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The Protection on Plant Varieties and Farmers' Rights Bill, 1999

It Now under the consideration of a
Joint Committee of both the Houses
of Parliament, chaired by
Hon. Dr. Sahib Singh, M.P.

Aim: Purpose:

To provide for the establishment
of an Authority to give an effective system
for protection of the rights of plant
breeders and farmers, and to encourage
the development of new varieties of plants
and to effect to sub-paragraph (h)
of paragraph 3 of article 27 in Part II
of the Agreement on Trade Related Aspects
of Intellectual Property Rights (TRIPS)

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The Plant Varieties and Farmers' Rights Protection Authority

Composition

Chairperson: a person of outstanding calibre and eminence in the field of plant varietal research.

Members: Nine (ex officio)

Member-Secretary: Registrar General

Authority may ~~be~~ appoint such Committees as may be necessary.

Chairperson serves as the Chief Executive of the Authority

Instruments

• Plant Varieties Registry

• Registrar General at the national level.

• Registrars at the state level

• Registration of a new Variety

shall be deemed to be.

• Novel, i.e., not sold earlier

• Different, i.e., different from others

• Uniform, i.e., ~~not~~ Phenotypic homogeneous

• Stable, i.e., unchanged after

repeated propagation

Breeder's Rights

- Exclusive right to produce, sell, market, distribute, import or export the variety
- Rights over essentially derived variety in benefit sharing
- Duration of rights from the date of registration
 - 18 years in the case of trees and vines
 - in the case of extant variety, 15 years from the date of notification of the variety.
 - 15 years in all other cases

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Farmers' Rights

Farmer : as a breeder

: as a conservator

, as a cultivator.

Rights

Farmer - breeder : Same as any breeder

Farmer - Conservator : Recognition and reward

Farmer - cultivator : Plant back ~~and~~ and limited exchange rights

For farmer - conservator, any person, group of persons or any governmental and non-governmental organisation may on behalf of any village or local community stake a claim for sharing benefits.

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National Gene Fund

• Source: Benefit sharing with breeders

Annual fee

Compensation deposited in the Gene Fund

contribution for any national or international organisation

• Application: Benefit sharing

compensation

In situ and ex-situ

conservation

schemes related to benefit sharing

Q. Why Legislation?

• Article 27.3 (b) of TRIPS

"Members shall provide for the protection of plant varieties ~~through~~ whether by patenting or by an effective ~~but~~ sui generis system

or by any combination thereof. Developing countries should comply with this provision with 5 years from 1st January, 1995

• Bill is needed to stimulate investments in R & D in the public & private sectors

• To facilitate the growth of the seed industry through domestic and foreign investment

• To recognise the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro-biodiversity

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III FAO Revised International Undertaking
on Plant Genetic Resources

- International Undertaking on Plant Genetic Resources (IUPGR) adopted in 1983.
- Monitored by FAO Commission on Genetic Resources for Food and Agriculture (CGFRA)
- CGFRA has 160 Members, of which 113 countries, have adhered to the Undertaking
- Revision of IUPGR is currently underway to achieve harmony with CBD

IUPAR: Issues of Debate

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Article 12 Scope and Coverage of Multilateral System of Access (M.L.S.)

Criteria: Food Security and interdependence

M.L.S. to cover

- Material held in ex-situ collections by CGIAR institutions (over 600,000 accessions)
- Material held in collections of other international institutions that accept the provisions of

~~the~~ IUPAR

Coverage . Brazil: 3 crops (Rice, wheat and maize)

African Group: 8 to 10 crops.

India . About 25 crops.

European Union: 150 to 200 crops

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Article 13. Facilitated Access

to PGR within M.L.S.

Developing Countries' Viewpoint

- No Plant Varietal or patent protection for ^{direct use}
- Appropriate benefit sharing arrangements
- Adequate financial arrangements
- End use of material provided under the M.L.S. is defined and restricted
- The Governing Body is constituted of all Parties
- Provision of in situ materials will be in accordance with national laws

Purpose: Utilization in research, breeding and training, and would not include chemical, pharmaceutical and other non-food and non-agricultural uses

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Article 14: Benefit Sharing in
the Multilateral System

Suggestions made at a Workshop
held at the Royal Botanical Gardens, Kew

- A levy on accessions
- An annual fee payable by MLS participants
- Negotiated royalties
- Voluntary contributions
- Fixed Royalty payments
- Contributions to specific conservation projects

Developed Countries: ~~reluctant~~ Reluctant
to propose a comprehensive
formulation on benefit
sharing.

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IV Implications for Research

- M.L.S will minimize protracted ~~negotiations~~ procedures in the exchange of germplasm among scientists
- Much of the exchange will involve South-South collaboration
- M.L.S. will have value only, if in addition to the CGIAR accessions, large Gene Banks like the USDA Gene Bank at Fort Collins, Colorado, join the system.
- For giving meaning and content to the concept of Farmers' Rights, a Global Gene Fund will be necessary in addition to National Gene Funds
- The Voluntary Code of Conduct developed by IISD RF Tribal and Rural Families for working with will become a mandatory code for all researchers

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Article 15. Farmers' Rights

Negotiated Test

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IV Tasks ahead for MSSRF

- Complete the GEF/UNDP/GOI study on best practices in the field of benefit sharing ~~speedily~~ speedily and in a meaningful manner, with reference to the extrapolation domain of the "best practices".
- Prepare training modules for ~~Local Boards~~ building the capacity of local bodies (Panchayats) in dealing with the ~~the~~ issues of prior informed consent and benefit sharing.
- Revitalize review and revitalize the Resource Centre for Farmers' Rights.