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Argentina Announces Corporate Welfare for Monsanto *US-Inspired Trilateral Agreement Condones GM Contamination and Undermines Biosafety Protocol*

As negotiations come to a head in Kuala Lumpur at the first meeting of the Biosafety Protocol of the UN Convention on Biological Diversity (CBD) the United States along with Canada and a few Latin American states seem poised to render the 86-nation agreement irrelevant. News earlier this week that the Argentine Government has offered to collect taxes from its GM soybean farmers in lieu of royalty payments has stunned many delegations attending the meeting in the Malaysian capital. The announcement comes as the United States, Mexico and Canada are pressing governments to adopt their Trilateral Agreement. The agreement sets the actionable level for GM contamination at a whopping five percent. At that level of tolerance, Mexico's maize crop would be riddled with foreign DNA from the Rio Grande to Guatemala in less than a decade. Last month, Brazil bowed to pressure from Monsanto and agreed that soybean crushers and processors in Rio Grande do Sul should collect seed royalties for Monsanto. Now, Argentina proposes to tax its own farmers and collect an estimated \$34 million in royalties for Monsanto and other seed companies because Monsanto claims farmers are illegally replanting harvested seed and infringing its patents.

The Argentine proposal collapses one of the major tenets of patent regimes. "Argentina is saying that it will police the patent system for Monsanto," says Silvia Ribeiro of ETC Group, "The police and the courts will be used against farmers." Until now, companies have argued that the beauty of the patent system is that it is civil law where the costs of obtaining and defending patents are borne by the patent-holders at no cost to the state. "This pushes patents into the realm of criminal law," argues Ribeiro, who is attending the Kuala Lumpur meeting.

"Meanwhile, if governments agree to accept the Trilateral Agreement's standard of 5 percent contamination, there will be no need for the Biosafety Protocol at all. Contamination will be everywhere in a matter of years," says Hope Shand, ETC's Research Director based in the USA. "Monsanto, the USA, and Argentina will press other states to accept the tax-based approach to royalty payments," Shand explains, "Then comes the triple whammy – governments will find it cheaper to promote the use of Terminator technology rather than act as an unpopular royalty-collector for the Gene Giants." Terminator technology renders GM seed sterile, forcing farmers to buy new seed each growing season. It amounts to a biological patent without a time limitation. "Most governments and the Biodiversity Convention stand firmly against Terminator," notes Shand, "But the USA, Brazil and Argentina have been working to undermine opposition at the CBD. Faced with the choice of either collecting royalty taxes or allowing Terminator, some governments are likely to cave in."

Background

In January 2004 Monsanto announced that it would abandon genetically modified (GM) seed sales in Argentina because farmers were illegally saving patented seed, making it difficult for the company to collect royalties on proprietary seed.

Over the past decade, Argentina has been presented as the biotech industry's shining success story in the global South because Argentine farmers were early adopters of Monsanto's Roundup Ready soybeans. Today, Argentina devotes more area to GM crops than any other country except the United States. Argentina is the world's third largest producer of soybeans, and Monsanto's GM seed technology accounted for an estimated 96% of the total soybean area planted in Argentina last year.¹ But now Monsanto complains that widespread "seed piracy" (seed saving) has pilfered the company's profits and soured the Argentine success story. One seed industry executive in Argentina warned that Monsanto's action was an important message for the entire seed sector: "This is the first warning sign that all new technologies will abandon us if intellectual property rights are not respected."

Gene Giants Pampered on the Pampas

Argentina's government is offering to ease Monsanto's pain by creating a "royalties fund" to help Monsanto and other companies recoup investments in biotech crops that are threatened by black market sales.² The Argentine government proposes to create a "global royalties" fund by levying a tax on soybean and wheat sales that will generate an estimated US\$34 million annually.³ The proposal must first be approved by the Argentine Congress.

"It's a dream come true for Monsanto because the government of Argentina is enforcing monopoly patents by taxing seed sales, shifting all of the burden and expense to farmers and the public," explains Silvia Ribeiro of ETC Group.

Civil society in Argentina is expressing outrage. In Kuala Lumpur, Adolfo Boy of Grupo de Reflexión Rural, who has been monitoring the impacts of Monsanto's GM soybeans asks, "Why should public resources be used to protect the patents of transnational seed companies like Monsanto? Governments should protect farmers, not penalize them!"

In North America, Monsanto is vigorously prosecuting seed-saving farmers, but that approach is costly and the company is widely perceived as a corporate bully for suing its customers. To avoid messy lawsuits, high-priced lawyers and bad publicity, Monsanto and other Gene Giants hope to see the Argentine model adopted everywhere they do business.

"This is a prime example of New Enclosures," explains Hope Shand of ETC Group. "Patent monopolies are unnecessary if the State is willing to act as the gene police and collect royalties from farmers. The Argentine proposal is a dangerous precedent because the Gene Giants are pushing hard to open new markets – especially in the developing world. The Argentine model means that Monsanto could even sell GM seeds in countries that don't recognize patents or don't enforce them – as long as the government can be convinced to collect fees for Monsanto."

Paying the High Price of Oligopoly and Monoculture

There are many unanswered questions. Why is the cash-strapped Argentine government willing to go to the mat for Monsanto? Is dependency on GM soya so overwhelming that the Argentine government is bending to biotech blackmail?

