

# New EU Seed Law: “all power to the multinationals”

By Erik D'haese

*December 6th, 2011 (MO \* magazine, Belgium) -The European Union is working on a new legislation for seeds. Earlier this year a Stakeholder Consultation was organised. There are, however, quite a few comments to make about the way this consultation happened. There is also the question of whether the law which emerges will present a sensible answer to the problems agriculture and the food system are currently facing. UN Special Rapporteur on the Right to Food, Olivier De Schutter doesn't seem convinced that it will.*

Almost everything we eat today comes from intensive agriculture, and all agriculture has one common point: everything starts with seeds. The seeds which are used in industrial agriculture are traded on the world market, like Barbie dolls or laptops.

More than two-thirds of the global seed market is owned by ten companies with half of it dominated by only three multinational corporations. Agent Orange-inventor Monsanto tops the list with 23 percent. Most of these were originally petrochemical companies which have found seed production to be the perfect way to sell their pesticides and fertilizers - both petroleum derivatives.

But not all seeds can be traded on this global market. Today, many EU Member States have a system based on catalogues of registered plant varieties. In these countries, seeds are only allowed on the market if they are registered in a seed catalogue. This means that non-registered plant varieties cannot be traded commercially, although they are often tolerated as "varieties with a sentimental but no commercial value".

Food safety is supposed to be ensured by two types of tests that are necessary for the registration of plant varieties in these catalogues. Additionally, a certification system exists for the produce, which is accompanied by inspections. In many Member States these tests and inspections are organised by official institutions. The registration tests also allow seed growers to obtain intellectual property rights on varieties they have developed.

In 2007, the European Union started the development of a new legislation, which would “improve” the rules for the marketing of seeds and plant material. It is not clear whether there is a real need for this. Everything seems to indicate that more than anything the new law will significantly increase the power of seed multinationals.

## **A legislation adapted to its time**

In an attempt to understand the development of this new law, I soon came across some remarkable observations. Initially, an external consultant was hired to analyse the current situation. Further research on this external consultant quickly leads to the website of Arcadia International, an international consulting corporation which writes on its website without blinking (underlining in original): "Our experts are serving the global food and agribusiness systems - from crop production, through processing and marketing. We work with all sectors, with a unique industry focus, by integrating segment expertise and understanding segment interaction to lead to competitiveness and market access improvements for our customers." So this “industry focus” is the perspective through which the current restructuring of the European seed market is being viewed.

The evaluation by Arcadia and the FCEC (Food Chain Evaluation Consortium, an alliance with other, similar consultancy agencies) is based on an evaluation form, which was filled in by stakeholders throughout the EU. Ironically, the evaluation mentions that the current legislative system is functioning properly to supply the market with healthy, high quality seeds.

However, the results of this consultation are unavoidably distorted by the perspective of the more industrialized EU countries. More responses came from these countries, which have more economic weight, longer experience with this type of legislation and system, and less geographical and cultural distance from the laws. The result is that thousands of farmers in countries like Bulgaria will be blindly incorporated into a system that has never been theirs.

The research of Arcadia and FCEC was warmly welcomed by the European Commission and translated into an Action Plan that would serve as a guide for a unified European Seed Law.

This plan dates from 2009 and its main objective is to liberalise the market. The main motivations are the "lowering of costs" and the "promotion of food safety." The way to achieve all of this is the creation of a uniform legislation, centralization of the bureaucracy and of collaboration with industry. In short, a law which "meets the expectations of its time."

### **Standardization and privatization**

The proposals that circulate are profound. First and foremost, farmers and gardeners everywhere in the EU will have to conform to a centralised legislation. For most of them this will be less accessible and harder to question, since it will be shared by a much larger population and further from their beds, literally and figuratively. Greek farmers will be forced to unite with Portuguese, Irish and Finns to even dream about influencing the policy.

Currently, each Member State has developed a different way to regulate its domestic seed market. In the light of the new law this is seen as a problem, although the extermination of this legislative diversity might well prove extremely harmful for European biodiversity, both in the wild and on your plate.

Europe wants to reduce the different systems of tests, inspections and catalogues into one system. The action plan suggests that these tests might be outsourced to the private sector. Two years later, this "suggestion" seems to be becoming increasingly unavoidable.

### **Seed Police**

Once this unified law is operational, the Action Plan foresees the establishment of a kind of "seed police". These inspectors are to be provided with specific training, under the motto "Better training for safer food". Imagine the German inspector visiting Romanian villages to verify whether their ancient lettuce varieties are safe. In the past, similar reasoning has already forced many a small-scale artisanal cheese producer, from Portugal through Poland to Belgium, to close due to "inconsistency with hygiene requirements". Rules that require huge investments, which in the real world only the major capitalist players can afford.

The new legislation would also be consistent with other great European ideals, such as food safety. According to the Action Plan, the European Food Safety Authority (EFSA) will be fit for this job. This official agency of the EU protects consumers from the harmful effect of chemicals and GMOs thanks to clear, research based testing.

However, the Authority has not managed to keep a clean reputation, despite its short existence - since 2002. Several members of the board of directors also have functions in major food multinationals or other interest groups of the food industry. Several times this has led to controversy and unreliable recommendations, including on issues surrounding GMOs.

