

World Trade Organization and Food Security What is At Stake

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In May of 1998, trade ministers from around the world will descend on Geneva to celebrate the 50th anniversary of the founding of the world trading body known until recently as the General Agreement on Tariffs and Trade, now called the World Trade Organization. At this ministerial meeting plans will be finalized for the next round of global trade talks scheduled for beginning in 1999, which will re-write the rules of trade in two areas vital to food security -- the patenting of seeds and other forms of life, and the rule of agricultural trade.

During the last round of negotiations these were two of the most bitterly contested areas of negotiations, nearly destroying the entire talks on several occasions. To avoid total failure, the major powers, primarily the United States and Europe, agreed on a short-term, temporary agreement in both of these areas. A "peace clause" between these two was established to make sure that neither used this time period to attack each others farm programs.

While the over-riding ideological nature of the trade talks has not changed much, with the promotion of trade de-regulation and limitless globalization in the forefront of most negotiators objectives, the material conditions under which the next talks will take place are very different.

First, the current turmoil in financial markets in Asia and Latin America are not likely to go away or be forgotten. There is a great deal of anxiety about the fragile nature of our interlocked system of global finance leading to serious questioning of the wisdom of current arrangements.

Second, there is strong public sentiment growing against globalization in general. The recent defeat of President Clinton in his attempt to get special new trade negotiations authority is being hailed as nearly revolutionary -- unprecedented in US history. Like the strikes in France against globalization and similar protests in South Korea and other countries, this new wave of public protest is a sign of both increase public awareness of economic policymaking and its impacts and it is a sign of opposition to the current path that we are on in global trade and finance arenas.

Third, the debate has turned from one of comparing computer projections to examining the reality and real work consequences of the current agreement. Food security in particular has been very severely impacted. A number of countries, including the Philippines and India, have already publicly debated abandoning previous GATT commitments due to the negative impacts on their food security that they can already feel..

Fourth, promises made to poor countries that if the previous agreements did negatively harm their food security they would be compensated have been totally ignored. At the ceremony to sign the Uruguay Round agreements of the General Agreement on Tariffs and Trade a special accord, called the Marrakech Agreement, was prepared which promised financial compensation and assistance to poor nations if the new trade rules resulted in damage to their security. Although there is overwhelming evidence of severe negative impacts in dozens of countries, the trade ministers of the rich nations who made these promises to secure support for the final text are attempting to ignore the deal. This has caused a great deal of bitterness and mistrust that may cast a dark shadow over their participation in any future talks.

It is time for farmers and peasant organizations, along with other sectors of civil society to develop a comprehensive plan for our strategy on these next trade talks. The following are some of the key elements at stake in this debate.

Food security can be affected by a really wide range of policies under discussion at the WTO. For example, talks on de-regulation private investment flows under the so-called Multilateral Agreement on Investments could take away the right of countries to prevent prime farmland from being converted into factories, shopping malls, or golf courses. New rules being proposed in the area of government procurement might prevent local and regional or tribal governments from using their purchasing power to support local, indigenous, or environmentally careful producers. A comprehensive analysis of all aspects of current and near-term trade talks needs to be undertaken to detail all potential impacts on food security and to provide a framework from positive policy initiatives.

Within the entire WTO framework, however, the two most prominent areas of negotiations which will impact food security the most directly and immediately are in the upcoming talks on plant patenting and on the general agricultural rules. In both these areas, the critical issues come down to one element -- the drive to deepen and extend the industrial model of agriculture through rules which favor the rights of investors and lenders over farmers, workers or consumers.

Plant Patenting, TRIPS, and the Industrialization of Agriculture

In 1999, talks will begin on what trade negotiators call TRIPS, which stands for Trade Related Intellectual Property Rights, specifically looking at the provisions which govern the rules under which countries regulate the patenting of seeds and other life forms. A review of current national laws regarding the key related issues, such as access to genetic and plant genetic resource, and intellectual property rights (IPRs), including collective rights, shows that many governments in both the industrialized and developing countries are tending to adjust to the demands of the World Trade Organization (WTO) by implementing legal systems for "Plant Breeders Rights" and industrial property often with very negative potential impacts on food security.

In the case of "Plant Breeders Rights", a majority of countries have adopted the original terms of the Union for the Protection of Plant Breeders' Rights" 1978 (UPOV, 1978). The United States and the countries of the Andean Pact have adopted the 1991 version of UPOV. Concerning industrial property, legal regimes for patents, trade secrets and brand name registers have been established. the WTO Uruguay Round Agreement on Trade Related Aspects of Intellectual property Rights (TRIPS) allows member countries to implement IPRs regimes by means of "sui generis" systems, without specifying the meaning of "sui generis," hence leaving open conceptual space for alternative regimes.

