

AMENDMENTS SOUGHT IN THE SEED BILL, 2010

(For the Kind attention of Parliamentarians)

Dear Members of Parliament,

The present draft of the Seed Bill 2004 which is pending before Rajya Sabha, read together with the amendments proposed by Agriculture Minister Sharad Pawar, will become the new Seed Bill 2010. Most of the amendments being proposed are based on the recommendations of Parliamentary Standing Committee on Agriculture. The Seed Bill 2010 therefore is quite an improvement over what was earlier presented as Seed Bill 2004.

It is heartening to note that the draft of the Seed Bill 2010 has kept farmers out of its purview. Accepting the recommendation of the Standing Committee, the Seed Bill 2010 clearly states that it will not restrict the right of the farmer to grow, sow, re-sow, save, exchange, share or sell his farm seeds and planting material except when they are into the business of selling branded seeds. At the same time it has also expanded the definition of a 'farmer' to include all those who conserve or preserve, severally or jointly with any person, any traditional varieties or adds value to such traditional varieties through selection and identification of their useful properties.

Farmer unions and the civil society organisations have welcomed these changes.

Since the Seed Bill 2010 focuses exclusively on the commercial production, sale and distribution of good quality seeds by seed companies and the public sector agencies, and the farmers as well as the informal seed saving and cultivation system is outside its ambit, we, the undersigned farmer unions, women groups, and NGOs, representing a wide cross-section of the civil society organisations dealing with seeds, after a National Consultation on Seed Bill held at New Delhi on June 11, make the following suggestions that needs to be incorporated in the proposed Seed Bill 2010.

1. The Seed Bill 2010 has very rightly excluded farmers, who constitute the major proportion of seed handlers and users, from its purview. Therefore to dispel any confusion and ambiguity about its objective and role, the proposed Seed Bill 2010 should be called: "**The Commercial Seeds (Regulation) Bill, 2010**".

2. The Seed Bill 2010 in its present form appears to be merely an extension of the previous efforts to control and regulate the seed trade. The proposed amendments once again favour private seed companies and corporations at the expense of farmers. Over the years, sale of spurious and sub-standard seeds has grown, and in the absence of any price controls, farmers are not only being fleeced but are increasingly being burdened with rising cost of cultivation thereby rendering farming unremunerative.

We, the undersigned, strongly feel that the proposed Seed Bill 2010 in its present form will fail to ensure availability of good quality seeds at an affordable price for reasons explained below:

- a) The Seed Bill 2010 does not propose any price controls. Farmers must be able to purchase seed at an affordable price. This is very important since the output price (or the procurement price) is fixed by the government, and often do not take into consideration the prevailing market price for seed. The procurement price therefore does not reflect the true cost of seed. At present, companies are charging prices at will and that too without any rationale. Tomato seed price for instance varies between Rs 475 to Rs 76,000 per kg, and Capsicum seed price between Rs 3,670 to Rs 65,200 a kg. More recently, seed companies have taken the Andhra Pradesh government to the High Court challenging its decision to regulate prices and royalty. Therefore, the function of the Seed Committee under the Seed Bill must include power to decide on price and price controls (including royalties).

In the absence of such measures, the government forfeits the right to claim that it is making quality seed available to farmers at an affordable price. Standing Committee had also raised this. Therefore

clause 5 must include a sub-section (g) : “Seed price control and supply, including procedure for fixing seed prices and royalties.”

b) Provision for re-registration would increase the monopoly of the seed company for at least 20 years. This is unacceptable for the simple reason that it brings in monopoly control (which exists under TRIPs provisions) over seed through the back door. Standing Committee had also voted against this. Section 13 (5) therefore must be deleted.

c) Penalties proposed are trivial. Since the penalties/punishments have been mild, the government has failed to check the menace of fake, spurious and sub-standard seeds. Providing a maximum fine of Rs 30,000 for selling seeds not conforming to the laid-out standards is simply not enough. This is almost equal to the return airfare between New Delhi and Thiruvanthapuram. The Seed Bill 2010 therefore must provide for deterring punishment. The recommendations made by the Standing Committee needs to further strengthened. Amend clause 38 accordingly

d) While seeds may be registered with the National Register of Seeds, it is imperative that State Governments must be given the authority to decide on which of these registered seeds can be licensed to be used in their State, Clause 12 should be amended accordingly.

In any case, it is incumbent on the Seed Registration Committee to ensure that the application for registration contains complete passport data of the parental lines from which the kind or variety of seed has been derived in as complete a form as possible so that the Seed Committees do not register misappropriated seed or common varieties. Provision made be added after clause 14 (1)

3. The Seed (Control) Order, 1983 had allowed the unbridled import under open-general license of planting material and seeds of flowers, vegetables and horticultural crops. This Order was exploited by unscrupulous seed trade and business to import plant materials without undergoing any rigorous phytosanitary and quality checks. Most of the importing agencies did not even deposit a sample of the imported seed with the National Bureau of Plant Genetic Resources. It is believed that the imports have come with a heavy load of pests and diseases posing serious damages to crop cultivation and to the country’s food security. Many hitherto unknown pests have also entered the country.

a) All imports of seeds therefore must undergo mandatory seed testing procedures, including multi-location trials, to ensure its adaptability to the Indian conditions. No self-testing or certificates from foreign seed certification agencies should hold true for Indian conditions.

b) Seed imports should only be allowed after pest risk analysis, local adaptability have been assessed. There is a need for a liability clause to be introduced that makes seed exporter responsible for any pest outbreak and also for the clean-up operations. This assumes importance in the wake of the Bhopal gas tragedy where the chemical companies have simply evaded any liability for the toxic clean-up. Such a clause will be in conformity with the sanitary and phytosanitary obligations under the World Trade Organisation (WTO).

