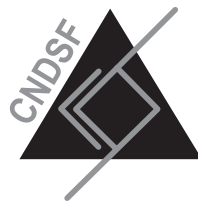


European Seminar on Seeds

Poitiers, November 25-26, 2005



Liberate Diversity



PREPARATORY DOCUMENT

International Steering Committee :

CPE, ABL, CROCEVIA, GRAIN, RED SEMILLAS, UK FOOD GROUP, SEMI RURALI, RSP, CNDSF

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la Confédération Paysanne*

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LIST OF PARTICIPANTS24

French and English are working languages. Participants will benefit from simultaneous translation in plenary assembly and workshops.
Linguistic help will be available on request.

Friday 25th November 2005

8.00 AM - 9.00 AM	Arrival of the participants
9.00 AM - 10.15 AM	Opening, Mayor of Poitiers
	INTRODUCTION
	What are the evolutions since the last seminar in 1999 entitled "What future for farm seeds ?" <i>Yves Manguy, CNDSE, France</i>
	Analysis of European regulations on seeds from a French perspective <i>Guy Kastler, RSP, France</i>
10.15AM - 11.15 AM	The current situation (diverse perspective from Europe)
	CURRENT SITUATION
	<ul style="list-style-type: none">• Germany / <i>Gerhard Portz, Abl</i>• Romania / <i>Avram Fitiu, FNAE</i>• Spain / <i>Juanma Gonzales, Red de Semillas</i>• Italy / <i>Riccardo Bocci, Rete Semi Rurale</i>• Organic Seeds / <i>Karen Hoberg, IFOAM</i>
11.30 AM - 12.30 AM	Debate and other European experiences
12.30 AM - 2 00 PM	Buffet
2 .00 PM - 3.00 PM	Discussion based on a summary of the current situation and international issues (regulatory, economic...) that will enable to introduce the various workshops. <i>Valentin Beauval, Confédération Paysanne & Renée Vellvé, GRAIN</i>
3. 00 PM - 6.30 PM	Workshops on Farmers' rights on seeds - Part 1 : State of the art : bottlenecks and alternatives
	WORKSHOPS
	Workshop 1. <u>Biodiversity</u> Property rights ; Access and management of biodiversity <i>Facilitators : Antonio Onorati (It), Guy Kastler (Fr), Juanma Gonzales (Es)</i>
	Workshop 2. <u>Norms</u> Obstacles in norms & marketing (sanitary, traceability, cooperation...) <i>Facilitators : Jean-Paul Simonnot (Fr), Gerhard Portz (All)</i>
	Workshop 3. <u>Research</u> Research and Production Methods <i>Facilitators : Ricardo Bocci (It), Isabelle Goldringer (Fr), Michel Pimbert (UK)</i>
	Workshop 4. <u>Coexistence</u> GMO : Seed contamination , responsibility ; protection of farm system <i>Facilitators : Bob Brac de la Perrière (Fr), Helen Holder (Bel)</i>

Saturday 26th november 2005

9.30 AM - 10.30 AM	WORKSHOPS	Workshops on Farmers' rights on seeds - Part 2 : Proposals Work continuing & finalisation of writing outputs
10.45 AM - 11.15 AM	TALKS	Participative breeding : a future for research <i>Salavatore Ceccarelli, ICARDA</i>
11.15AM - 12.00 AM		Debate on the outputs of the workshops
12.00AM - 12H30 AM		Talks from regional resources persons President of Agriculture Commission Agribio Poitou Charente
12h30 AM - 2.00PM		Buffet
2.00 PM - 3.00 PM	INTERNATIONAL	International experiences outside Europe Food sovereignty, and multinational strategies <ul style="list-style-type: none">• Africa / Zachary Makanya, PELUM (Kenya) / Jeanne Zoundjihékpou & Devlin Kuyek, GRAIN (Benin)• North America / Terry Boehm, NFU (Canada)• Latin America / Francisca Rodriguez, Anamuri & Via Campesina (Chile) / Camila Montesinos, GRAIN (Chile)• Asia / Chukki Najundaswamy KRRS & Via Campesina (India) / Satheesh Peryapatna, DDS (India)
3.15 PM - 4H30 PM	CONCLUSIONS	Round Table on the enforcement of farmers' rights, with syndicate representatives (COAG Spain, CPE), and European politics (deputies, ministers)
4.30 PM		Concluding remarks

Sunday 27th november 2005

9.00 AM - 1.00 PM		Meeting for network representatives from CPE, GRAIN Organic Agriculture at Youth Hostel in Poitiers
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Liberate Diversity : the reasons and bases for a European seminar

Yves Manguy, CNDSF, France

This seminar was organised at the instigation of the CNDSF: (Coordination Nationale pour la Défense des Semences de Ferme) and the RSP (Réseau Semences Paysannes). In 1999, the CNDSF had organised an initial European seminar entitled "What Future for Farm-saved seed ?".

Some historical background

It was in July 1989, when they were harvesting their cereals, that French peasants learned about a new regulation made official on the 4th of that month that forbade them from preparing their seeds from their harvest. This decision had been prepared on the sly by the seed companies and the Ministry of Agriculture, along with the complicity of the union representing the biggest farmers.

In other words, they no longer had a choice : they became obliged to purchase commercial seeds, which cost twice as much. The service providers called 'seed cleaners', who go around from farm to farm with equipment to clean and coat grains for sowing, found their activity banned from one day to the next. There were nevertheless several hundred people who practiced this activity.

This decision was felt by everyone as a provocation and an attack on freedom. The intensity of the shock provoked a reaction that led the victims of this ban to form a united front. This is how, on 8 August 1989, 1000 peasants and seed cleaners who had gathered in front of the Poitiers Préfecture decided to breach the law and restart preparing farm-saved seeds from the next day.

This was the breeding ground for the CNDSF, which brings together three agricultural unions, the seed cleaner union, and organic farmer organisations. During the 10 years preceding the first European seminar in 1999, the CNDSF had to fight continually against seed companies' constant attempts of all kinds to dissuade peasants from making their farm-saved seeds.

1999 : First European seminar : "What Future for Farm-saved Seed"?

From the beginning, our fight was based on two motivations : on the one hand, economising about 50% by making our seeds with our harvest, and on the other by defending what is for us a fundamental freedom, that of reproducing from our harvest. This latter practice is an ancient one and moreover has acted as the basis for seeds which are marketed today.

But with the passage of time and action, we discovered that the seed war doesn't stop at national borders. This is what motivated the organising of the first seminar that brought together around 100 participants. They came from Germany, Belgium, Holland, France, Portugal, and Switzerland. Two other continents were also represented by India and the United States. The rich exchanges at the seminar led to the discovery that, even with methods different in terms of form, we could come to agreement with regards to the objectives.

Seed companies try every means to persuade peasants not to make their own seeds and to buy their own. With hybrids, it's already done - it's a captive market with no escape. When it comes to cereals, contracts and GMOs are weapons of domination that are expanding. Faced with this situation, the decision to create the informal network called UFSFP - *Union européenne des Semences et Plantes de Ferme* was an important result of this gathering.

Several gatherings have been held since then, as well as one-off support actions for trials in Germany, at the European Court, and in Belgium.

From resistance to the offensive

The more time passes, the more we note that seed firms are at the service of industrial agriculture and not of peasants. On the contrary, they have a part in the disappearance of the latter and make those who remain dependent. Research is geared towards standard varieties that can adapt themselves everywhere along with the indispensable help of chemical support. Biodiversity becomes very impoverished as a result.

