



Farmers' seeds or free trade?

Paris, 8 October 2013,

The development of plant breeding techniques (biotechnologies, genomics, synthetic biology, statistics, etc.) in recent years has brought the need to reform regulations on seeds into the policy agenda in France and Europe and among seed industry “professionals”, farmers and gardeners. The time for debate has arrived and the European Parliament has begun to discuss the topic.

The arrival of GMOs and the legal proceedings in which the Kokopelli Association is embroiled have generated a great deal of discussion among militants. The widely reported assertions made last week by Mr Guillet, Kokopelli’s chairman, and Mme Magarinos-Rey, its legal counsel, with numerous falsehoods and historical misrepresentations aiming to discredit the French Farmers' seeds network (Réseau Semences Paysannes - RSP) and its partners, including the European Coordination Let’s Liberate Diversity (EC-LLD) and the European Coordination of Via Campesina (ECVC), demand that we set the record straight. This attempt to divide the European farmers' seeds movement and to manipulate the younger generations joining it today with little knowledge of its origins masks a number of fundamental differences that must be resolved before we can make a real impact on the current reforms.

In the last few years, Europe has been flooded with industrially modified seeds developed in the interests of forcing and reinforcing the use of chemical pesticides and fertilizers. Most of these seeds cannot be freely reproduced: GMOs, patents, PVPCs, trademarks or technical processes all prevent small-scale farmers from using part of their harvest to re-sow their crops. We succeeded in obtaining a ban in most European countries on trading and cultivating transgenic seeds because these seeds are identifiable by analysis, covered by specific regulations, controlled and subject to compulsory labelling. But all the others, most of which are manipulated by genetic engineering techniques other than transgenesis, are invisible as such. When they are sold on the market, there is nothing to distinguish them from freely reproducible landrace seeds. Nor does anything prevent them from being sold as “open pollinated varieties in the public domain” if they are no longer protected by a plant variety protection certificate, including when various genetic manipulations have restored their fertility after suppressing it, or when only some of their characters, and not the variety itself, are patented. Some are already being sold with an “organic seeds” label.

This trend has become so widespread that we can no longer support it by demanding freedom of trade in seeds. Rejecting any regulation of the seed trade would mean:

- *leaving the market wide open to the very seeds whose dangers we have denounced above,*
- *condemning all farmers' seeds to eventual contamination by those seeds,*
- *making all agriculture and gardening, and therefore all food, dependent on a few multinational seed companies.*

Setting the record straight on the slanderous interpretations directed at the LLD and RSP

The gradual construction of Europe-wide coordination.

The *Réseau Semences Paysannes*, a network of 75 French organisations of organic smallholders, gardeners, solidarity groups, small-scale seed producers, NGOs, scientists and one Regional Nature Park, is proud to be one of the founder members of the European Let’s Liberate Diversity Coordination, which has organized forums regularly since 2005, each time in a different country. These forums do not organize themselves spontaneously: all of them have been co-organised by host country associations with the same group of French, Italian, Spanish, British, German and Swiss organisations that created a formal association in 2013, which other organisations asked to join at the Basle Forum. Contacts between these organisations have taken place at each forum and they have called on others to join them in their networking efforts. Kokopelli has taken part in fewer than half of the Forums and has never been involved in any way in the preparatory or organisational tasks.

The formal creation of the European LLD Coordination (EC-LLD) was in no way secretive. It was discussed at all the forums since Graz. Its creation was based on the trust built up from working together and was announced to everyone at the latest forum in Scotland: all the organisations that had declared their willingness to participate did so. All the LLD Forums are open and the question of refusing a request for registration has never arisen. Each time Mr Guillet or Mme Magarinos-Rey has asked to register, they have been welcomed in the same way as anyone else with no hesitation whatsoever.

