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OPEN THE BARN DOOR

some quick, collective reflections on the .
'Modernization' of the Seeds Act

On July 8th, according to an email from SeedSemence@inspection.gc.ca,

> "The Government of Canada today announced changes to reduce regulatory burden and encourage innovation and competitiveness in the seed sector. Amendments to the 'Seeds Regulations' will create a more flexible variety registration system with reduced regulation while continuing to maintain the integrity of seed certification and environmental, food, and feed safety."

Before turning to the text itself, it is w orth noting the language of this brief notice which, faithful to the ideology of the Harper regime, states the context ('values') of the changes: "to reduce regulatory burden and encourage innovation and competitiveness". It is commercial/corporate seed interests that are to be served, not public good or farmers interests. Innovation ('innovative step') is one of the basic requirements for patenting. Competitive simply means dog-eat-dog, or the gobbling up of small seed companies and farmer-led plant breeding by the corporate giants (all five of them). It also means secrecy, individualism and the destruction of solidarity and community.

The Seeds Act of 1923 was put in place to protect farmers (there were a great many of them in those days) from fraudulent, dishonest and unscrupulous seed salesmen. The changes in the regulations under the Seeds Act now being recommended will further reverse the intent of the Act by protecting the corporations from farmers.

The first amendment to the regulations states that:

> "The definitions 'merit' and 'recommending committee' in section 63 of the Seeds Regulations are replaced by the following:
> – 'merit' means, with respect to a variety, that the variety is equal or superior to appropriate reference varieties with regard to any single characteristic or combination of characteristics that renders the variety beneficial for a particular use in a specific area of Canada; (valeur)
> – 'recommending committee' means a committee that is approved by the Minister under section 65.1; (comité de recommandation)"

Here 'merit' is reduced from an overall evaluation of being equal to or superior to the check variety to a new variety needing to have only a single 'beneficial' characteristic.

The composition of a 'recommending committee' is nowhere stipulated. As a result, 'beneficial' could mean beneficial to corporate profit, not to the farmer or the public.

The "eligibility requirements for variety registration" include the following:

> (a) the variety has merit;
> (b) the variety has been tested in accordance with the testing protocols of a recommending committee;
> (d) the variety or its progeny is not detrimental to human or animal health and

safety or the environment when grown and used as intended;
(g) the variety is distinguishable from all other varieties that were or currently are registered in Canada;"

These are not very demanding requirements, and their meaning depends largely on the composition of the recommending committee. "When grown and used as intended" is a huge loophole, virtually eliminating corporate liability. Such vague, unscientific language permeates the regulations and their accompanying "Regulatory Impact Analysis Statement". Under "Objectives" we find the following:

> "The objective of these amendments is to create a regulatory framework for variety registration that allows for varying levels of government oversight on a crop-by-crop basis by removing, where appropriate, any burdensome or ineffective crop specific pre-registration testing and merit assessment requirements. . .
>
> ". . . Reducing regulatory burden is expected to lead to greater diversity in the types of varieties available as merit-based restrictions will be removed for some crop kinds. Also, it is expected that there would be an increase in investment in research in new varieties . . . It is expected that the cumulative effect would be a greater choice in the varieties available to producers which would better address producers' and end users' needs. This change in the variety registration system also aims to reduce time to market resulting in new varieties becoming available to producers more rapidly, fostering innovation and development. . .
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> "The objectives of these amendments are consistent with Canada's federal, provincial, and territorial governments' Growing Forward policy framework for a profitable, innovative agriculture and agri-food industry that seizes opportunities corresponding to market demands, while contributing to the health and well-being of Canadians."

According to the document, there are currently over 2,700 varieties of the 52 crop kinds requiring variety registration registered in Canada. On average, more than 160 new varieties are registered each year. Is more 'choice' really going to benefit farmers or contribute to the health and well-being of Canadians?

Part I of Schedule III, referred to as the status quo, would retain merit assessment and pre-registration testing supervised by Recommending Committees. The amendments propose the ability to change the merit criteria that could see the assessments of agronomic, quality and disease criteria watered down to as little as one criterion per crop kind. . . Disease and agronomic issues would have to be addressed entirely in the farmers' field at their own expense and peril, even under the "status quo."

The addition of Part II registration, where testing would take place but allow registration to take place without merit requirements, would add varieties that show no improvement over existing varieties. It would even lead to the registration of varieties that are worse than existing varieties. The likely scenario would be one where GM (genetically-modified) traits could be added to inferior varieties so that a package could be sold to farmers to compensate for the inadequacies in merit that the varieties display.

Part III or listing of varieties for registration would see varieties registered without pre-registration testing or merit assessments. There is no reason for this category.

-While the CFIA refers to increased innovation as an outcome of these regulations, this cannot hide the fact that the overriding intention is to reduce costs ("burdens") for seed companies. Innovation is just an assumed knock-on effect from this. The other way to look at this is to see yet more evidence that the private seed industry (dominated by a few TNCs) is unwilling to make the necessary investments required to ensure the quality of seed that the public seed system was able to offer (before the privatization, cuts, etc). Why were these regulations not a "burden" for public breeding programs? It may well be that it is too expensive for private seed companies to breed specifically for Canadian conditions and to thoroughly evaluate their seeds for these conditions, but this does not mean that we should then just eliminate these activities. What it does mean is that we need a different model, not more "flexibility".

- The amendments not only download risks onto farmers, they also make farmers more dependent on seed companies for information. It should be noted that increasingly seeds are sold under contracts that prevent farmers from sharing information about the performance of the crops with others. There is a profound inequality between multinational seed companies and their teams of lawyers, and farmers.

- The new Parts II and III reduce the field testing required both in terms of time and in terms of geography. This will allow more seeds to be commercialised that do not perform well in many parts of Canada and that do not perform under variable conditions (such as weather or disease pressures).

- The CFIA claims that the amendments will allow for the entry of varieties more suited to individual farms. But this ignores the larger context of the seed system, which is increasingly controlled by a few multinational corporations that are disinterested in breeding for such specific conditions. The only way to truly open the Canadian seed system up to diversity and seed breeding for local conditions would be to have much more farmer-based plant breeding and seed systems. The current federal regulations (including the Plant Breeders Rights Act), and other mechanisms, make it increasingly difficult, if not illegal, for such farmer-based seed systems to develop and operate.

Brewster Kneen, Terry Boehm and Devlin Kuyek have contributed these comments in the order in which they appear. See the full text of the regulations at:
http://www.gazette.gc.ca/rp-pr/p2/2009/2009-07-08/html/sor-dors186-eng.html