We must now move from resistance to the offensive! It's important to re-appropriate plant breeding based on peasant agriculture criteria. In France, the "Réseau Semences Paysannes" has undertaken this approach. But we also know that experiences, some of which are very significant,

have been undertaken in many countries of the world.

Even more so than for the 1999 seminar, we think it's vital to expand reflection and knowledge about situations in the 25-member Europe and beyond. This is essential in order to counter the offensive by transnationals to appropriate living matter and heritage that peasants have developed for thousands of years.

This is what has motivated this 2-day gathering, with its intense schedule... due to financial circumstances.

The proposed programme will unfold in three parts :

- ❶ Taking stock of the situation in Europe with regards to peasants' relationships with seed and with firms' strategies.
- ❷ Analysing the technical and regulatory obstacles that help to dispossess peasants from their rights and their mission.
- ❸ Identifying what means to implement to make peasants' rights recognized, and, where possible, instigate alternatives to the current offensive by seed companies.

Based on very different situations, we will have to look for points of agreement enabling us to define common strategies. The power of firms is their financial striking force. Faced with them, we can do nothing alone. But we're convinced that peasants around the world joining together is our absolute weapon for changing the balance of power. We hope that this seminar will act somewhat as the seed for this.

Analysis of European Regulations on Seeds, Based on the Case of France.

Guy Kastler, Réseau Semences Paysannes, France

The major disaster of seeds from the green revolutions

Mass reproduction of identical goods, and the downgrading of those with defects, is the basis of industrial society. Mass reproduction of identical elite individuals, and the elimination of those that don't conform to the norm, is an ideology that we thought we had gotten rid of at the end of the Second World War. It's nevertheless what we continue to do with the plants and animals living on our farms. In an unexpected turnaround that history doesn't explain, Europe had just been liberated from the application of this principle to man when its spread to agriculture was methodically planned. The Marshall Plan and then the building of agricultural Europe institutionalized the domination of plant improvement and the monopoly of the seed industry. The seeds of hybrid maize and pure lines of wheat were the pillars of this green revolution. The spread of this model since then has decimated millions of peasants all over the planet.

Today, the collateral effects represent a heavy price to pay :

➔ **Ecological** - The seeds have been improved only to gorge themselves on chemical fertilizers and pesticides and to submit to mechanization and, often, to excessive irrigation. Destruction of land, erosion of biodiversity, environmental pollution, desertification and climate change, etc., followed.

➔ **Health** - Beyond seemingly cyclical crises (hormones, BSE, listeria, etc.), today it's the spread of environmental illnesses caused by industrial agriculture that threaten us : pesticides are everywhere, in our blood, babies' umbilical cords, and mothers' milk ; new emerging illnesses are escaping from farms where animals are reared using feed coming from other farms, the nutritional quality of food is constantly deteriorating...

➔ **Social** - Loss of autonomy over seeds gradually deprives peasants of any possible choice of their cultivation methods, on what they can or cannot grow, and then even on their possibility to cultivate. With peasants having been made dependent and then exiled, it's the rights of peoples' to choose - and, more and more, to have food at their disposal - that is being confiscated by a handful of multinationals.

Non-market exchange is the heart of peasant seeds

Agriculture begins with seeds. The fight of peasant seeds against the monopoly of industrial seeds is the first link of resistance by local peasant agriculture, for food autonomy and against the spread of industrial crops for exportation.

The diversity and the variability of cultivated plants are the foremost tools of peasant and organic agriculture. Only they make it possible to adapt naturally to the diversity of types of land, cultivation methods, and the evolution of climatic conditions. Regular but limited exchanges of seeds between peasants are essential for dynamic management of this diversity and this variability. Only they make it possible to avoid depressive inbreeding and local characters disappearing.

These are not market exchanges. Money might circulate, but in this case it's one thing given for another and never the purchase of well-labelled, impersonal goods. He who receives seeds from his neighbour or from farther away to breed with his own must know their origins, their history, their past diseases, and their ties with the peasants that grew them before he did... He will often observe them several generations before mixing them with the harvests of his fields. For thousands of years, these exchanges were regulated by very precise customary or religious rules that made the peasants' fields the foremost and best breeding laboratories.

Today, new rules are being built around the rights of indigenous peoples and rural communities of the South, or around the collective rights and breeding rights of open varieties (whose harvest can be resown by the peasant) in Europe. We must be watchful so as not to let free-market globalization instrumentalise them in order to help privatise life.

From catalogue to UPOV : the ban on peasant and farm seeds

As soon as the Market of the 19th century appeared, the first seed producers sought to market seeds or plants of stable and homogenous varieties: fixed pure lines, hybrids, clones, today in vitro plants, etc. The harvests are to the industry's taste, which looks for big batches of homogenous and stable raw materials. But they can meet their expectations only thanks to the homogenization of lands, climates, and farming practices via fertilizer, pesticides, mechanization, and excessive irrigation. Having lost all variability, the seeds could in fact no longer adapt to the diversity of growing conditions without all of these supports that the peasant then also had to buy from the industry.

For the same reason, the resulting harvest cannot provide seeds more than several years without 'degenerating in the peasant's field', or from the first year for hybrids. The seed company thereby became inescapable. This is why the industry took over seed companies to lock up breeding in the laboratory and impose the laboratory conditions on the peasants' fields. But to make peasants forced consumers of its seeds, it also had to forbid competition from peasant seeds. The industry quickly understood that, to do so, all it needed to do was ban exchange.

Because of its technical criteria (Distinctiveness, Uniformity and Stability and Value for Cultivation and Use) and its registration costs, the common catalogue of varieties is reserved only for industrial varieties and in fact forbids any exchange of peasant seeds that, by nature, cannot be registered in it. In a limited market, ownership of the basic seed registered in this catalogue is enough to guarantee the monopoly of its proliferation and distribution. As soon as the market expanded with the creation of agricultural Europe, the seed companies invented the Plant Variety Certificate to regulate the competition that can exist between different countries. Since then, they have constantly sought to use it to forbid the peasant's right to resow the grain harvested from their varieties that haven't been totally terminatorised. This right became a 'privilege' in the UPOV agreement of 1991 and is today called an "agricultural exception".

The unalienable rights of peasants to resow and exchange harvested grain must be established in any UPOV agreement.

The patent for imposing GMOs

Along with biotechnologies, the patent on genes inserted in living organisms makes genetic pollution legalized theft and the contaminated peasant a pirate. This is why the seed companies, which claim for the media gallery to prefer the PVC to it, had it inscribed in European law as early as 1998, by making it compatible with a PVC that resembles it more and more: banning of 'essentially derived' varieties and the spread of royalties imposed on farm seeds have no other aim but to ensure this compatibility. Through the mechanism of dependent patents, it enabled a handful of pharmaceutical-chemical multinationals to seize upon all the seed industries and thereby dominate the planet by controlling, over the top of States and international treaties, the rights of people to have food. In order to maintain this monopoly, these multinationals dictate to the EC and all the countries of the world the laws on seeds and intellectual property protection they must adopt.

Since 1998, many scientific publications have undermined the central dogma of molecular biology (a gene = a protein) that was the basis of the legitimacy of patents on life. Today, this evolution can help to put these laws into question.