Whenever a European association is formally created, its articles of association are officially registered and are thereafter available on request. These articles of association are such as to enable the members of the General Assembly to be informed about new requests for membership before the Annual General Meeting or any Extraordinary General Meeting takes place. Eco-Ruralis, a Romanian association, made a request for EC-LLD membership at the Annual General Meeting in 2013. Like all other requests made on that day or since, it will be communicated to all members before the next AGM, simply as a matter of compliance with the membership procedure set out in the Articles of Association.

Basle Forum, September 2013: a wealth of discussion and a heated debate over the European regulation and its proposed amendments.

The many thematic workshops¹ during the Basle Forum brought a wealth of exchanges among participants open to and interested in the issues surrounding crop and livestock diversity.

Concerning the workshop on “European legislation on seeds”, on the Friday, all registered participants were invited to present the point of view of their organisations on the European legislation, after communicating their contributions to the organisers² for distribution to the participants and to ensure equitable speaking time. All the contributing organisations, without exception, were able to present their positions. Mr Guillet’s legal counsel was able to express her views at length during the exchanges that followed the presentations, and the workshop was ended at the scheduled time to ensure that the Forum could continue as planned.

The position displayed on screen during the plenary session on the Saturday was not a presentation of the proceedings of the LLD Forum’s workshop on legislation. It was a common draft position developed jointly by the organisations most actively involved in advocacy at the European institutional level. These organisations met before the LLD Forum on an initiative from the ECVC and presented their position as their contribution to the Forum and not as a declaration by the Forum. The Forum was not asked to adopt this position. Those organisations wishing to sign the position statement were simply asked to say so. The ECVC had invited all the EC-LLD member associations, as well as Ifoam UE, IG-Saatgutt and Sativa, Arche de Noah, Pelitti and the Global Seed Alliance, to the meeting in which this position was to be jointly constructed.

In the last 10 years, Kokopelli has repeatedly stated that it will not “collaborate” with certain ECVC representatives they describe as “undercover agents for Western technocrats” whose approach is “irreconcilable” with Kokopelli’s own, or with the RSP, described as a “faction of Kastlerites”... This is the reason why ECVC did not invite Kokopelli to the meeting. The email sent by Mr Guillet and Mme Magarinos-Rey after the LLD Forum in Basle does not exactly reflect a desire to change its attitude or to adopt a stance that would be compatible with a real joint effort.

During the workshop on “European legislation on seeds”, much of the debate hinged on two specific proposals without coming to a unanimous conclusion. Some, like Kokopelli, demanded that “all open pollination varieties in the public domain should be excluded from the scope of European legislation on trade in seeds”. Others, like ECVC and the RSP, call for “no compulsory registration or certification for freely reproducible seeds that are not IPR-protected” and add that “simple rules for identifying a variety, including their origin and breeding method, and for indicating the place and year of seed propagation, should provide sufficient information for purchasers”.

1 <http://www.lldforumch2013.liberatediversity.org/frenchprogramme.html>

2 Also on line are the positions of organisations who wished to publicise them:
<http://www.lldforumch2013.liberatediversity.org/programme.html>

It is surprising, to say the least, that Mr Guillet is now organising a “referendum” by asking his entire emailing list to support the first proposal, claiming that “collectively, it seems that we at least agree on the following demand”. Although his request was also sent to many people who were not at the Basle Forum and who are not aware of the details of the discussion, he omits to mention that another proposal supported by other organisations was presented and was not rejected by any “collective”.

Although the two proposals are very similar in their formulation, to the point of causing a good deal of confusion, they are in fact quite distinct:

- The first rejects any public regulation of trade in seeds,
- The second advocates fairer regulation.

The proposed European regulation on trade in seeds does not only concern certification and registration with the official catalogue. It also defines the heterogeneous material registered in different sections of the catalogue, the niche material which is not registered in any official catalogue or register, checks on the veracity of the commercial information provided and on the quality of the seeds marketed, registration and inspections of operators, traceability, and so on.

