (indeed, many of the same diplomats) are tackling another equally troublesome side of biosafety and genetic resources. Unless a new international law is adopted, the global flow of conventional seeds, already slowed to a trickle, could dry up altogether. In fact many civil society organizations consider the 'clear and present danger' posed by a collapse in crop seed exchange to be at least as great as that posed by transgenic species.

Unanticipated Consequences? The threat comes from the very Biodiversity Convention that created the biosafety protocol and (less surprisingly) from the patent provisions of the WTO (World Trade Organization). It was the Biodiversity Convention approved by Heads of State at the Rio Earth Summit in 1992 that re-affirmed national sovereignty over biological resources. Many governments, especially those in megacentres of biodiversity in the South, took the Rio deal as reason to close their borders to the traditionally free flow of research germplasm. With biopiracy of medicinal plants rife within the biotech industry, their caution was warranted. Caught in the same geo-political net as pharmaceuticals are agricultural seeds however. Around the world, the doors of national genebanks began closing to foreign scientific requests. Now almost a decade after Rio, the scene has become so bleak that in the UN, governments are scrambling to establish an International Undertaking that will include a Multilateral System of Facilitated Access for agricultural research. The desperate hope of most of the diplomats involved in the often-strained negotiations is to create a 'seeds-without-borders' regime for at least 30 or so of the world's most vital crops.

Patent Perils: Vastly compounding the problem is the 1995 adoption of a global trade regime under the WTO that compels countries to introduce intellectual property monopolies over plant varieties. Almost overnight, farmers' varieties gained 'star status' in the aspirations of some government biocrats. Crop material was seen as patentable and profitable and the immense wealth of agricultural seed held in poor countries was seen as prey to corporate pillage. The doors of the world's genebanks - and the fate of agricultural development - were on the verge of being sealed.

14.2.die(iv.)? Now negotiators for the Undertaking have drawn their swords over patent protection. Generally, the South is willing to share seeds so long as the North doesn't try to privatize and patent them. The North doesn't want to sign up to a treaty that prevents their companies from doing just that. Blushing in the middle, biotech-based seed companies are offering to ante up a share of the royalties they receive from patenting public goods (seeds shared through a Multilateral System that might be removed from the public domain if they are allowed

to be patented). In the draft Undertaking, the clause covering patent profits, Article 14.2.d(iv.) has become a rallying cry for all sides and has been dubbed '14.2.die (iv)'. The South and Europe have agreed to the proposal. The USA, Canada, Australia, and New Zealand have not - apparently fearful of setting a precedent amounting to a unique international industry tax and a first-ever constraint to the WTO's patent rules.

Changing research needs: Arguably all agricultural progress has come about because farmers and other plant breeders exchange seeds with few constraints. If the flow of germplasm is turned off, world agriculture will be plunged into an environmental tailspin. How long can individual countries continue to feed themselves before crop yields crumble under the pressure of ever-evolving pests, diseases, and climate change? Pests cross national boundaries with impunity. The seeds that may contain the best natural, 'organic' defense to these pests do not.

Biosafety Protocol #2: This is why, from February 5-10, 40 governments, along with observers from civil society (RAFI participated on behalf of CSOs) and industry, met at the UN Food and Agriculture Organization (FAO) in Rome. International negotiations for the Undertaking have been going on for six years. For the last two years, the chair of the meetings, Ambassador Fernando Gerbasi of Venezuela, has taken the cumbersome negotiating process into a smaller 'Contact Group' in the hope of speeding talks along. Progress has proven difficult however. The recent round did not provide a breakthrough. Delegates squabbled over peripheral governance issues and accused one another of trying to strike bargains that only benefited the biotech industry or themselves. After six days of irritation and accusation, the biocrats could only agree to try again at the end of April in Assisi and then, perhaps for one last time in Rome in June. If no agreement is reached by June, the negotiators will likely throw in the towel and tell their governments that no deal is possible.

Precautionary Parallels: The high-risk brinkmanship of the Undertaking negotiations parallel the biosafety protocol process. Unless agreement is reached, governments will be forcing their farmers and other breeders to undertake the most radical scientific experiment in the history of agriculture - to see how long they can survive without access to diversity. The much touted 'precautionary principle', one would think, should apply here. The socioeconomic, biological, and other environmental consequences of applying a regulatory 'Terminator' to seed exchange needs assessment. Where is the 'prior informed consent' of farmers and poor consumers to this life-threatening experiment?

Miami Grumps? Like the biosafety negotiations in Montreal last year, the Rome deliberations have a predictable set of villains. The 'Miami Grumps' - a gaggle of not-so like-minded North and South governments are fouling the scene. In the forefront are the USA, Australia, and Canada from the North; and Argentina, Brazil, and Colombia (the latter, marching to a very erratic drumbeat all its own) in the South. The northern members of the grumps seem determined to impose the worst elements of intellectual property monopoly on the proposed multilateral system while the South members seem to want to confine the list of crops that would be part of the facilitated system of germplasm exchange to only a handful of crops that would not meet anybody's menu needs.

Banking on a deal: While the debate in Rome is vital to the world's poor, it has also captured the rapt attention of the Consultative Group on International Agricultural Research (CGIAR). The largest agricultural research system developing plant varieties in the South, CGIAR and its 16 institutes also hold ('in trust' under FAO) at least 40% of the planet's unique agricultural germplasm. Collectively, the institutes breed thirty crops of world importance. Unless governments come up with a multilateral system for facilitated access that includes the CGIAR's

mandate crops, it is doubtful if the network will be able to continue shipping seed around the world. Neither will the CGIAR be able to attract the funding to continue their research. Failure to reach a deal in fact would throw more than half a million seed accessions held by CGIAR genebanks into limbo.

Diner/dinner doubts: These hard realities made CGIAR officials in the Rome meeting enthusiastic proponents of a deal. At the same time, however, South governments hostile to the CGIAR's ambiguous governance structure and control of valuable crop germplasm want to take control of the 16 Centres directly and place them under UN authority. It was clear in Rome that CGIAR, in trying to provide the menu, was in danger of becoming the meal.

Although RAFI and many other CSOs are highly critical of CGIAR work and governance, international public research in agriculture is vital to world food security. Then too, the conservation and exchange of the seeds held 'in trust' by CGIAR Centres has to be assured. The bottom line is that the biocrats who engineered the biosafety protocol in the Biodiversity Convention must now complete their work at FAO. If they don't reach agreement many national genebanks may close permanently and the world's poor may be abandoned to the biggest environmental gamble since agriculture itself.

RAFI will shortly release a new report on the state of international negotiations titled, 'Frequently Unanswered Questions about the International Undertaking'.

RAFI's 'Name-Calling' Contest: We're changing our name and we're looking for your ideas! Please see the link on our website to see the names others are suggesting and to add your own.

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