For the last 10 years, peasants and citizen resistance has considerably curbed the progress of GMOs in Europe. In order to open the gates to them, the European Commission wanted to impose a new right for the GMO fox's KO-existence along with the non-GMO hens in the same chicken coop. While we discuss the best way to ensure this coexistence that has already been presented as irreversible in Spain, GMOs are invading Europe more discreetly through animal feed via big farms and eastern Germany, and are contaminating conventional seeds and organic and non-GM crops. While the discussions on GMOs are making us forget about the patent on life, the research laboratories are finalizing new patentable techniques intended to discreetly introduce new patented 'non-GM' genes (site-specific mutagenesis, nanotechnology, etc.) by hoping that peasants and consumers will not discover their strategy.

Peasant and citizen resistance must counter the manoeuvres of multinationals there where they are carried out. The banning of patents on life and the right to protection of traditional agrarian systems must establish themselves against the right of GMOs to KO-existence.

Biodiversity, common heritage of industry ?

In Europe, the banning of exchanges of peasant seeds by catalogue rules has made cultivated biodiversity disappear. They are now locked up in the public or seed-company collections. The peasants of the new member countries of Eastern Europe are now suddenly discovering that the seeds of the varieties they have always grown are replaced on the market by those of multinationals. A huge heritage is thereby being wiped out now on the altar of the Europe of Trade.

Because biodiversity can no longer be cultivated or exchanged, it is slowly degenerating in the collections. Although it once evolved in perpetual renewal, it has now become a sum of clones frozen in a definitive genetic status quo. The seed industry draws some new genes from it from time to time in order to renew its commercial catalogues made up of a handful of genetic pools very similar to one another, by adding or taking away one or two monogenic characters each year. The vanished is always praised... when it has vanished. The more we talk about biodiversity, the more it is reduced to a few gene banks.

The International Treaty on Plant Genetic Resources devotes an entire article to peasants' rights. But this Article 9 makes them subject to national laws. In France, the Charter of the Genetic Resources Board recognises no role for 'in situ' conservation. This amounts to denying any role of peasants in this conservation. The seed laws reserve the right to breed and commercialise seeds only to seed companies. The laws on teaching have not anticipated that peasants could also be trainers. The ITPGR reserves access to plant genetic resources to "conservation... breeding, and training". Its ratification by France therefore means that from now on the French peasants have no more access to these resources from their fields, which often represent the sole alternative for starting up new plant breeds that allow them to escape from industrial agriculture and GMOs. The ITPGR guarantees unrestricted access to the resources of collections of signatory countries to any conserver, breeder, or academic. It thereby denies any right over these resources by the peasant communities from which they have been taken, and it leaves the States the possibility of forbidding them access. This is in flagrant

contradiction with the Rio Convention on Biodiversity, which instituted the principle of an illusory 'benefit sharing' to make the Southern countries accept the patent. The ITPGR thereby transformed the common heritage of Humanity of the initial international conventions into private heritage for the seed-company community.

From 1998, the EC (Directive 98/95/EC) authorised the States to set up specific conditions for the marketing of so-called 'conservation' varieties (of in situ biodiversity) or of those adapted for organic farming. In a note of March 2005 sent to the States, it indicates that the conservation varieties can part from the registration standards (Distinctiveness, Uniformity, Stability). As these measures are not mandatory, France still refuses the lists of conservation varieties and has just forbidden the setting up of specific criteria for varieties adapted to organic agriculture specifically bred by the French seed companies.

As these varieties are not adapted to the doses of chemical inputs used during the catalogue registration trials, they remain banned from sale. The French organic peasants must thus continue to grow varieties requiring disproportionate amounts of soluble nitrogen. Making the enforcement of these European measures mandatory, not just optional, in all the Member States is an idea for work to do. It's admittedly not enough, but it's worthwhile.

Faced with the current climatic and economic upheavals, saving what remains of cultivated biodiversity and putting it back into peasants' fields is a work of public security that's essential for ensuring food autonomy and the right to healthy food for the peoples of Europe. Peasant and organic agriculture will then be able to climb

out of the 'folklore' niches where they have been locked up and offer the sole sustainable alternative to GMOs. The members of Réseau Semences Paysannes and of many organisations from all the continents present here have launched into this adventure without waiting for the States to settle all the legislative problems. Our seminar must be an occasion to exchange our experiences to reinforce them and make their public usefulness known.

In order to develop these actions, it's essential to make recognised and enforce peasants' rights to : access to the biodiversity still present in fields or locked up in collections, to cultivate it, resow it, exchange it, and define by themselves the conditions for this exchange. But it's also necessary to protect them from genetic pollution; from bio-piracy; and from the absolute economic, scientific and political monopoly of industrial seeds. This monopoly is poorly disguised under the deceptive terms of freedom of trade, of research, or of intellectual property protection. These collective rights are the condition for the required dynamic - and therefore non-market - management of cultivated biodiversity.

Our seminar must devote itself to defining these rights. It must also work to inform the public, and along with it the political world, of their fundamental importance. This is because only the public has the strength to break the hidden alliance that for nearly a century has bound political decision-makers to the defence of the interests of the seed industry. It will do so only if it becomes aware of the close link that ties its right to eat healthily every day to the right of peoples to food sovereignty and to the right for our 'grains of passion' to be freely exchanged and planted in our fields.

Workshop 1

Intellectual property rights, collective rights, access to and management of biodiversity : What are the alternatives ?

Introduction

The European laws on the marketing of seeds as well as intellectual property rights (IPR) are constantly reinforcing the monopoly of seed companies. The spread of royalties on farm-saved seeds, the direct and indirect putting into question of peasants' right to resow harvested grain, and the invention of the concept of 'essentially derived variety' are gradually eroding any difference between the Plant Variety Certificate (PVC) and patent. With GMOs, but also more discreetly with mutated genes, the patent is being added to the PVC. Phytogenetic resources have left peasants' fields and are becoming a simple pool that seed companies can draw from. The obligation to register varieties in the common catalogue blocks the system by banning the production and exchange of peasant seeds.

Refusal of the mandatory catalogue and of patents on life today seem to be two prior conditions for any discussion. But does this mean we have to call for a totally free seed market? Or should we propose other regulations that legally guarantee the rights of peasants as well as protection and the return of dynamic management of cultivated biodiversity to the fields? It's true that a country such as the United States, which has no mandatory catalogue, enjoys a very diversified market of traditional seed varieties unimaginable in a country such as France. But the spread of GM crops and of the monopoly by seed companies there that quietly patent traditional varieties do not make it a good model for Europe.

The International Treaty on Plant Genetic Resources (ITPGR) claims to make access to

"phytogenetic resources" easier. Yet its concrete objective remains above all to take them away from the peasants' fields and make them available to seed companies. They become 'freely' accessible only in return for the signing of a material transfer agreement. The latter must be paid for, and it provides the funding for their inventorying in the fields of Southern peasants, their collection, and their being kept in the collections. This Treaty states that it recognizes the rights of farmers, but it makes them subject to national regulations that can deny them at will. It puts into question (A) the illusion of possible 'benefit sharing' stemming from the Rio Convention (the CBD) and especially the explicit recognition of any collective right over the resources of rural communities that have developed and conserved them; and (B) it reserves access to those resources to those who carry out 'conservation... breeding, and training'.

In the European countries that don't recognize the role of peasants in biodiversity conservation, this means that the latter will no longer have access to the seeds taken from their fields and locked away in collections. At the same time, the majority of varieties grown in the 'new member' states of Eastern Europe must leave peasants' fields because they can't respect the European catalogue criteria. Yet, these phytogenetic resources increasingly often represent the sole alternative to high input-consuming industrial varieties or the sole possible starting point for peasant breeds that make it possible to avoid industrial agriculture. Contrary to what it declares, the implementation measures of this Treaty in fact risk reinforcing the prohibition put on peasants to grow and conserve biodiversity in their fields.

