

Farmers' and peasants' lives are increasingly affected by international rules made by governments at remote international meetings. For some time transnational corporations have been using intergovernmental forums to extend their influence over food and farming policies in the developing world. For example, the introduction of rules on intellectual property (e.g. patents and plant variety protection) in the World Trade Organisation (WTO) and, via WTO, into agriculture was very much a corporate-driven project. But sometimes smaller, stealthier steps can have an equally disturbing impact. We look at what is going on in two international organisations.

# Fear over growing WIPO-FAO links

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**A**t the next meeting of the Coordination Committee of the World Intellectual Property Organisation (WIPO) in September 2007, an important but little-known agreement between WIPO and the United Nations' Food and Agriculture Organisation (FAO) will be up for discussion – again. The agreement aims to “establish a mutually supportive relationship” between FAO and WIPO and to establish “appropriate arrangements for cooperation between them”.<sup>1</sup>

So what is the problem? This is where one gets into the often tedious and obscure way in which agreements are negotiated in different forums by negotiators with different areas of expertise, and where texts can be changed in ways that can undermine key public interests such as access to food. The Agreement as originally developed by an FAO committee in April 2005 included a preamble 13 paragraphs long. This framed

the draft agreement under the general premise that access to food may be more important than the protection of intellectual property per se.<sup>2</sup> Paragraph 3 of the preamble, for example, declares the parties to the agreement to be: “Aware of the growing use of intellectual property rights in the food and agriculture sector and the importance of taking into account the specific nature and needs of agriculture, including fisheries and forestry, in the development and implementation of relevant intellectual property policies”. The hope from the FAO side was that such connection would help to expand understanding in WIPO of agriculture's needs. However, between April and November 2005, when the final text was approved at FAO, the preamble was deleted.

When the bare text was presented to last year's Coordination Committee meeting in WIPO, the Brazilian delegation raised the alarm.<sup>3</sup> Brazil, which is a leading proponent of a more development-

<sup>1</sup> The final text is available at: <http://tinyurl.com/2lhnya>

<sup>2</sup> For the draft text with preamble agreed by the Committee on Constitutional and Legal Matters (CCLM) at FAO in April 2005, see Appendix II of the CL 128/5, at: <http://tinyurl.com/2tutd3>

<sup>3</sup> See William New, “Questions raised over proposed WIPO secretariat deals with FAO, IDB”, IP Watch, Geneva, 1 October 2006. <http://tinyurl.com/2ur294>

centred WIPO, was concerned that the agreement would give the WIPO Secretariat, through its Director General, a blank cheque to exert excessive and biased influence on a wide range of food and agricultural issues. A Brazilian official was quoted as saying that, “we don’t want the [FAO] to be contaminated with the non-development-friendly view WIPO tends to take on intellectual property.” There were also concerns that under the proposed agreement, WIPO member states are waiving the right to be consulted on each specific issue brought to the attention of the organisation, and are leaving it to the Secretariat.<sup>4</sup>

The Geneva-based officials that deal with IP were concerned that there is a tension between FAO’s official mission, which is to help countries in the South to develop their agriculture and to improve people’s access to food, and WIPO’s mandate, which is to promote the expansion and use of intellectual property rights (patents, copyrights, trademarks, etc). Moreover, the objectors, which also included Bolivia and South Africa, do not see the preamble as the only problem in the draft agreement. They also want extensive fine-tuning and overall revision to make it balanced and respectful of the competencies of Member States of both the FAO and WIPO.

It seems obvious that the FAO and other international organisations dealing with health and environment need their own legal and technical expertise to approach intellectual property from the point of view of their core mandates. Rather than accepting uncritically WIPO’s pro-industry line and function, FAO should do the opposite and make the case for changes in the intellectual property regime as and when necessary in the interest of small farmers and other local communities. There are no indications, however, that any changes have been – or will be – made to the agreement. It seems likely that the unaltered draft will once more be put up for adoption and further action will be needed by developing countries to get the changes they want.

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4 The only opportunity for member states to have a say on agreements that the Director General of WIPO wishes to sign is an annual meeting of the Coordination Committee, which lasts no more than a morning. Moreover, the Director General is under no obligation to negotiate with the members on the specific language and provisions of the draft texts.

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