- We obviously do not agree with the persistence of a great many restrictions or with the excesses of the red tape and standards imposed by the regulation, and even less with the privatisation of seed registration and inspections.
- But we do want public controls to be maintained over trade in seeds, which must be in proportion to the scale of operations, adapted to each type of seed, especially organic seeds, and designed to protect farmers and gardeners who buy commercial seeds and small-scale breeders who sell their seeds from fraud and unfair trade practices.

If there are no rules at all, how would it be possible, for example, to check whether seeds claiming to be exempt from certification and catalogue registration are really in the public domain? It is precisely because there was no control over transboundary trade with Argentina that GMOs arrived completely illegally in Brazil through “informal” trade networks, eventually invading such vast areas of farmland that the Brazilian government had to officially authorise the cultivation of crops it had previously banned. Is this what we want in Europe?

Kokopelli and the RSP.

The time has now come to put an end to an urban myth. Contrary to its own assertions, Kokopelli has never been a member of the *Réseau Semences Paysannes* and did not contribute to its creation. It could therefore never have resigned from it. The RSP network was created in the wake of the first Farmers' Seeds Meeting, convened under the slogan “cultivating biodiversity on our farms” (*Premières rencontres Semences Paysannes, cultivons la biodiversité dans les fermes*), a two-day event held at Auzeville (near Toulouse) in 2003 and attended by over 350 smallholders, researchers and citizens. The event was prepared by a collective driven by the *Confédération Paysanne*, the FNAB³, *Nature & Progrès* and a group of biodynamics practitioners. A former member of Kokopelli, who has since resigned from it, took part in the first meetings of the collective, then left before an event at which Mr Guillet had been invited to speak but did not deign to attend.

Less than a year later, Kokopelli launched a ferocious attack on the RSP spokesman, well known for his participation in the activities of the *faucheurs volontaires* (Anti-GM crop protesters), accusing him of backing GM crops and chemically treated seeds because he had called for the application of one article in a 1998 EU directive that sets out exemptions to catalogue registration obligations for “in situ biodiversity conservation” and “organic seeds”. It is true that other articles in the same directive set out a legal framework for GM crops and treated seeds, but the RSP has certainly not demanded the application of those provisions! This did not stop Kokopelli from claiming, several years later in court, their right to enjoyment of the trade openings afforded by the same directive. And when the final application of this directive produced, in 2008, a new directive on conservation varieties with a particularly inopportune content, this was also perhaps because it proved impossible to organise any joint action to obtain more appropriate application.

3 *Fédération Nationale de l'Agriculture Biologique*, the French Federation of Organic Farmers

Similarly, Kokopelli has regularly accused RSP members of complicity with badly designed legislation on seeds because they accept that seed varieties not registered in the official catalogue can be sold with the simple indication that they are “not for commercial use”, as authorised by the current European legislation. Even though they sell the great majority of their seeds to amateur gardeners who do not use them commercially at all, Kokopelli preferred to reject all legislation and face legal proceedings. The RSP has always supported Kokopelli in these court cases and is delighted that they are now at last claiming their right to sell their unregistered seed varieties for “non-commercial use”. Unfortunately, this exemption that Kokopelli has never wanted to support before, claiming that it did not exist, has disappeared in the new European regulation proposed on the 6th May. Maintaining this limitation to the scope of application of the seed marketing regulation is one of the major points argued by the RSP.

Why waste all this energy on infighting when agreement could be so easy?

The precondition for agreement is for each party to recognise that the others are different: this precondition is what has cemented the RSP, which creates networks among the thousands of smallholders, gardeners, small-scale seed breeders, researchers and other citizens who belong to one of its 75 member organisations, and who are all different.

Mr Guillet and Mme Magarinos-Rey often invoke “the rights of farmers” in lengthy declarations about freedom, in which they fail to make it clear that what they are calling for is only the freedom to trade in seeds. So why do we oppose this?

Exchanges between farmers or gardeners and the seed trade: two different realities that require different guarantees.