Content of the workshop

❶ Listing and examination of the proposed alternatives being created or existing in European or Southern countries: public or collective lists or registers, 'conservation varieties', 'varieties suitable for organic agriculture or for crops with low levels of inputs', collective rights, free exchanges of limited or non-limited quantities of non-registered varieties, free exchanges between members of collective organisations, free exchanges of peasant varieties within a country's borders, public collections freely accessible to the public, etc.

❷ How to promote these alternatives within the framework of European laws designed just

for seed companies? Develop trade-union initiatives and illegal practices against patents, the PVC, royalties on farm-saved seeds, and the common catalogue, in order to create parallel spaces of freedom and/or to make them evolve?

What tools can be used to protect against non-GMO "contaminations" (mutagenesis, hybrids, diseases generated by industrial varieties and crops, as GMOs will be dealt with in another workshop), and bio-piracy? Should we demand information on the origin of varieties protected by a PVC? Payment of rights to any use of a traditional variety when the IPR is over, or banning this type of use?

Should we influence discussions on the implementation of the ITPGR, and how can this be done?

Two documents will be used to open up the workshop discussions. The first is a working document by the Confédération Paysanne's seed group. The second is made up of some excerpts of an interview with Antonio Onorati published in Seedling concerning work done in Italy on regional laws protecting biodiversity.

Doc. 1 : How to regulate seeds without being detrimental to the interests of peasants

Working document from the Confédération Paysanne seed group

The Confédération Paysanne is reflecting on the following alternative proposal: In order to guarantee the rights of peasants to resow and exchange harvested grain, enable the protection of peasant-saved seeds against bio-piracy, make identification mandatory for varieties likely to undermine the integrity or the conservation of phylogenetic resources and existing agrarian systems (an indispensable condition for the right of States or regions to protect them), and remunerate work by research or peasant communities in some cases, we can devise an official catalogue operating at several levels and backed up by a ban on patents on life and on GMOs :

- mandatory registration in the common catalogue of varieties, along with the current tests and costs for any non-reproducible variety (hybrids, sterile male, etc.) and/or stemming from non-natural techniques (protoplast fusion, mutagenesis, cellular and/or in vitro multiplication, etc., with the obligation of indicating the origin of the genetic resources used in case of detection by a PVC ;

- registration with relaxed DUS and VCU for varieties that are reproducible and protected by a PVC (origin must be indicated) or from the public domain ;

- "conservation" varieties with new criteria chosen along with their producers, and free registration for public domain varieties freely accessible within a given territory, community or collective structure, or as a general rule ;

- simple description, for example in a communal register not necessarily accessible to all, as in India ;

- no mandatory registration for exchanges of peasant-saved seeds not belonging to varieties of the first item and that are in limited quantities annually for each buyer, for the sowing needs of a farm of peasant-size. It remains to be determined if there should be a maximum amount for the seller, and if so how much.

Doc. 2 : Collective rights over farmers' seeds in Italy

Extracts from an interview with Antonio Onorati, Crovecia, Seedling, juillet 2005

The law is making a distinction between material goods and immaterial information. It's clear that this sheep belongs to this fellow. And that pear tree to some other fellow. But the immaterial part, that is under collective rights. That means that the wood of the pear tree, it belongs to the owner, but the genetic information which gives the pear tree its characteristics, that belongs to the group.

You could translate the law as saying "*While confirming the existence of private property rights over the registered plants and animals*" -- in other words, the wood of the pear tree in your backyard -- "*the heritage of these genetic resources belongs to the indigeneous and local communities.*"

So when you say, "I have a pear tree that's 150 years old," that's fine, it fully belongs to you. And you can decide to cut it down. But the heritage -- the information, the overall value of the genetic material -- that doesn't belong to you. So before you cut it down, I can say, "Hang on, you can't cut it when you want because I need to take a cutting first to multiply it and make a security backup." That's exactly how it works. This happened in my area. That's what we mean by the genetic heritage being a collective right.

It amounts to two things. First of all, you can

go to court if someone tries to patent anything using this material, for example a GMO. Secondly, you can go to court if someone tries to get a plant breeders' right, like UPOV, on a variety. That means you block biopiracy and you block patents. Third, in fact, if you apply it well, you can establish an overall system of collective heritage rights over local farmer varieties in Italy. In this way, you create a possibility of access to genetic resources that is totally different from the privatisation way.

The fact that it's a collective heritage means that access to the information is socially negotiated. That means it's not free. It doesn't belong to humanity, it belongs to someone. And that someone is a plural, collective someone. So if other farmers, or anyone else, want to access the material, they have to negotiate with these people.

Basically, in Italian law, if you give the mayorship some kind of responsibility regarding collective rights, this is best. Because collective rights that are placed in the hands of the mayorship to manage cannot be annulled by any mayor. Because mayors do not make law. Only the sovereign State can define and take away rights in Italy. The regional authorities can intervene, but only in a limited way since they can be blocked. And since mayorships can't make laws, they have no authority to sell or destroy what is protected by collective rights.

Monopoly is a private right, it excludes others. Collective rights, by definition, are rights which don't prevent or exclude. I'll give you an example: mushrooms. You want to go and collect mushrooms on collective lands. The mushrooms belong to everyone, which means that anyone can ask if they want to pick some. The collectivity cannot say, "No, you, you're not allowed because you're not from around here." The collectivity has to say what are the rules to pick mushrooms.

You can go so far as prohibiting, but it's not automatic. With collective rights, you must negotiate. Maybe yes, maybe no, but there has to be a negotiation. So there's no free or automatic access like you have under this "heritage of mankind" thing, where people can just come and take. Nor is there an automatic right to exclude, as you'd have with a monopoly right.

You appeal either to a collective interest or to an institution. So to really prevent access to collective lands, you have to prove that it's in the

interest of the collectivity to prevent access. It's not gratuitous. You can't say, "No, because I say so." You have to arrive at something like, "No, because we want to keep and enjoy the woods."

The collective rights that we have in Italy also exist in Spain. There are some remnants in France, in Switzerland, in Belgium and even on the waters in the Netherlands. So that's not true. It's just that people have never worked seriously enough on this for ideological reasons. As it reeks of communism, people don't want to go near it. It's really a form of self-censureship to say that it's difficult or that it won't pass and then take all sorts of shortcuts like "common heritage" or "free access", just letting it go and not organising anything. That's how you fall in line with the government position of Germany and UK. In the Seeds Committee of the European Union, they say, "This farmer-to-farmer stuff, farmer seeds, it's just tinkering and we don't need rules for this." This is very dangerous

We have to be extremely careful about all proposals at the European level that end up taking us into the mainstream, like "genetic resources, heritage of humanity". Calling for the free circulation of seeds among small farmers in the EU, that's also dangerous if there is no negotiated framework. That hides the potential to build a farmer seed industry. Establish rules? Yes. But we must develop rules that do not take us into conformist solutions, including the slightest form of IPR. If we create registers, it's not any kind of register. We have to be precise.

In building the European movement, I think everyone has to work, look in their own countries, see how it functions there, try to develop an appropriate legal base for local genetic resources. If we do this across Europe, it would be a huge step forward. Because we'd get rid of this stupid notion of "heritage of humanity". We'll get a lot further with the logic of collective rights, and the underlying distinction between the material and the immaterial. And then we would find a lot of allies among indigenous peoples and among other countries where collective rights still exist.