The plan also clears the way for an extension of the powers of the Community Plant Variety Office (CPVO), another European institution, currently responsible for granting intellectual property rights on plant varieties. This CPVO would henceforth unite all catalogues into a single one, valid for the whole Union, another unnecessary centralisation of power structures. One might also wonder whether this would not inevitably lead to an increased role for intellectual property rights on plants and life in general.

### **Export of EU rules**

In addition the plan also hopes to export the new European law to other parts of the world. Bilateral agreements and free trade agreements may well impose these neoliberal market principles in countries where small-scale agriculture still provides the daily bread of a majority of the population. This could make the lives of millions of poor farmers even harder, if not impossible. Farmers' organisations in countries like India and Turkey are already fearing the worst if this new law should pass.

The EU is presented as a key player at the international level, with the ambition to facilitate the international movement of seeds - yet another principle which will make farmers and food dependent on complex legislative systems and energy-intensive transactions. Farms lose their social legitimacy as local centres of sustainable self-sufficiency and are forced to produce industrially, serving the global market and its dominant players.

The last point in the Action Plan proposes a closer cooperation with stakeholders in the future. This actually sounds like a reason for optimism, if it weren't for the reality that those stakeholders are mainly lobbyists for the industry. Already in 2008, a company like Monsanto spent about 7 million euros on lobbying, and the offices of most of these multinationals are neatly embedded in the Brussels European district. The current mess of national legislations seems especially problematic for large multinational companies. It is much easier and, indeed, cost-effective to concentrate all lobbying at one central location.

### **Your opinion is being heard. About what though?**

Up until the end of May 2011 all stakeholders were allowed to give their opinion about the plans in a Stakeholder Consultation. However, the form which was intended for this purpose was almost symbolically represented as a multiple-choice between five very similar scenarios, all built around the tests, catalogues, certification and inspections. In this way any fundamental questioning of the process automatically ended up in the margins.

Imagine you're a pear merchant and one day the government decides that, from now on, you will be selling apples. Fortunately, they add to this that you're allowed to have your say on the matter. The next day they give you ten minutes to decide which kind of apples you

will grow. Only, each of the five options is sour and green, and you don't really want to grow apples, but pears. In addition, you will be required to purchase the apples from a foreign company and no one in your town actually likes to eat apples, certainly no sour green ones.

Several aspects of the Action Plan can be summed up under the sacred principle of the "level playing field", a capitalist term which indicates a perfectly flat soccer pitch, giving each player the same legal opportunities. Of course in reality this means that the small ants in the industry will be ever the easier crushed by the big elephants. And to give Hannibal a hand the Alps are neatly leveled for the occasion. This way Caesar is assured to receive what's Caesar's due.

In other words, making a good choice between the scenarios was very difficult for small seed growers. Either the future situation will be more expensive, and the big boys will win because they're financially stronger. Or everything becomes centralised, which gives them a political advantage because they have the right men in the right places. Or tests and inspections will be privatised, and the powerful players prevail because they have more weight and resources, and can more easily adapt the tests to their needs.

### **Impossible to question**

Many points of the action plan were not addressed in the five scenarios of this stakeholder consultation, which focused entirely on the procedures for registration of varieties and produce inspection. One unified law, which attributes a huge influence to a handful of well placed people, companies and concentrated interests, covering the whole EU and many of its trading partners, seems impossible to question.

So what if, as a participant in the survey, I don't feel that Bulgarians, Turks and Indians need a European industrial model? Where should I have written that in the consultation? Is it realistic, at this stage of the process, to question the whole series of evaluations and reports, which started in 2007?

At the moment, the replies to the Stakeholder Consultation can be consulted freely on the internet. Anyone can compare the replies of multinationals like Monsanto, Syngenta or Limagrain to that of the British Government, the Irish Seed Saves, Kokopelli or Velt, a Belgian NGO for the protection of ecological gardening. I had a quick look into about fifty of them – about one fifth of the total.

The major industrial players generally seem to like the scenarios, especially those preparing for privatisation. Many come with extensive suggestions and proposals to adapt things even more to their own desires, providing cunningly constructed arguments, which mention their economic weight and profitability. Organisations and individuals who care about biodiversity often prefer the fourth scenario, because that's the only one which doesn't completely condemn conservation seeds to illegality.

Remarkably, the more westernised European countries are much better represented in the replies, and little to no answers come from some Eastern European countries. The fact that some answers are almost incomprehensible in the compulsory English clearly shows how linguistic uniformity can easily result in an antidemocratic situation. Regardless of country or language, many of the answers turn out to be so light or critical that one honestly wonders whether they will be taken seriously at all.

Fortunately, a number of stakeholders could not be tempted to go along with the categorisation and reasoning suggested by the inquiry. This is nicely reflected in the reply of Velt: "Someday, history will consider the European Seed Law to be a serious error, because it presumes that seeds are a commodity like any other, only intended to make a profit."

