



News Release
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The United States and The Law of the Seed:

Political "About Face" or "Two-Faced" Policy?

On November 1st, the new U.S. ambassador to the UN Food and Agricultural Organization (FAO) announced what appeared to be a reversal of his government's policy and formally signed the International Treaty on Plant Genetic Resources. This is not a change of policy – just a change of strategy. As with the Biodiversity Convention a decade ago, the United States will "sign" but never "ratify" the Law of the Seed.

On Friday, November 1st, the new U.S. ambassador, Tony P. Hall, interrupted the final late-evening session of the FAO Council to announce that his government had just signed the International Treaty on Plant Genetic Resources for Food and Agriculture ("The Law of the Seed"). The news was greeted with perfunctory applause from delegates much more enthusiastic about getting onto the Aventino before restaurants closed. Not only was the announcement anticipated, it was overdue. FAO's member states had expected the U.S. signature October 9th at the convocation of the interim Committee for the Treaty.

About Face: In signing the Treaty, Ambassador Tony Hall admitted that the U.S. was reversing the stance it took one year ago when 115 governments unanimously approved the agreement. At that time, countries were told that the USA was "precluded" from adopting the legally-binding agreement. U.S. representatives advised FAO that the absence of a security clause in the text – as well as ambiguity related to intellectual property protection – made it impossible for the U.S. to sign on. The Treaty was approved with only two abstentions (the USA and Japan) following seven years of hard negotiations. To date, 77 governments have signed and 9 have ratified the text. The Treaty comes "into force" when 40 countries ratify – probably sometime early in 2004.

Two-Faced: Signing the accord traditionally signals a government's intent to proceed with the much more important step of ratifying the Treaty. In this case, however, not a soul attending the FAO Council believed that the United States will ratify anytime in the Bush administration. Many delegates, in fact, privately hope that the USA will steer clear of the Treaty for a decade or so. "It was not so much a policy about-face," says Pat Mooney, executive director of the ETC Group, who was present in Rome for the announcement, "as a two-faced move to hamstringing the Treaty's implementation. All of the American government's concerns are still there," Mooney asserts, "but the United States has determined that it is better to have a hand in the political and practical preparations leading up to the implementation of the Treaty than it is to remain outside watching Europe and developing countries establish an independent process."

Negotiations to establish the Treaty to govern the exchange and benefit sharing related to plant genetic resources began in 1995. Even then, most governments acknowledged that there

was little chance that the United States would acquiesce to a legally-binding agreement. The United States entered the negotiations insisting on the right to patent virtually anything and everything found in the plant germplasm governments would exchange. The Americans were also determined to block Farmers Rights – an initiative strongly supported by many South governments to guarantee, among other things, that farmers would always have the right to save and exchange seeds. The U.S. delegation saw Farmers Rights as a threat to intellectual property.

Face Off: In the closing hours of negotiations last year, the United States complicated matters further by insisting on the right to a security clause that would, in effect, allow them to impose seed exchange embargoes on any “evil-axis” country that incurred the displeasure of the American Congress. As luck would have it, Americans were forced to argue their point with the Chair country of the Group of 77 – Cuba. There was all the hope of a snowball in Havana that the U.S. would be granted its demand.

Face Value: “Some naive observers, including a few governments, think that a seeds treaty without the United States will fail.” says Pat Mooney, “In fact, more sophisticated delegates recognize that its better if the Americans stay out for a few years to allow more progressive countries such as the Europeans, Africans, and Asians, to sort out policy issues and organize procedures without the encumbrance of the world's one superpower.” Mooney insists that the “chronologically-challenged” Americans tend to honor a treaty even if it takes them ten years to ratify it. When they actually do ratify a treaty, they must buy into a culture that is somewhat more progressive than if they had been voting members from the beginning. In signing the Treaty, the United States has left the door open for it to participate in the intergovernmental working committee that will chaperone the Treaty into a legal reality. The first meeting of the Governing Body is not expected until early 2004. In the meantime, signatory states will attempt to negotiate a number of details related to germplasm exchange that could ultimately influence the role of intellectual property and the mechanisms for benefit sharing. “The Treaty is by no means perfect, and it will be disastrous if the U.S. succeed in making it weaker. The U.S. signature is a crass political move to undermine an international agreement which they oppose.”, Mooney concludes.

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The Action Group on Erosion, Technology and Concentration, formerly RAFI, is an international civil society organization headquartered in Canada. The ETC group is dedicated to the advancement of cultural and ecological diversity and human rights. www.etcgroup.org. The ETC group is also a member of the Community Biodiversity Development and Conservation Programme (CBDC). The CBDC is a collaborative experimental initiative involving civil society organizations and public research institutions in 14 countries. The CBDC is dedicated to the exploration of community-directed programmes to strengthen the conservation and enhancement of agricultural biodiversity. The CBDC website is www.cbdcprogram.org.