That's why we have to engage in institutional guerrilla work. The legal front of the battle should never be the exclusive front. Never. We have to be in the streets. We have to move forward with real peoples' movements. We have to implement and develop our alternatives on the ground. But it's really fundamental that the institutional guerilla work is part of the battles we lead, too. Otherwise, we're lost. We have to build fortresses with which we can defend ourselves when we get hit too hard. That's why I

call this a guerrilla approach, this legal work. That's the institutional guerrilla front tactics. You occupy a space, you create this IPR-free zone, you try to maintain it, to manage it, and you give

yourself tools to defend yourself. It's quite like the GM-free zones. Of course, they can come and contaminate you. But if you do nothing, they will come and contaminate you even worse.

Workshop 2

Obstacles in Norms and Marketing

Introduction

A certain number of rules and norms, whose justification can be found in various objectives (monitoring health risks, giving norms to industrial quality, guaranteeing the identification of varieties, etc.) currently represent obstacles to the rights of peasants to produce, reproduce, and exchange seeds :

➤ The obligation to register varieties in the official catalogue : the catalogue registration cost doesn't allow farmers to register a local variety representing a small volume of seeds. Furthermore, the registration criteria (homogeneity and stability, evaluation of genetic progress) rule out the landraces.

➤ Certain health norms : in the case of wine-growing for example, or of certain fruit trees, potatoes or strawberries... health norms force the farmers to use plants that have come from certified clones or from in vitro breeding. For some species (sunflowers) it is mandatory to use chemically treated seeds.

➤ The CAP : certain CAP aid (durum wheat premium, premiums for planting grapevines and orchards, etc.) are paid only if certified seeds or plants are used.

➤ Marketing norms : marketing norms set to regulate production intended for long channels of distribution can in some cases apply to all channels via the extension of rules. This is how requirements for minimum sizes or for presentation exclude old varieties of fruits that are nevertheless attractive for local channels.

➤ Contract of quality and traceability : cooperative system quality contracts require that the producer use certified seeds, thereby forbidding reproduction of seeds on the farm.

Ideas for reflection for alternative proposals

➤ adapted registration for local or peasant varieties, possibility of exchanging limited quantities of non-registered varieties of seeds.

➤ health norms(adapted to the real risks in the case of exchange of small quantities and recognition of alternative practices of controlling, and not eradicating, diseases).

➤ marketing norms specific to long channels of distribution.

➤ recognition of the traceability of farm seed.

Doc. 1 : The Struggle for Farm-saved Seeds in France

Coordination Nationale de la Défense des Semences de fermes (CNDSF, France)

The CNDSF was created in 1989 following a decision by the French government that could have had incalculable consequences for agriculture, as well as for society as a whole. This was the ban on reproduction of seeds for farmers who did not have their own sorting and coating equipment. But for the seed companies - the GNIS (national inter-professional seed group) wrote it at the time - the aim was to attain the 100% use of so-called certified seeds quickly, and therefore to make farm-saved seed eventually disappear.

Since then, the seed companies' strategy has become less "brutal". They implement more of a "slow erosion" technique. This was first in the form of making CAP (Common Agricultural Policy) premiums subject to the purchase of certified seeds for durum wheat, which concerned only a minority of producers, and against which we were not able to do anything. Then, there was the creation of protection molecules for seeds that were technically efficient, but whose use was reserved to industrial seed stations... and the banning of lindane. Many peasants then resigned themselves to purchasing their seeds. Following the complaint by the CNDSF, the firm NOVARTIS-AGRO was condemned for refusal to sell and price fixing. The judgment set a precedent, and all the molecules were made available to the farmers.

Farm seed has made constant headway since

then. Even though we don't have exact figures for all of France, we know that headway has been strong up to now for soft wheat, peas, colza, and winter barley.

Based on these observations, we could believe that everything is going for the better for farm-saved seed. But this would be without counting on the plans of cooperatives, which hoped to see seed sales increase strongly. These organisations, which our grandparents had set up to give the best value to our products, have mostly become gigantic monsters that grassroots peasants no longer control. The cooperatives have thrown themselves into the sale of inputs, and without this turnover they can't maintain their rate of expenditure. The figures of the management centres prove that the average levels of inputs used are still very high (400 euros/hectare on average, in 2002, for cereals). Experience shows that more and more farmers obtain just as good margins, or even better, with 250 or 300 euros/ha. With environmental problems added to that, farmers will inevitably use fewer inputs in the years to come.

Product traceability requirements are coming just when needed. It's a tremendous pretext for forcing the farmer to sign a contract with mandatory certified seeds. Their position is always the same: 'It's our customers who demand it'. What they don't say is that the 'customer' is, most of the time, a subsidiary of the cooperative. In any event, they own the seed stations. What's more serious is that the trustee who is supposed to represent the peasants supports this view.

At the CNDSF, it has been several years since we have identified this problem. Actions were started up against the contracts with mandatory purchases of seeds. We must continue to condemn this lie that consists of forcing the farmer to purchase seeds under the pretext that they are safer. The best traceability is farm-saved seed because it's the shortest channel. And its quality is at least equal to the certified one; we don't have the obligation of producing as many seeds as possible from a batch of grains.

We are going to have to communicate :

- ➔ to consumers, be it at the national, regional (*départemental*), or local level ;
- ➔ to the public authorities (Prefect, etc.) ;
- ➔ to the well worked out agricultural

commissions where we're represented,

- ➔ to the elected officials who are often invited to the Annual Meetings of the cooperatives ;
- ➔ at these Annual Meetings of cooperatives when possible ;
- ➔ to downstream businesses that are independent.

We have very strong arguments regarding the importance of farm-saved seed for all of society :

- ➔ cost savings of 30 to 50 euros per hectare,
- ➔ the freedom of choice of the product to treat the seed (no useless product),
- ➔ adapting the quantity of seeds to the needs of the farmer, which can double depending on the weather, date of sowing, etc. ; the industrial seed channel can't adapt to that,
- ➔ the seed-multiplication farm industry is a huge labyrinthine system that inevitably generates unsold items that must be destroyed each year (13 to 15,000 tons of treated seeds per year). It's a waste that weighs down the seed industry,
- ➔ the flexibility offered to be able to react in case of accidents and/or climatic constraints (resowing, resupplying).

Doc. 2 : Farmers' rights in the Netherlands

Nina Holland, nina@corporateurope.org

Plant breeding and seed production is a traditionally strong sector in the Netherlands. Horticulture seed companies like Rijk Zwaan cover a large share of the world vegetable seed market; Dutch seed potatoes are exported to North Africa and the Middle East. Many of them are now expanding, or moving, their activities abroad for climatic and labour cost reasons. Plantum is the trade association for the Dutch seed industry (www.plantum.nl).

Dutch politics has always supported this sector with policies to encourage specialist plant breeding activities (as opposed to selection and improvement by farmers). The Dutch Council for Plant Breeders' Rights claims that Holland was

the first country in the world to develop a special IPR system for plant varieties, the plant breeders' rights. Farmers have become used to plant breeding activities to be taken care of by research institutions or specialised companies. Paying more for seeds and propagation material is widely accepted.

Therefore, it is not surprising that the Netherlands have a very strong form of plant breeders' rights. Yet of most importance, as will have been explained elsewhere in this publication, are the (EU) Community Plant Variety Rights. If a plant variety is protected under that system, the multiplication and use of seeds is forbidden for most crops. Exceptions are only made, to a limited extent, for some fodder crops, potatoes and certain grains. (But even in the case of those crops, if a farmer saves grains or seed potatoes for reuse, the plant breeder holding the license for these varieties still has to be paid a 'reasonable compensation' for the breeding work. This is usually a percentage of the normal royalty sum. Also, the farmer is obliged, if requested, to provide the plant breeder with 'all relevant information'.)