Last month Brazil announced that it would also bow to biotech industry pressure.⁴ In 2003 the Brazilian government overruled popular opposition and legalized the planting of GM soybeans for the 2003-04 season. Following the announcement, Monsanto threatened to sue Brazilian farmers who were planting black market GM soybean seed. Under an agreement negotiated in January 2004 between farmers in the southern state of Rio Grande do Sul and Monsanto, royalties will be charged by the purchasers of harvested GM soybeans, both exporters and crushers. As if to lessen the blow to Farmers' Rights, Monsanto has pledged to donate 1% of the seed royalties it collects to crop research in Rio Grande do Sul – a cheap way for Monsanto to further influence agricultural research in Brazil.

Damage Control at Biosafety Protocol

The issue of State-subsidized GM monopolies is setting off alarm bells for governments meeting in Kuala Lumpur this week for the first-ever meeting of the Cartagena Protocol on Biosafety – the UN agreement governing cross-border trade in genetically modified organisms. The Protocol has been ratified by 86 countries and the European Union (notably, the US government has not joined).

Not surprisingly, the US and other exporters of GM seeds are lobbying vigorously in Kuala Lumpur to eliminate any references to the social and economic impacts of GM seeds, or liability for damages caused by GM contamination.

But despite their best efforts, the Gene Giants and pro-biotech governments have been unable to avoid bad news about GM contamination. This week in Kuala Lumpur civil society activists and farmers organizations are reminding governments that it has been over two years since traces of DNA from GM maize seeds (illegal to plant in Mexico) have contaminated traditional maize varieties grown by Mexican farmers. The genetic pollution caused by GM maize in Mexico is especially alarming because Mesoamerica is a major center of genetic diversity for maize.

Rather than stop contamination and demand accountability from the Gene Giants, the Mexican government recently entered into an agreement with the US and Canada that *condones* high levels of GM contamination in food and grain shipments. A Trilateral Agreement between the US, Mexico and Canada allows shipments to contain up to 5% of genetically modified organisms before they are considered transgenic and subject to regulations being developed under the Cartagena Protocol.

“The US-inspired Trilateral Accord makes a mockery of the Cartagena Protocol,” warns Silvia Ribeiro of ETC Group. “To accept levels of contamination up to 5%, in effect, allows imports of transgenic products without any evaluation of risk. This type of Accord, which is now being promoted as a model for the entire Western Hemisphere, is designed to benefit the Gene Giants and accelerate GM contamination worldwide.” Mexico announced today in Kuala Lumpur the ban of releases into the environment of maize manipulated for non-food uses (such as pharmaceutical or industrial). “But this is

meaningless if Mexico allows five percent GM presence in the imports, which are the main source of contamination” add Ribeiro.

A new report released this week by the US-based Union of Concerned Scientists, suggests why the US government is so anxious to relax standards for shipments of GM products and thwart trans-boundary regulations for GMOs. The new study, “Gone to Seed,” reveals that non-GM seeds in the United States have become widely contaminated with engineered DNA.⁵ (The study is available on the Internet: www.ucsusa.org) Laboratory tests revealed that more than two-thirds of 36 conventional (non GM) maize, soy and canola seeds contained traces of DNA from genetically engineered crop varieties. Although levels of contamination were not high, the findings suggest federal regulations are not working and that it may soon be impossible for the US to guarantee that any portion of its food supply is free of genetically modified organisms, a situation that could seriously disrupt the export of US foods, seeds and oils (and sound the death knell for organic farmers).

The Triple Whammy

If governments agree to accept high levels of GM contamination in world trade, then the Gene Giants are given free license to contaminate farmers’ fields with foreign DNA protected by proprietary patents. The Gene Giants are then positioned to demand that governments collect taxes from farmers who are illegally using black market seeds – or permit introduction of the controversial Terminator technology – genetic seed sterilization. This is biotech’s triple whammy: 1) high contamination tolerance; 2) government’s tax farmers to generate patent royalties; and 3) governments are forced to accept Terminator to avoid patent policing. The triple whammy scenario underscores the need for governments meeting in Kuala Lumpur to firmly reject the Trilateral Accord and press for a ban on Terminator technology.

The Action Group on Erosion, Technology and Concentration, formerly RAFI, is an international civil society organization headquartered in Canada. The ETC group is dedicated to the advancement of cultural and ecological diversity and human rights. www.etcgroup.org. The ETC group is also a member of the Community Biodiversity Development and Conservation Programme (CBDC). The CBDC is a collaborative experimental initiative involving civil society organizations and public research institutions in 14 countries. The CBDC is dedicated to the exploration of community-directed programmes to strengthen the conservation and enhancement of agricultural biodiversity. The CBDC website is www.cbdcprogram.org.

¹ Although certified soybean seed sellers in Argentina include Nidera (58%) Monsanto (19%), Don Mario (16%) and Relmo (3%), all of them license GM seed technology from Monsanto. – information provided by Grupo de Reflexion Rural, Argentina.

² Anonymous, “Report: Argentina to create royalties fund for biotech seed cos,” *St. Louis Business Journal*, February 20, 2004, available on the Internet: <http://stlouis.bizjournals.com/stlouis/stories/2004/02/16/daily82.html>

³ Miguel Diaz, “Pirateria hasta en la siembra, se achica negocio millonario,” *Clarín*, January 21, 2004.

⁴ Anonymous, “Monsanto Closes Soy Royalties Deal With S. Brazil Farmers,” *Dow Jones Newswire*, January 28, 2004, available on the Internet: http://online.wsj.com/article/0,,BT_CO_20040128_011385,00.html

⁵ Rick Weiss, “Engineered DNA Found in Crop Seeds: Tests Show U.S. Failure to Block Contamination From Gene-Altered Varieties,” *Washington Post*, February 24, 2004.