

Main Arguments and Voices Against Patents on Food Crops

No Patents on Seeds

In an open letter to the members of the European Parliament and the European Commission the NGO-coalition no-patents-on-seeds (www.no-patents-on-seeds.org) is calling for a ban on patents on animals and plants. The letter can still be signed by organizations and individuals on the website mentioned above. Some 200 organizations are already supporting the appeal.

The main arguments of the coalition are as follows:

- ▶ There is a negative impact on innovation as breeders are not allowed to use the patented plants, animals or genetic material freely for further breeding.
- ▶ Patents have been the engine behind tremendous market concentration in the seed sector, destroying competition and forcing small and medium enterprises out of the market.
- ▶ Patents lead to higher prices for farmers, less choice for consumers and a negative impact on agro-biodiversity.

Farmers' Organizations Oppose Patents on Life.

Numerous farmers' organizations on all continents have already supported an earlier the call of no-patents-on-seeds to ban patents on food crops and farm animals (http://www.alt.no-patents-on-seeds.org/index.php?option=com_content&task=view&id=30&Itemid=24) . Via Campesina, the global movement of small farmers has publicly spoken out against patents on life for decades.

Governments also Voice Criticism about Patents on Food Crops.

10 years ago already—under the WTO-TRIPS agreement—various development countries, following the lead of the **Africa-Group** and supported by **India** and others, sought to „amend or clarify Article 27.3(b) to prohibit the patenting of all life forms, more specifically plants and animals, micro-organisms and all other living organisms and their parts, including genes as well as natural processes that produce plants, animals and other living organisms”.

The most serious misgivings about patents on life voiced by these governments had to do with development, food security, environment, culture, and morality and included concerns relating to the implications of patent protection on plants with regard to access, cost, re-use and exchange of seeds by farmers.

An appeal by **Bolivia** submitted to the TRIPS council in March 2010 and reconfirmed by a second petition the following year also called for a general ban on patents on life. Among other things, Bolivia pointed out how numerous patented genes that might be used to mitigate the effects of climate change (drought, heat) were unavailable because they were the exclusive property of a handful of large corporations.

In recent years, **Germany** has taken a very firm stand against patents on food crops and livestock. In their coalition agreement the governing parties CDU, CSU, and FDP emphatically state that „intellectual property rights notwithstanding, we reject patents on food crops and livestock“. The German government calls for a change of EU bio patent guidelines that put „agricultural production at risk of being monopolized at the expense of small farmers and biological diversity“, in the words of Julia Klöckner, a senior official with the Federal Ministry of Food, Agriculture and Consumer Protection. This concerns are supported by an expert opinion of the advisory body on biodiversity and genetic resources of the ministry

http://www.bmelv.de/SharedDocs/Downloads/Landwirtschaft/Tier/TierzuchtTierhaltung/Gutachten-Biopatente.pdf?__blob=publicationFile – in german).

Plantum NL Position on Patent and Plant Breeders' Rights

On 6 May 2009, Plantum NL (Europe's largest breeder organization with some 400 members who collectively own approx. 43% of European plant variety protection rights) adopted a new position as regards the relation between patent- and plant breeders' rights, asking for a fundamental change in patent law: Biological material protected by patent rights should be freely available for the development of new varieties. This free availability, use and exploitation should not be allowed to be obstructed in any way, either directly or indirectly, by patent rights.

The overwhelming majority of Plantum members believe that these developments pose a threat to the tried and tested system of open innovation within the plant breeding sector.

First and foremost, we can expect a price increase for plant propagating material, since any costs which are associated with obtaining licenses and applying for or defending patents will be passed on to the growers. Not all plant breeding companies will be able to obtain licenses for important traits, as a result of which the growers will be faced with a more limited choice between the different suppliers of a particular crop. Finally, the expectation is that there will be even more consolidation as some plant breeding companies will no longer be able to maintain a competitive position in the market. This lack of players keeping up the competitive pressure will slow down the level of innovation in general across the sector.

(The full Plantum position statement can be found at:
<http://www.plantum.nl/english/Plantum/Documents/Standpunt%20Octrooi%20en%20Kwekersrecht%20volledig%20ENG.pdf>)

A comprehensive study of the Centre for Genetic Resources at the University of Wageningen (NL) published in September 2009, comes to the same conclusion: Access to genetic variation is so crucial for further innovation in breeding that a form of breeder's exemption in patent right is required. (<http://documents.plant.wur.nl/cgn/literature/reports/BreedingBusiness.pdf>)

The **Federal Association of German Plant Breeders** also call for a change in patent law: they reject patents not only on procedures but plants as well if these were essentially bred by biological and not technical means.

Patents on Food Crops and the Right to Food

In his report “The Right to Food - Seed Policies and the Right to Food: Enhancing Agrobiodiversity and Encouraging Innovation”, Olivier de Schutter, Special Rapporteur on the right to food, clearly rejects patents on life: “In particular, states should not allow patents on plants and should establish research exemptions in legislation protecting plant breeders’ rights.”

Oliver de Schutter is particularly concerned that intellectual property rights on food crops jeopardize the seed systems through which farmers traditionally save, exchange and sell seeds. Most farmers in developing countries still rely on such systems, which, for them, are a source of economic independence and resilience in the face of threats such as pests, diseases or climate change.

http://www.srfood.org/images/stories/pdf/officialreports/20091021_report-ga64_seed-policies-and-the-right-to-food_en.pdf