However, under EU law, "small farmers"* are allowed to reuse seed material for those specific crops without paying a royalty to the plant breeder, and is not obliged to provide any information. Under the Dutch plant variety protection law, there is no such exemption for small farmers. This is only the case if a plant breeder has a Dutch plant breeder's right, and not an EU one. In practice, the advantage of an EU wide plant breeder's right over a collection of national ones, results in a situation where most plant breeders choose to apply for a plant breeder's right under EU law.

In this light, it is quite remarkable that the Netherlands were not in favour of the EU life patents directive. Even after it was finally agreed in 1998, the Dutch government started a case at the European Court of Justice against this directive, but this case was lost. The implementation of the directive into Dutch law was delayed by four years, because the parliament had strong reservations against the patentability of plant and animal varieties.

Doc. 3 : Legal cases on reproduction (seed multiplication) (C-305/00)

Matthias Miersch, Germany

❶ In Germany legal protection for plant breeders was first established in 1953, but this protection did not apply to the products of the harvest. Plant variety rights protection had and has a strained relationship to the interests of the general public. This has to do with the free access to available resources. It was a traditional right of farmers to withhold some of their crop as seed to use in the following year (agricultural reproduction privilege).^{*1}

❷ At the suggestion of various international associations (among others the International Association of Plant Breeders), an international agreement for the protection of plant breeding was decided upon by ten states, leading to the founding of the International Association of Plant Breeders (UPOV) with headquarters in Geneva. For the first time, through the revision of the UPOV Agreement in 1991, the protection of plant variety rights was extended to include products of the harvest. The question of continuing the agricultural exemption was highly contested among the states, even though under the agreement the possibility of reproduction under the protection of the plant breeding interests was allowed. (see the opinion of Advocate General Ruiz-Jarabo Colomer in the legal case C-305/00).^{*2}

❸ On the European level, Community plant variety rights were first achieved in 1994 through Regulation 2100/941. The Community Plant Variety Office in Angers grants protection of a variety, upon request, for the entire area of the European Union. In addition, individual member states can protect a variety through national legislation, however in this case double protection is not allowed, and the Community's protection has priority.

❹ Because of the UPOV Agreement of 1991, existing plant variety rights laws had to be changed. Regulation of seed reproduction

* Small farmers are defined as those who cultivate a land surface less than what would be necessary for the production of 92 tons of grain.

^{*1} http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31

^{*2} <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&docrequire=alldocs&numaff=C-305%2F00&datefs=&datefe=&nomusuel=&domaine=&mts=&resmax=100>

(multiplication) under European law (1994/95) Regulation EG 2100/94 und 1768/95) and national law (variety protection law 1997) resulted in considerable restriction of the agricultural exemption. Although reproduction is still allowed for particular plant varieties, it is only permitted if the farmer pays the holder of the plant variety right an "equitable remuneration".

5 Since 1998, all registered farmers in Germany have been written to by a Seed Trusteeship organization (Saatgut-Treuhandverwaltungs GmbH - StV) that represents some 60 breeders of over 500 varieties. Farmers were asked about their use of agricultural reproduction. An interest group that currently has more than 1000 members opposed the investigation and initiated a test case. Farmers who refused to provide information were sued. More than a thousand lawsuits followed, leading to decisions by the European Court of Justice and the (German) Federal High Court.

6 The decision of the highest courts in Germany and Europe document the imperfection of the legislative process. They are nevertheless above all a clear vote for the upholding of basic principles of commercial legal protection and against attempts at investigation and denunciation. The importance of the lawsuit could be seen by the attempts made by the breeding industry to directly influence the Advocate General of the European Court of Justice, who made these attempts public (see the Opinion of Advocate General Ruiz-Jarabo Colomer, 21 March 2002, Case C-305/00 Christian Schulin v Saatgut-Treuhandverwaltungs GmbH).*2

7 With the decision of 13 November 2001 the Federal High Court ruled against an inclusive requirement for farmers to provide information under national plant variety protection law. With its decision of 10 April 2003 the European Court of Justice likewise ruled against a general information requirement for farmers under European law. The accomplishment of the information requirement is dependent on the availability of sort specific grounds. (see : the

Judgment of the European Court C-305/00).*2

8 On 6 July 2004 the Federal High Court decided to request a further interpretation from the European Court to clarify the controversial question of how high an "equitable" compensation for reproduction could be.

9 According to the principle establishing judgment referred to in Clause 7, the Seed Trusteeship (StV) tried to get information from companies that processed the seed for farmers from the products of their harvest (through cleaning of separators and disinfecting the material). In its decision of 14 October 2004, the European Court ruled that the principles set concerning the requirement for information from farmers were also valid for processors. (vgl. C-336/02, Judgment of the European Court, www.curia.eu.int).*3

With this decision the European Court guaranteed that there would not be exploratory investigations and denunciations, as had been clearly emphasized by the European Commission, the source of the directives in the procedure.

10 It appears that the breeding industry will try to achieve changes in the laws, and through further court cases achieve a modification of the administration of justice. It should be taken into consideration that curtailment of the agricultural reproduction privilege is obviously only a first step.

11 In 1994, in the framework of the development of the UPOV with the so-called TRIPS Agreement in the context of the WTO, it came about that all member States were required to protect plant varieties either through patents or through another effective system .

12 According to current information, in 2004 the USA put into effect in Iraq, through Order 81, a new patenting law forbidding reproduction.

13 With the help of genetic engineering, it will in addition be tried through patent laws to expand the original laws of plant variety protection. Through this, in the future the

*2 <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&docrequire=alldocs&numaff=C-305%2F00&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100>

*3 <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&docrequire=alldocs&numaff=C-336%2F02&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100>

definition of the terms variety, plant and plant parts will be decisive. Therefore plant parts or cross-species plants could be patentable.

☞ The question as to how far the protection of a variety can go will further occupy German and European policy. In the framework of this discussion, industry interests should not be taken into consideration alone. On the contrary, it should be considered that plant variety

protection also take into account the interests of farmers and the general public. It must be precluded that a few large companies control the public's food supply.

*Sources : Bureau d'avocats Dietrich Buschmann, Klaus-Dieter Kater, NotarHela Rischmüller-PörtnerDr. Matthias Miersch, Anwaltsbüro - Postfach 11 42 - 30001 Hannover
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Workshop 3

Research and Production Methods

Introduction

"Only by venturing into fantasy, all the while heeding the true nature of the problems, will we be able to resolve them in new forms. Only via utopia can science resolve the problems of agriculture".

"solo se ci si avventurerà nella fantasia guardando alla vera natura dei problemi si potrà risolverli in forme nuove; solo cioè ripassando attraverso l'utopia, la scienza potrà veramente risolvere i problemi dell'agricoltura" (Manlio Rossi Doria, Scritti sul Mezzogiorno).

Agronomic research orientations: How can we increase research effort that aims to support family agriculture ("small", "alternative", "agro-ecological", "peasant", "sustainable") and to encourage the short channels ?

The governance of public economic research : how to involve peasants in the initial research choices and not just in testing the results and the products ? (Question of research management : wouldn't it also be good to talk about involving other actors of short channels ? Especially consumers who have something to say with regards to the quality of products and the impact of agricultural practices on their environment).