Therefore, we the undersigned, seek following specific amendments, as presented in the Annexure 1, to be incorporated in the proposed Seed Bill.

Thanking you

Sincerely Yours

Annexure 1

AMENDMENTS PROPOSED FOR THE SEEDS BILL 2010

(These are in addition to the amendments moved by Sharad Pawar, Agriculture Minister)

TITLE OF THE BILL

1. Title of the Bill: The title of the bill may be replaced with '**Commercial Seeds (Regulation) Bill, 2010**'

OBJECTIVE OF THE BILL

2. Amendment in the objective of the Bill:

A bill to provide for regulating the quality of seeds *and their price* for sale, import and export and to facilitate *timely availability of appropriate and adequate quantities of diverse varieties of seed to farmers in a transparent and accountable regime*, and for matters connected therewith or incidental thereto.

ABOUT REGISTERING AND STATE POWERS TO LICENSE TO USE

3. Section 14 on Procedure for Registration: Change 14 (2) to include pre-registration testing. Substitute 14(2) by this: "On receipt of any application for the registration of a kind or variety of seed, the Registration Sub-Committee, shall, after such mandatory testing as required, and other such inquiry that it deems fit and after satisfying itself that the kind or variety of seed to which the application relates conforms to the claims made by the importer or the producer/seller, as the case may be, as regards the efficacy of the kind or variety of seed and its safety to human beings and animals, register the kind of variety, as the case may be, of the seed on such conditions as may be specified by it and allot a registration number thereto and issue a certification of registration."
4. Introduce Section 14(3): "No producer/dealer sell the registered seeds in a State unless the said seed is licensed as such under this Act by the State government. The State government may maintain such list of licensed seeds that can be sold in the state."
5. DELETE Section 13, clause (5) on re-registration.

ABOUT IMPORTED SEEDS AND FOREIGN CERTIFICATION AGENCIES

6. DELETE Section 30 completely on recognition for foreign certification agencies.
7. Section 36, Clause 1 on Import & Export of Seed: Change 36 (1) (C) to: "All import of seed meant for commercial purposes shall be subject to registration as may be granted on the basis of information furnished by the importer on the results of multi-locational trials conducted in such manner and for such period as may be prescribed to establish performance in India and specifically in the agro-ecological areas where the seed is sought to be sold"
8. Insert 36 (1) (C) " In case of any problem arising from such imported seeds, like pest, disease and weed invasion, genetic contamination etc both the importer and exporter be held responsible. Import of seed should be based on pest risk analysis, and any exporter whose

claims turn out to be incorrect should be held liable. Exporter of seed should compensate the loss and cleanup of any such contamination”

ABOUT PRICE CONTROL AND FIXING OF PRICES AND ROYALTIES

9. Section 5 on Powers & Functions of the Committee: Insert 5 (c) to the current Section 5 by inserting clause 5 (c) as: “Seed Price control and Supply, including procedure for fixing seed prices and royalties”.
10. Section 11 on State Seed Committee: Insert in the existing (a) to (e) list – “to register and license seeds suitable for the state, based on agronomic trials’ data and fix prices of seeds registered; to collect data and review performance of seeds after the authorization through licensing”.

COMPENSATION MECHANISM TO FARMERS

11. Section 20 on Compensation to Farmer: The following to be substituted as Section 20 (1): “where the seed of a registered kind or variety is sold to the farmer, the producer, distributor or vendor, as the case may be, shall disclose the expected performance of such kind or variety to the farmer under given conditions and if such registered seed fails to provide the promised performance under such given conditions, the farmer may claim such compensation from such producer, dealer, distributor or vendor as may be determined by a Compensation Committee *provided that such compensation is equal at least to the monetary value of the promised performance and covers the costs incurred by the farmer”.*
12. Section 20 on Compensation to Farmer: Substitute Section 20, clause (2) (b) as moved by the Agriculture Minister: “The procedure to be followed by such a Compensation Committee should be completed within thirty days of the filing of a claim by an aggrieved farmer”.

Substitute Section 20, clause (2) (d) as moved by the Agriculture Minister: “Such compensation is payable to the farmer within three months after the compensation so determined”.

BRINGING NBA AND PVPFR INTO DECISION MAKING

13. Section 4 on Central Seed Committee: 4 (3) (viii) – a member of the Plant Varieties Protection Authority, Government of India and 4 (3) (ix) – a representative of the National Biodiversity Authority, Government of India.

IMPROVING ACCOUNTABILITY

14. Section 7 on Registration Committee: Section 7 (2) (a): Change to “To register seeds of varieties after scrutinizing their claims as made in the application in such manner as may be prescribed *including random pre-registration testing”.*

MORE EFFECTIVE PENALTIES ON OFFENCES

15. Section 38 (1) page 14 line 7 on Offences and Punishment: Substitute the following after ‘be punishable with’ – “a fine in proportion to the damage caused, quantity of seed supplied or stocked and therefore, to cover the real and potential loss to farmers, in addition to a fine

not less than Rs. 200000/- (two lac rupees), which may extend to Rs. 10,00,000 (ten lac rupees) and imprisonment for six months to one year. Further, any individual or company convicted under this Act may be banned from any seed-related activity by the state government upon subsequent convictions”.

That at page 14, lines 12 and 13, for the words: “thirty thousand”, the word “two lakh” be substituted.

That at page 14, line 17, for the words “one lakh”, the word “ten lakhs” be substituted.

National Consultation on Seed Bill

List of Participants

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