## **Agro-ecology**

This article is about a basic human need: food. That's what this story is all about: food for a world in crisis. We see that the planned legislation approaches this need through a very narrow capitalist perspective. The picture becomes very different when we listen to the findings of UN Special Rapporteur on the Right to Food, Olivier De Schutter.

The reports and lectures of De Schutter invariably mention that the real solution to sustainably feed the world are to be found in small, local, mixed agriculture. Not only does this have a higher productivity per hectare, it also offers a sustainable response to rising unemployment. It seems to be the only real solution, as much in light of climate change, population growth, loss of biodiversity as increasing social inequality.

Generally the GMO multinationals are the ones who claim that their production model delivers the highest yield per hectare. The only real way to support this claim is to leave out of consideration a range of parameters like petroleum consumption, sustainability, environment, nutritional value and social impact.

The climate presents us with an absolute need to dramatically reduce global energy consumption. Industrial agriculture is one of the biggest consumers of fossil fuels, for pesticides and fertilisers, transport, the entire distribution industry, as well as for the actual mechanical tilling of the land.

The result of all this agrochemistry is a huge impoverishment of the soil and the biodiversity that inhabits and surrounds it. A diversity of species is the only real guarantee against crop failures, protecting local communities against a changing climate. One hundred billion clones of the same plant respond in exactly the same way to drought or floods. Only a healthy field with a natural genetic diversity allows species to adapt - some plants will suffer, others will flourish.

Almost all of the food which can be bought on our industrialised society's markets -even the organic vegetables in your local supermarket- is produced using the same industrial seeds. These hybrid seeds provide a uniform product, nice round red tomatoes or thick orange carrots for example. The only problem: hybrid seeds are not useful for seed production. In this way, farmers have turned into consumers of their own seeds, which they need to buy from specialised companies, every year.

## **Concentration of interests**

Our petroleum-intensive industrial agriculture model is very dependent on major economic trends. Speculation on basic commodities such as cereals makes for huge uncertainty for very large parts of the world's population, both farmers and consumers. Is it logical that the OPEC affects the price of bread or pasta? As the demand for oil continues to rise and the supply starts falling, the prices of everything associated with oil are inevitably rising. And power becomes more and more concentrated in the same chairs.

This increasing concentration of interests is causing small-scale agriculture to become less and less feasible. In recent years, hundreds of thousands of small farmers around the world have lost their land to large-scale landowners, with devastating social consequences like deserted rural areas and waves of peasant suicides. In India in the last 15 years, 250,000 desperate farmers have put an end to their lives, often by drinking the same chemicals that should have made their crops invincible.

A farmer without land is condemned to subjugation. In a country like Belgium 40 farms cease their activities every week, in France more than 200. These numbers reveal the imposition of agriculture on an ever larger scale.

According to the report by De Schutter, the feasibility of the agro-ecological model depends to a large extent on the political will to promote it. The UN Rapporteur presents a number of very concrete proposals for ways in which governments can promote the evolution of their food systems in a positive direction.

### **Concentration of power**

In a matter like this, there is no real argument for the further centralisation of power and procedures. The only ones who really benefit from a unified European Seed Law are large multinational corporations. When we take a closer look at the story of this legislative development, it turns out that their influence on the policy is everywhere.

All sources and information about this law are freely available on the Internet and all we need to do is read and interpret. Luckily for the industry we are all far too busy to have time for this, especially in industrialised societies like ours where "peaches come from a can, They were put there by man in a factory downtown" (lyrics "Peaches" - The Presidents of the USA). Should we then be surprised that power seems to evolve almost naturally towards increasingly concentrated and centralised structures? Anyone who still has any questions about the increasing gap between rich and poor can find an inspiring example in this case study.

Agriculture and seed production are ancient practices that have been very close to human kind for thousands of years. Since the emergence of agriculture seed production has been as local as the crops that were grown. The distance between people, seeds and fields which dramatically increased during the last century, might well be at the origin of all 'crises' which nowadays not a single government seems to be prepared for.

*More information:* <http://www.seed-sovereignty.org/>

*Some sources:*

-Arcadia report: Evaluation of the Community *acquis* on the marketing of seed and plant propagating material

[http://ec.europa.eu/food/plant/propagation/evaluation/s\\_pm\\_evaluation\\_finalreport\\_en.pdf](http://ec.europa.eu/food/plant/propagation/evaluation/s_pm_evaluation_finalreport_en.pdf)

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-Stakeholder Consultation:

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[http://ec.europa.eu/food/plant/propagation/evaluation/options\\_review\\_legislation\\_replies\\_en.htm](http://ec.europa.eu/food/plant/propagation/evaluation/options_review_legislation_replies_en.htm)

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-Reports Olivier De Schutter

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Top 10 of seeds multinationals:

<http://gmwatch.org/latest-listing/1-news-items/10558-the-worlds-top-ten-seed-companies-who-owns-nature>

EFSA interest conflicts:

[http://www.lemonde.fr/planete/article/2010/03/05/ogm-l-agence-d-experts-europeens-doit-retrouver-une-credibilite\\_1315192\\_3244.html](http://www.lemonde.fr/planete/article/2010/03/05/ogm-l-agence-d-experts-europeens-doit-retrouver-une-credibilite_1315192_3244.html)

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