For example, the government of Thailand has prepared draft legislation towards protecting traditional medicines and medical practice via a traditional medicines registry. Andean Pact countries are preparing a proposal for a "special regime or norm of harmonization oriented towards strengthening the protection of traditional knowledge, innovations and practices of indigenous, Afro-American and local communities." The State of Acre in Brazil published the first law on biodiversity in Brazil, oriented towards preventing bio-piracy . In the Philippines, Senator Orlando Mercado has presented a bill, scheduled for a construct a concept of "Collective Intellectual Rights" on the basis of a holistic understanding of what the protection of collective knowledge. This intellectual work must be tackled over the next year alongside of the political strategy developed for influencing the WTO.

Agricultural Talks

At stake in the next round is the fundamental direction for national policies in both the North and the South. If the talks are merely an extension of current dominant trends, then they will force countries to further exit the food and farming policy arena, leaving the problem of ensuring food to poor people and environmental protection of the land to the invisible hand of an increasingly monopolized market.

On the other hand, key groups from around the planet have been meeting together at the margins of other events, like the World Food Summit in Rome, and in specific meetings to discuss problems with current trade rules and to develop alternative, positive new directions for the future. For example, there is a general consensus that reducing government spending on farm production stimulation programs in the North are counterproductive, but the current WTO agriculture rule permit, and even encourage, the dumping of agricultural products which outweighs the changes the come about when government spending is redirected away from fostering overproduction. A consensus is being built around a set of principles that can be the basis for collaborative lobbying of national governments and international agencies as we move into the next negotiations. Following is the beginnings of a strategic approach.

DEFENDING FOOD SECURITY IN THE FACE OF GLOBALIZATION: THE WTO 2000 CAMPAIGN

Background

In 1986, President Reagan opened the GATT Uruguay Round trade negotiations. In 1988, President Bush appointed a lifetime executive of the Cargill Company to be the United States' GATT negotiator on agriculture. The result, in 1994, was an Agreement on Agriculture that ostensibly requires reductions in export subsidies, but allows ever higher levels of export dumping; it also requires all members of the new World Trade Organization (WTO) to import minimum percentages of all basic foods. At the same time, the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) obliges all WTO members to provide for patents or a "sui generis" system of intellectual property rights for all plant varieties.

Today, numerous countries around the world have become more food-import-dependent than ever. In some cases, local food production has been all but wiped out, with hunger and destabilization resulting. And patents have granted private giant agribusiness companies monopoly rights over microorganisms, plants and animals, specific genes and the traits encoded within them, whole species including all cotton and soybeans derived through genetic engineering, and even human beings. With patents limiting farmers' access to genetic resources, their capacity to contribute to agricultural biodiversity and food security is severely hampered.

The Uruguay Round and bilateral negotiations between the U.S. and other countries is accelerating the rate at which this broad definition of exclusive intellectual property rights is being adopted by the rest of the world and, consequently, the rate of penetration of genetically engineered and patented monocultural production systems – with major repercussions for global agricultural biodiversity and food security.

Several international negotiations have been held to try to accommodate monopoly patents within the traditional multilateral framework of the United Nations which embraces the concepts of common heritage, national sovereignty, and the collective rights of human communities.

Chief among these negotiations are those of the United Nations Food and Agriculture Organization (FAO), which has begun negotiations to update the 1985 principle of Farmers' Rights and the International Undertaking on Plant Genetic Resources, and the 1992 Earth Summit and its Convention on Biological Diversity (CBD) which recognizes the invaluable knowledge and traditions of local communities and their rights.

As governments have taken steps to implement these agreements, controversy has arisen:

Some governments have expressed concern that intellectual property rights for industry, as defined in the Uruguay Round TRIPs Agreement, will prevail over the traditional rights and rights holders recognized by the CBD.

Other governments have noted a contradiction between the rights of patent holders and the goal of diffusing environmentally friendly technologies, asking whether intellectual property rights could be regulated in order to promote technology transfer.

Still other governments have voiced fears about the potential risks associated with the use of genetically engineered organisms, promoted by patent holders as a means of monopolizing new commercial niches. Genetic engineering is a relatively new science with as yet untested impacts on biodiversity, biosafety and food security.