With the “International Seeds Treaty” (ITPGRFA⁴), farmers obtained recognition of their rights to “save, use, exchange and sell their farm-saved seeds”. These rights concern farmers' seeds produced by smallholders, and not commercial seeds. They contribute to the conservation and development of plant genetic resources, which is not the case with the rights of traders selling on seeds they have purchased.

When farmers and/or gardeners exchange their seeds, they know the person they are exchanging the seeds with and who produced them: that knowledge alone gives them a good idea of their quality, an assessment for which they can take full responsibility. But this is not the case when they buy seeds offered anonymously on the market. In this case, farmers and gardeners are entitled to at least a minimum guarantee as to the quality of the seeds they buy, particularly regarding the absence of contamination by GMOs but also their identity, main characters, origin, health quality and germinating capacity, in order to avoid the risk of bankruptcy in the event of a contaminated crop or catastrophic yields due to poor quality seeds.

We are not at all happy with the current rules governing the seed trade, which only guarantee a sales monopoly for industrially produced seeds, and even less so with the health regulations proposed by the European Commission. What farmers and gardeners need is an open seed market with no restrictions on access to all (non-GM) farm biodiversity. But wanting to change these rules does not mean wanting no rules at all: the rules on fraud prevention were a victory for the population at large. In France, the battle was won by the southern winegrowers, who forced the State to act against the wines made without grapes that were leading them to ruin. What we demand is publicly regulated trade, and not exchanging public regulation for the privatised bureaucracy of inspections and health standards proposed by the European Commission.

Demands and campaigns that respond to major social and environmental issues.

Our agricultural and civil society organisations have fought the WTO and a principle of free trade that is tantamount to letting foxes range freely through a chicken run. For years, we have denounced the standards and the costs of catalogue registration and certification that are driving landrace and local seeds off the market. But this does not mean that we are in favour, like Kokopelli, of total deregulation of the seed trade. We demand, on the contrary, rules that will guarantee fair and equitable trade along with food sovereignty.

4 International Treaty on Plant Genetic Resources for Food and Agriculture

We have known for years that food sovereignty cannot exist without trade regulations. We don't cut down concealed GM crops only to demand the freedom to put them on the market purely because their patented GM traits are not officially recognised: what we want is to have them banned. We don't protest against pesticidal and/or chemically treated seeds only to demand complete freedom to trade them on the market. We don't protest against the relocation of seed production in countries that have little regard for social, environmental and health issues, only to demand the removal of customs barriers that prevent them from circulating. And until we manage to have patented seeds banned, how do we stop them from circulating if no regulations exist?

This is why we are engaged in two parallel campaigns, which mutually support each other but are nevertheless distinct:

- for the recognition and protection of farmers' rights;
- against the excessive regulation of the seed trade that results in driving landrace seeds off the market.

By demanding for their own trade in seeds the same rights as farmers who do not sell seeds at all, Kokopelli is confusing the two issues. This results in:

- denying the specific nature of farmers' rights to exchange their seeds, which leaves them at the mercy of general trade rules that were not designed for them;
- denying farmers and gardeners who buy seeds on the market, as well as small-scale seed breeders, the right to public protection against fraud, malpractice and aggressive and unfair trade practices.

This is why we are not backing Kokopelli's demands for total deregulation of the seed trade, and why we are calling on you to campaign for the protection of farmers' rights and for the circulation of farm biodiversity to become the rule and not the exception.

The Governing Board of the *Réseau Semences Paysannes*,
meeting of 8 October 2013, Paris
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The French Farmers' Seed Network (Réseau Semences Paysannes - RSP), created in 2003 brings together a great diversity of collectives and people who preserve farmers' seeds in fields, orchards, vineyards and gardens. They are involved in supporting the consolidation of local initiatives to maintain and renew cultivated biodiversity (farmers' unions, artisanal seed multipliers, groups of organic and biodynamic farmers, gardeners' associations, environmental organisations, citizens and international solidarity organisations, national parks...cf members list). There are now over seventy-five organisations that have come together to promote and defend cultivated biodiversity and the related fields of knowledge.



www.semencespaysannes.org