Other methods for agronomic research :

➔ involve the peasants (participative research) in the design of experiments and observation ;

➔ put together research questions and experimental systems in order to respond to them, based on observations made in the peasants' fields and/or by the peasants ;

➔ use and make good use of the

"empiric" knowledge of peasants in institutional research ; pool the knowledge coming from the two worlds...

Evaluation of the effectiveness of public research : what indicators to show how the above-mentioned approaches can represent a more effective means for working. Indeed, current indicators favour the publication of articles in high-level journals (as they say, plus low-level too), registered patents, the obtaining of private-sector funds, "large-scale" economic partnerships, etc.

References

➔ "Today the money is being transferred from classic breeding towards biotechnologies, just for the novelty that requires making a publication"

Rajaram S. e van Ginkel M. 2001. Mexico : 50 Years of International Wheat Breeding. In Bonjean A.P. e Angus W.J. (editors). The World Wheat Book. A History of Wheat Breeding. Paris, Lavoisier Publishing.

➔ "All over the world, classic breeding is going through a difficult period and is viewed as the poor and old-fashioned relation of the "biotechs". [...]

Molecular genetics and genetic engineering promise a great future for improving crops, and they are in the process of eating up a great share of the funds available for agronomic research. The universities have stepped this up by replacing plant breeders who retire by molecular geneticists who can write high-level scientific articles more easily."

Knight J. 2003. Crop Improvement : a dying breed. Nature, 421: 568-570.

➔ "If improving the performance of crops - productivity for example - is our goal, then in the next 40 years the traditional, classic methods of breeding will be the best investments to make".

• *Goodman M.M. Plant breeding requirements for applied molecular biology, Crop Science, vol. 44, pp.1913-1914*

• *Symposium Discussion, Crop Science, vol. 44, pp.1914-20.*

Doc. 1 : Extracts from International Treaty on Plant Genetic Resources for Food and Agriculture

Article 5 - Conservation, Exploration, Collection, Characterization, Evaluation and Documentation of Plant Genetic Resources for Food and Agriculture.

[...] c) Promote or support, as appropriate, farmers and local communities' efforts to manage and conserve on-farm their plant genetic resources for food and agriculture. [...]

Article 6 - Sustainable Use of Plant Genetic Resources.

a) Pursuing fair agricultural policies that promote, as appropriate, the development and maintenance of diverse farming systems that enhance the sustainable use of agricultural biological diversity and other natural resources.

b) Strengthening research which enhances and conserves biological diversity by maximizing intra- and inter-specific variation for the benefit of farmers, especially those who generate and use their own varieties and apply ecological principles in maintaining soil fertility and in combating diseases, weeds and pests.

c) Promoting, as appropriate, plant breeding efforts which, with the participation of farmers, particularly in developing countries, strengthen

the capacity to develop varieties particularly adapted to social, economic and ecological conditions, including in marginal areas.

d) Broadening the genetic base of crops and increasing the range of genetic diversity available to farmers.

e) Promoting, as appropriate, the expanded use of local and locally adapted crops, varieties and underutilized species.

f) Supporting, as appropriate, the wider use of diversity of varieties and species in on-farm management, conservation and sustainable use of crops and creating strong links to plant breeding and agricultural development in order to reduce crop vulnerability and genetic erosion, and promote increased world food production compatible with sustainable development.

g) Reviewing, and, as appropriate, adjusting breeding strategies and regulations concerning variety release and seed distribution.

Article 9 - Farmers' Rights.

a) Protection of traditional knowledge relevant to plant genetic resources for food and agriculture.

b) The right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture.

c) The right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

Workshop 4

Contamination of seeds : responsibility and protection of agrarian systems

Introduction

From among the many controversies fuelling GMO current events in Europe, coexistence is a major one. It's a crucial topic for farmers producing their seeds on the farm: it threatens their freedom and their rights. Through Directive 2001/18, the European Commission has chosen to apply the principle of subsidiarity and lets the Member States take care of setting up coexistence measures, if they wish to do so. However, we know that coexistence is impossible : GMO contamination of seeds, which leads to a denaturation of cultivated varieties, is being increasingly observed in Europe and elsewhere in the world. This denaturation is found as much at the biological and agronomic level as in qualitative and economic values. Furthermore, the legal status of contaminated varieties can change dramatically along with claims of intellectual property rights to crops grown from polluted farm-saved seeds. The situation of GMOs in Eastern Europe sheds additional light on this controversy because, whatever coexistence rules are adopted, countries such as Rumania will enter the European Union with GMO crops that are currently banned.

What stands can be taken in this controversy?

➤ Resigning ourselves to the fait accompli by being satisfied with the European legislative framework. But at the same time ensuring by all possible means that there are no leaks in the chains, including for sterile crop varieties (Terminator). This could be done by demanding case-by-case compensations for economic loss.

➤ Taking note of the end of the moratorium in 2004 and of the new authorizations for market launch. But at the same time demanding legislative measures to act as a deterrent to GMO use, participating in defining the conditions for letting farmers and consumers choose, and calling for GMO-free zones.

➤ Not allowing GMO dispersion in crops, by means of direct actions of civil disobedience such as group destruction of crops. Refusing to get bogged down in the technical debate (as in the case of labelling). Highlighting the issue of rights, especially the right of farmers to resow, to produce in a traditional manner, to protect an agrarian system, and to feed the population in a healthy way.

In any event, we should consider the question of :

- the responsibility of the denaturation of seeds by GMO plant breeders,
- the responsibility of European farmers with regards to the presence of countries that cannot set up the coexistence of GMO and non-GMO food chains.

Doc. 1 : The right to protect one's crops against transgenic contamination in Spain

Fernando Fernandez, Plataforma rurale, April 2005

The peasants of the world have the right to control over the seeds that are at the heart of their very activity and that are the basis for producing healthy and nutritious food. This right to control includes the right to seeds that are not contaminated by genetically modified seeds, this latter for the sole benefit of some multinationals. This right includes/implies the power to protect one's produce and planting from any type of contamination (pesticides, chemical or bacteriological agents, GMOs).

Today, all over Europe, the peasant organizations are fighting alongside environmentalist movements and some social organizations against the growing pressure by multinationals that produce these seeds and that enjoy the support of most national governments. The moratorium granted by the European Union several years ago seems to be in danger today, and there are increasing attacks to put an end to this situation of apparent protection.

Within this context, the Spanish state is the only one within the European Union that currently allows the marketing and growing of transgenic crops for human food. In 1998, it allowed the first sowing of a variety of Bt maize resistant to insects, marketed by Syngenta Seeds under the name of *copaCB*. This maize is characterized by triple genetic modification. It contains a gene extracted from a soil bacterium, *Bacillus thuringiensis*, that includes coded information enabling the production of a toxin capable of killing insects such as the deathwatch beetle. It further has two genes that give the plant both tolerance to glufosinate ammonium and resistance to ampicillin. On 27 February 2003, the Spanish state validated the use of five new maize varieties with modified Bt 176 and Mon 810 genes (official bulletin dated 11 March 2003).

Despite pressure from peasant organisations and environmentalist movements, the right to public and open information regarding the drafting of European as well as Spanish legislation has been flouted, as much by the multinationals that market the new varieties as by the central government or the autonomous governments. Since then, the situation has been disastrous insofar as the peasant organizations, and more especially those that produce according to organic rules, have no idea where transgenic crops are located. Agricultural activity is thereby carried out today without any kind of control or prevention. The monitoring measures, which have been provided for in the texts authorizing the growing of these new varieties, haven't even been drafted. In theory, the sowing of new varieties should have been accompanied by a program of assessment and reflection: How can contamination by pollination or the appearance of specific resistance be avoided? Many issues that are decisive for peasants concerned about practicing responsible agriculture should have been discussed. This wasn't the case at all.

