

A PANEL DISCUSSION ON THE TRIPS REVIEW: A ROADMAP FOR PROTECTING FARMERS' RIGHTS

Cancun, 11 September 2003

BACKGROUND

Farmers' rights as a global agenda was first defined by the International Undertaking on Plant Genetic Resources (IUPGR), United Nations Food and Agriculture Organisation (FAO) in 1983 to establish harmony between Plant Breeders' Rights (PBRs) and farmers' rights and to ensure due space for farmers' rights in PBR. The United Nations Convention on Biological Diversity (CBD), signed at Rio de Janeiro in 1992, has further reinforced this concept. In addition, recently signed International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR) too has underscored the need to protect farmers' rights.

After the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organisation (WTO) came into force in 1995, the issue of protecting farmers' rights has become a matter of intense debate, mainly due to two reasons. Firstly, certain provisions of the TRIPS have the potential to limit farmers' traditional rights to save, exchange, reuse and sell seeds. Secondly, recent years have seen a sharp increase in the role of IPRs in agriculture. This has led to a demand that the role of farmers and rural communities as sources of genetic material and indigenous knowledge should also be recognised and compensated for. In the present context, farmers' rights include two distinct but interrelated components:

- a) Rights to save, exchange, reuse and sell seeds; and
- b) Rights to recognition and compensation for their role in protecting and improving genetic resources and traditional knowledge.

CONTEXT

The TRIPS Agreement requires protection of plant variety (read plant breeders rights, or PBR for short) either through: a) patent, or b) effective *sui generis* system, or c) any combinations thereof. Most developing countries have chosen the second option. As the name suggests, *sui generis* system could be anything that is home grown in nature and provides protection to novel plant varieties. TRIPS also does not impose any restriction on the member countries of the WTO to restrict the rights of farmers in order to appease the breeders. However, developed countries, through bilateral pressure tactics, including during the accession of new countries to the WTO, are trying to impose their own model, known as International Union for the Protection of New Plant Varieties (UPOV) on the developing countries. They have gone on record claiming UPOV as the only effective *sui generis* model, thus facilitating the process of backdoor entry of UPOV into the WTO system.

While countries like China and Kyrgystan were pressurised to follow the UPOV model and join this Union during its accession negotiations to the WTO; Vietnam was compelled by the USA to sign onto UPOV as a "side payment" for signing the US-Vietnam Free Trade Agreement. Similarly, the European Union (EU) had imposed a condition to Bangladesh to sign onto UPOV if the latter wanted to receive benefit from the Trade and Aid Agreement, which was signed in 1999. However, Bangladesh has not succumbed to the pressure so far. As recently as in July this

year, the developed member countries of the WTO even did not spare a least developed country (LDC) like Cambodia – it was forced to make a commitment to join the UPOV by December 2004 at the time of preparing its “Draft Protocol of Accession”.

This move by the developed countries, at the insistence of the multinational seed companies based in their respective countries, is calculated to restrict the farmers’ rights with the twin objectives of: a) making farmers dependent on them for the purchase of seeds “at any price”; b) driving the farmers (who are their competitors by virtue of being able to supply more than 80 percent seed requirement in the developing countries) out of the market and establishing control over the entire market.

CAMPAIGN AND ADVOCACY WORKS

Realising the threat of farmers’ rights being imperilled, several non-governmental organisations (NGOs) around the world – in particular in the South – have been campaigning, collectively and severally, to ensure that farmers’ rights are adequately respected and protected. Some of the NGOs have convinced their respective governments to protect the rights of the farmers while designing Plant Variety Protection Act. At the international level, lobbying efforts by NGOs coupled with the pressures from the developing countries’ governments have resulted in the inclusion of paragraph 19 in the Doha Ministerial Declaration – which calls for the review of TRIPS Agreement by taking into account, among others, the relationship of TRIPS with CBD. However, there has not been substantial progress in this area. Therefore, a big push is required in Cancun to ensure that progress does take place.

PANEL DISCUSSION AT CANCUN

Realising the need to make the TRIPS Agreement farmers’ rights friendly particularly in the context of ongoing review, a group of NGOs have teamed up to organise a Panel Discussion titled *The TRIPS Review: A Roadmap for Protecting Farmers’ Rights* in the sideline of the Cancun Ministerial Conference of the WTO. The objectives of the Discussion are to:

- Create pressure on the trade ministers and officials to make decision at Cancun to harmonise TRIPS Agreement with CBD, ITPGR and other international instruments that recognise, respect, protect and promote farmers’ rights.
- Sensitise a wide range of stakeholders about the need to protect farmers’ rights by exercising the options contained the in TRIPS Agreement.
- Create an international coalition of like-minded organisations, named, Farmers’ Rights Advocacy Network (FRANK) to conduct follow up necessary follow up activities.

RESOURCE PERSONS

There will be five panellists and one chairperson at the Panel Discussion. Resource persons shall be drawn from Africa, Asia and Latin America. The organisers shall try to maintain a balance between academic perspective as well as practical issues confronting the organisations working on these issues at the national and sub-national level.

ORGANISERS

ActionAid is one of the UK's largest development agencies. It works with over five million of the world's poorest people in more than 30 countries across Asia, Africa, Latin America and the Caribbean.

Consumers International supports, links and represents consumer groups and agencies all over the world. It has a membership of more than 250 organisations in almost 115 countries. It strives to promote a fairer society through defending the rights of all consumers, including poor, marginalized and disadvantaged people.

Gene Campaign is a grassroots level organisation with a presence in 17 states of India, which was started in 1993. Currently it is considered a leading research and advocacy organisation working in the field of food and livelihood security, bioresources, farmers' and community rights, intellectual property rights and indigenous knowledge.

SAWTEE is a regional network organisation based at Kathmandu involved in building capacity of the stakeholders in the context of liberalisation and globalisation. It is currently conducting, among others, a regional programme on protecting farmers' rights to livelihood in five South Asian countries.

DATE AND TIME

Date: Thursday, 11 September 2003

Time: 10:30 hours to 13:00 hours

VENUE

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