Food-importing countries have sought to implement the "Marrakesh Decision," a compromise reached during the Uruguay Round to protect least developed nations whose food import bills might increase as a result of the 1994 Agriculture Agreement. The IMF and WTO have objected to its implementation, on grounds that real increases in their food bills are not a direct result of the Uruguay Round, despite a study by the FAO estimating that price increases in basic commodities could lift the food import bill of least developed countries by some \$10 billion by 2000, of which \$1.4 billion may be attributed to the Uruguay Round provisions.

These concerns are shared by innumerable non-governmental organizations (NGOs.). In many meetings, their role as observers has been expanded at the discretion of the official Chair to include, in some cases, the opportunity to speak in formal sessions and otherwise confer with governmental negotiators throughout the official process.

Under the FAO, meetings of the Commission on Plant Genetic Resources in April, the 4th Technical Conference on Plant Genetic Resources in Leipzig in June, and the November World Food Summit in Rome attracted hundreds of groups representing or working with farmers in their own countries to debate the ownership and development of seeds and the future of agriculture.

Meetings of the Conference of the Parties to the CBD and the Ad Hoc Working Group on Biosafety attracted hundreds of others to Argentina and Denmark to consider the implications of genetic engineering, biological prospecting and intellectual property rights on ecosystems and indigenous communities.

The First Ministerial Meeting of the WTO in Singapore in November was attended by dozens of NGOs determined to democratize this secretive institution.

The Key Challenges

Reconciling Diverse Approaches

Between 1996 and 2000, the world's citizens and their governments will be engaged in a major debate concerning the way in which these international policies are to be finalized as law. By the end of the century, the TRIPS, CBD and FAO agreements should be "harmonized" – that is, negotiators are supposed to reconcile the present differences between them. Negotiations over Farmers' Rights and a Biosafety Protocol should have moved beyond definition toward implementation by then. And the Uruguay Round TRIPs and Agriculture agreements have clauses scheduling the re-negotiation of key provisions by 2000.

Already, government negotiators have begun the process of new trade talks. During the 1996 World Food Summit, for example, the United States Secretary of Agriculture acknowledged in a public meeting that he was taking advantage of this gathering to hold informal bilateral discussions with representatives of some two dozen other countries in preparation for renegotiating the Uruguay Round Agriculture Agreement. A number of other major negotiations are also underway regarding investments, telecommunications, government procurement and food safety standards.

Meanwhile, many countries have begun to implement terms of the 1994 deal, and are drafting legislation to develop their national laws governing agriculture policy and intellectual property rights in ways consistent with the existing international agreements to which they subscribe. As democratic states, many nations are engaging their citizens in debate and consultation to develop these laws in ways that are consistent with the public interest. Nonetheless, certain private interests have exercised commercial power to influence the way in which governments reconcile national policies to meet both domestic and international obligations.

Diverse Approaches To Intellectual Rights

There are three prominent international agreements which many governments are seeking to reconcile regarding intellectual property law concerning forms of life:

(1) The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) of the World Trade Organization (WTO) states that member countries must apply intellectual property rights to the use of plants, microorganisms and other life forms. It gives nations substantial discretion whether to provide for patents or for a "sui generis" system of protection for plant and animal varieties, and allows members to exclude from patentability "diagnostic, therapeutic and surgical methods for the treatment of humans and animals" and that which, if commercially exploited, would threaten "ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment."

(2) The Convention on Biological Diversity (CBD) stipulates that parties cooperate to ensure that intellectual property rights "are supportive of and do not run counter to" the conservation and sustainable use of biodiversity, and the equitable sharing of its benefits. This convention also obligates the parties, subject to their national law, to "respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities."

(3) The International Undertaking on Plant Genetic Resources of the United Nations Food and Agriculture Organization (FAO) provides for "Farmers Rights." It recognizes farmers as innovators entitled to intellectual integrity and access to the germplasm and technologies they have developed collectively over many generations. It envisions compensating them through a global fund, financed by a mechanism as yet to be negotiated.

Each of these is an international agreement to which the subscribing parties must conform. Many countries have subscribed to all three – and thus find themselves seeking to define national legislation that complies with each while balancing the trade-related aspects of

protecting commercial intellectual property with the community-related aspects of protecting humanity's intellectual heritage.

This tension between commercial and community rights -- the private and public interests -- has generated tremendous debate on a global scale as well as within many nations:

Indigenous Peoples across the planet are debating the meaning of the CBD's references to benefit-sharing and "prior informed consent" regarding the use of their traditional knowledge.

Patents claimed by the U.S. government on the DNA of Indigenous persons from the Solomon Islands, Panama, and Papua New Guinea have been repudiated.