In 2004 and then in 2005, following the elections, the new government tried to curb this disastrous situation. However, it took a very permissive stand towards transgenic crops in great demand by big companies and large-scale farmers. The battle and criticisms are currently focused on the various projects that the central government, as well as the various autonomous governments, want to introduce in order to regulate the coexistence assumed possible between organic/conventional crops and the use

of transgenic ones.

On several occasions, first faced with the coexistence decree bill and then faced with the decree approved by the Catalanian government, many organisations launched appeals to the central government to demand the withdrawal of the various laws. They considered that the governmental proposals would in fact legalise the massive contamination of the entire food production chain instead of protecting, as should be done, the conventional and organic crops. These same organisations asked the executive branch to open up a legislative and democratic process that would lead to passing a law regulating 'coexistence', so that the future norms within our country help to guarantee the sustainability of conventional and biological agriculture without GMOs. This law would make it possible to protect the fundamental right of farmers not to be subject to genetic contamination. It would further set up a public liability system in which those having authorised GMO dispersion in the natural environment would have to answer for the environmental, social and economic damage caused by them (including genetic contamination).

However, two Spanish laws regarding GMOs result in acceptance of 'widespread genetic contamination'. This is because they are based on GMO presence detection levels under which a food product is not subject to a 'genetically modified' label (level set at 0.9%). This approach is illegal with regards to European legislation; insofar as the regulations on traceability and labelling clearly state that the presence of GMOs in food products can be tolerated only if it is 'accidental or technically inevitable'. Consequently, the Spanish approach **legalises contamination instead of taking steps to halt it**, and it compromises the freedom of choice of conventional and biological producers to offer totally non-transgenic products. The only prevention rule provided for in the two laws for authorising GMO crops is distances of 25 to 100 meters between the transgenic plants and the conventional and biological crops : ridiculous!

The first known cases of contamination of biological produce by transgenic products appeared just as these societal debates were going on. These cases were made public and spread widely by peasant organisations belonging to *Via Campesina*, along with the help of environmentalist organisations.

The mandatory analyses imposed upon

organic farms by coexistence regulatory bodies have revealed that, in every case, the contamination was to be blamed on farms more than 500 meters away.

We, the affected peasants, the organisations we belong to, and social organisations and movements assert that these cases are similar to violations of human rights and peasant's rights. We assert that they reveal an economic model that removes the possibility of practicing agriculture characterised by responsibility and solidarity. This model affects the rights to freedom and information while simultaneously attacking the means of subsistence of peasant families and endangering their income by making sales of produce difficult or impossible.

Some cases of contamination

➤ **Felix Ballarin Andreu** is an organic farmer who owns a farm in Sariñera, a village of Huesca province. On his farm he grows 20 hectares of vegetables, alfalfa, maize and wheat. They are all irrigated with a dripping and sprinkling system. He also has two greenhouses of 600 sq. meters each and some almond trees whose sole purpose is to maintain and reproduce indigenous species that are in the process of disappearing.

The contamination occurred on two hectares of a red, indigenous maize variety called "embrilla".

➤ **Assumpta Codinachs i Ramon Font** (Aixalda, CB) - Pobella (Lleida). This farmer decided to make public the case of contamination of her cattle feed. Her farm has been producing heifer beef for around 15 years. The herd grazes according to extensive and organic systems. She feeds her heifers and cows with grass from her meadows, adding a meal supplement (maize, rye, wheat, vitamins and minerals) for the calves in the fattening-up phase. The results of analysis on samples of feed intended for them showed the presence of 0.7% of genetically modified RoundUp Ready soybeans. But in theory no trace of soybeans should have been found.

What's surprising in this case is that a period of six months passed between the time when the company that produces the animal feed obtained the result and the time when the farmer was informed of it. Consequently, the meat had already been marketed and had entered the food chain being called "biological". The analysis

results have still not been communicated in writing as of today. This year there seem to have been 11 cases of contamination, about which the regulation council has remained silent.

➤ **Juli Berge-Bellcaire** - Urgell (Lleida) is one of the rare growers of biological maize registered with the CCPAE, located in Lleida province. He had to delay his sowing by nearly a month this year, due to the fact that his neighbors were growing transgenic maize. This delay caused a more than 50% reduction in his harvest. When the CCPAE found out about this case, it took post-sowing samples in order to see whether the harvest itself would be affected by the GMOs. The certification organisation initially made no analysis, even though it had been asked to do so. The affair was taken over by a CCPAE inspector only after the visit by staff from the Agricultural Ministry and the SEAE (Spanish Society of Organic Agriculture) and the publishing of the information in the press. The analysis results were negative, showing that contamination had been avoided. But the peasant did indeed suffer from a reduction in his harvest.

➤ **Growing of non-authorized varieties in an experimental field (Lleida).** On 7 October 2003, PIONEER (a subsidiary of DuPont) invited farmers to attend a public event in the town of Algerri (Lleida). Two hundred people from different places of the province thus travelled to a field owned by an individual, because the event consisted in comparing the yields of different varieties of maize of the company. Two of them were genetically modified with the MON 810 gene (varieties PR33P67, authorized for commercial growing, and PR33N44, non-authorized for commercial growing).

After having been harvested, all the non-transgenic and transgenic varieties, including those not authorised for sales, were mixed in the same trailer. They would have wound up entering the food chain via the manufacture of cattle feed if the Pagesa Assembly of Catalonia hadn't denounced it to the Los Mossos d'Esquadra de Balaguer police department, in order to prevent the PR33N44 variety from entering the food chain.

After the temporary grounding of the maize, a civil servant from the Agriculture Council took a sample of the grain. Before the Pagesa Assembly he insisted that the analyses carried out seemed to be in vain because they only

confirmed the presence of the authorised transgenic grain with MON 810 without having detected the presence of non-authorised varieties. But in this precise case, the only truly reliable proof is that which can be supplied by the 200 persons who eye-witnessed the non-authorised variety. This fact was communicated several months later to the legal services of the Lleida Agricultural Delegation, accompanied by photos taken during the ceremony clearly showing the name of all the varieties. After a one-year wait, it was considered that analysed grain presented no risk either for human health or for the surrounding environment.

This type of public event carried out by Pioneer (and other biotechnology companies) were carried out successfully in various locations in Lleida, and it seems that the PR33N44 variety was present on each occasion. No one knows how far the harvests could have spread, but in view of what happened at Algerri, it's more than likely that the non-authorised variety was mixed with the rest of the varieties and wound up being used for animal feed. This serious disregard for

the legislation (marketing of a non-authorised variety, then mixing it with other varieties) seriously puts into question the effectiveness of the practices of segregating transgenic and non-transgenic harvests, which are mandatory from this year. It represents a known case of raw material contamination due to lack of effective segregation.

History repeated itself on 10 October 2004, this time with a considerable number of new transgenic varieties. In an experimental field, traces of two authorised varieties (P67 and P76) were found, but also a significant number of other non-authorised varieties such as N44 (which was already present in some actions in 2003).

The Pagesa Assembly decided to telephone the director of the Agriculture Delegation (member of the Catalanian Commission of Agriculture) to denounce this situation. The only response was the organising of a public discussion on GMOs during the feria of Ecoviure, in Manresa, but without any official position made by the authorities.

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