In Europe, massive campaigns to defend the Parliament's ban on the patenting of life forms and to reject imported genetically engineered foods are underway.

The Indian, Philippine, Colombian and Ethiopian governments, among others, are developing approaches to collective rights that address life patents, prior informed consent, Farmers' Rights, and other community concerns.

Diverse Approaches To Agriculture Policy

As the Uruguay Round Agreement on Agriculture is being implemented in different countries, at least three global trends have become apparent.

(1) The poorest countries are suffering great food insecurity due to volatile world prices driven by unpredictable stocks and low grain reserves, unusual weather patterns, and political instability in some regions. Volatility in world prices is causing the further decline of rural populations and increasing poverty in both rural and urban settings throughout the world. Extremely high world grain and oilseed prices, as experienced in the summer of 1996 (and probably again in 1997), cost food-importing countries a huge portion of their foreign exchange, forcing cutbacks in domestic expenditures and exacerbating food insecurity. Low world prices, which have predominated over the past decade, drive many food producers unable to compete off the land and into overcrowded and polluted cities, where they too often find inadequate housing, poor sanitation and little hope of remunerative employment. Only the wealthiest traders are able to hedge their investments in agriculture on the commodities exchange to leverage a profitable income whether world prices are high or low.

(2) Many producers have also been driven off their land as a result of export dumping, where food corporations have sold products overseas at prices below the cost of production. Rural degradation, unmanagable urbanization and impoverishment result.

(3) Many nations formerly self-sufficient in staple foods have become import-dependent due to their compliance with Uruguay Round rules including required imports of all basic foods, reductions in domestic support prices, and the roll-back of non-tariff trade barriers such as import quotas. As they become net food-importers, they too become vulnerable to market volatility.

(4) Food safety and health has been threatened in many countries, even the most industrialized, due to the lowering of standards and cutbacks in inspections consistent with the promotion of imports.

In the light of these trends, farmers and consumers all over the world are developing defensive mechanisms, even as the next round of agriculture negotiations is being defined:

Campaigns to implement the "Marrakesh Decision" of the Uruguay Round, which committed developed countries to provide compensation to the least developed if they are adversely affected by higher world food prices as a result of the implementation of the Uruguay Round, are being mounted all across the planet.

Campaigns to eliminate food dumping, whether through subsidies favoring commercial exporters or through foreign aid programs that wipe out local extant production systems, are growing in force.

Fierce disputes over the role of State Trading Enterprises, including cooperative marketing boards, are being waged; the outcome will affect ways in which the government can promote the production and distribution of food on the local and national levels.

Some countries retaining controls on imports of staple foods are building programs for national food security on this basis.

Third-party inspections for food safety and quality are emerging as a substitute for inadequate customs procedures, as are specific proposals for rewriting the food safety rules of the Uruguay Round Agreement on Sanitary and Phytosanitary Standards.

Impoverished families from urban communities across the United States marched 125 miles from the site of the Liberty Bell in Philadelphia, birthplace of U.S. independence from England, to the United Nations in New York City, declaring the federal Welfare Reform Act to be a violation of the Universal Declaration of Human Rights (UDHR.) The UDHR, which the U.S. signed in 1948, declares the human rights to food and livelihood to be fundamental human rights; under the Welfare Reform Act, many poor households will lose essential income supports including food stamps.

CITIZENS CAMPAIGNS

Nationally and internationally, citizens campaigns are building upon strategic linkages between each international agreement, while emphasizing impacts on fundamental human rights.

At the national level in many countries, coalitions of peasants and Indigenous Peoples, farmers and consumers, trade unions and environmental groups, peoples organizations, NGOs, and other organized networks are working together to devise a unified strategy concerning each of these international negotiations. With a unified strategy, national coalitions can develop both public education and governmental lobbying strategies to inform and influence a unified national response to often conflicting international policy. Cooperation between national ministries – such

as the agriculture department, environmental agency, and foreign affairs or trade office – can, in turn, can lead to a more effective bargaining position for that country in international talks.

For example, an agriculture department's awareness of the value of its nation's stock of plant genetic resources could provide leverage to that country's trade minister in demanding better market access for that nation's exports of traditional commodities. Similarly, an environmental agency's determination to achieve a Biosafety Protocol which ensures liability and compensation for that country in case of a disastrous release of a genetically engineered organism could encourage that country's agriculture department to insist upon their labeling. The result of such symbiotic negotiating could help protect domestic food producers from foreign competition while protecting the public from possible health threats and, at the same time, strengthen that country's position in the 1999-2000 negotiations.

Internationally, gatherings of representatives of key organizations and coalitions from throughout each region are occurring to prepare case studies, explore possible convergences, and debate proposed strategies for national and international initiatives from the citizens' perspective. Often, the regional gatherings invite a few representatives from other regions to compare interests and positions towards key negotiations. Ultimately, it is likely that a global consensus could be derived, providing ample opportunities exist to share information, engage in debate, and otherwise work through apparent dissimilarities in approach within and across regions.

For example, last November in Argentina a significant debate arose among the NGOs participating in a meeting preparatory to COP3 of the CBD. Some were of the opinion that the effort to devise national legislation complying with the TRIPs Agreement's "sui generis" provision would simply recreate another form of exclusive ownership over natural resources, one that would move local communities into the highly competitive cash economy and eventually threaten their traditional livelihood systems. Others were of the opinion that the failure to utilize the "sui generis" option would lock nations into the patent system, and quickly deprive local communities of access to their means of subsistence. Although this lively debate continues today -- at community meetings, international conferences, and via the Internet – some of those involved believe a consensus is growing. At the very least, that consensus would probably declare all patents on living material to be immoral and a violation of human rights.

There are two primary public policy goals, which can be pursued in tandem, to defend biological diversity and food security in the face of globalization. Both are both fully consistent with Article 25 of the 1948 Universal Declaration of Human Rights, which states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services..." To meet these goals, there are several specific policy objectives around which a global consensus is rapidly building. These include:

- 1) Food Security - defined as access to safe nutritious food at affordable prices; domestic production of staple foods to meet domestic demand; and autonomy in defining national agricultural policies consistent with food security. Major international policy objectives to achieve food security include:

- a) implementing the Marrakesh Decision;

b) revising the Uruguay Round Agreement on Agriculture between now and the year 2000, at a minimum:

reinstating and improving upon former GATT Article VI (which prohibited export dumping),

Article XI (which allowed the use of import restrictions to maintain the integrity of domestic supply management programs), and

Article XX (which created exemptions from GATT rules and disciplines for, among other things, products essential for national security, natural resource conservation, and the protection of human, animal or plant life or health.)

c) concluding the negotiation of a legally-binding Biosafety Protocol under the CBD fully addressing socio-economic issues and provisions for liability and compensation in the case of accidents resulting from the release of genetically engineered organisms;

d) opening negotiations for a Convention on Sustainable Food Security towards:
enabling governments to implement national food security plans that could exempt staple foods from WTO rules and disciplines that undermine these plans;

coordinating an international network of local, national and regional food reserves;
facilitating international commodity agreements to ensure access to staples that nations are unable to provide for themselves;

ensuring access to fertile land, clean water, seeds and germplasm for family and community food production; and

and creating mechanisms to aid governments in disputes over food and agriculture policy with other entities such as the WTO.

2) No Patents on Life - defined as the public's free access to seeds and germplasm, without restriction. Major international policy objectives to achieve this goal include:

a) adopting and implementing the United Nations "Draft Declaration on the Rights of Indigenous Peoples" which recognizes their right "to control, develop and protect their sciences, technologies and cultural manifestations, including human and genetic resources, seeds, medicines, knowledge of the properties of flora and fauna, oral traditions, literatures, designs and visual and performing arts" and develop protocols of the Convention on Biological Diversity consistent with these provisions;

b) affirming Farmers' Rights within the FAO International Undertaking on Plant Genetic Resources and as a protocol to the Convention on Biological Diversity, including their right to germplasm, information, funds, technologies, and farming/marketing systems with which to contribute to the conservation, regeneration and development of agricultural biodiversity;

c) revising the TRIPs Agreement Article 27.3.b to explicitly permit WTO members to implement sui generis legislation at the national level that prohibits all patents on living material, bearing in mind TRIPs Article 27.2's reference to public order and morality as legitimate reasons; and

d) within each of these policy instruments, recognizing the collective rights of Indigenous and local communities as innovators entitled to intellectual integrity and

compensation as well as the right to decline to participate in the commercial market and external systems of authority.

Key Meeting Dates in 1998

Following are key events coming up in 1998 related to the WTO and food security. :

World Trade Organization Ministerial, May 18-20, Geneva, Switzerland for more information contact the WTO Press Office, 41-22-739-5015.

WTO Agricultural Negotiations Strategy Meeting, May 15-17, Geneva Switzerland. For more information contact Rudi Buntzel, 49-79-4210776

50th Anniversary of the Universal Declaration of Human Rights, December 10th, 1998. For more information contact the Institute for Agriculture and Trade Policy, 1-612-870-3400.