

Leaked document : M'sian farmers to lose out under TPPA deal
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Seed companies would supposedly gain more rights over farmers under new rules that Malaysia would have to ratify in the Trans-Pacific Partnership Agreement (TPPA), according to two international NGOs.

Among others, this would bar farmers from exchanging seeds with one another, according to a report by the US-based group Public Citizen and Penang-based Third World Network (TWN).

“(The) International Convention for the Protection of New Varieties of Plants 1991 (UPOV 91) stops farmers from exchanging their seed, which is inconsistent with the practices of farmers in many developing nations, where seeds are exchanged for purposes of crop and variety rotation [...]

“In the case of Malaysia, that means changing its plant variety protection laws in a number of ways, including to: give seed companies longer monopolies; prohibit farmers from exchanging seed that they have saved, (and); remove its biosafety protections and anti-biopiracy provisions,” it said in an analysis yesterday.

In contrast, Malaysia’s Protection of New Plant Varieties Act 2004 currently allows small-scale farmers to exchange seeds amongst themselves.

The Ministry of Agriculture and Agro-based Industries currently defines ‘small farmers’ as those with less than 0.2 hectare of total land holdings.

Leaked document in Wikileaks

Public Citizen and TWN have released a series of reports last night in response to a purportedly leaked copy of the TPPA’s controversial intellectual property chapter.

According to the [latest leaked document](#), members of TPPA would have to ratify a number of international treaties, including the UPOV 91.

The leaked TPPA document was posted on WikiLeaks’ website last night, together with Public Citizen and TWN’s analysis.

Previous drafts of the TPPA intellectual property chapter had been leaked before, but the current leak is dated Oct 5 following the TPPA negotiations in Atlanta.

“This is the highly sought after secret ‘final’ agreed version of the TPP chapter on intellectual property rights,” Wikileaks said in describing the document.

“There is still a finishing ‘legal scrub’ of the document meant to occur, but there are to be no more negotiations between the parties.”

There are no square brackets in the document that would otherwise indicate competing versions of provisions that various negotiators want in the agreement, but there are still drafter’s notes and negotiators’ instructions to lawyers in the leaked document.

Keeping cost of farming high

Malaysia is a party to the TPPA negotiations along with 11 other countries in the Pacific Rim, including Australia, the US, Japan, Singapore, Peru, and Mexico.

The full and final text of TPPA is expected to be made public by early November, and tabled in the Dewan Rakyat for a vote by early January next year.

If passed, Malaysia would then have a two-year period to ratify TPPA into its domestic laws.

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Apart from the UPOV 91 treaty, Public Citizen and TWN noted that there are other provisions in TPPA’s intellectual property chapter that could keep farming costs high for longer periods of time.

These include patents on plant-derived inventions, patents for new uses of existing agricultural chemicals (such as from being used to killing one type of weed to being used to kill another type of weed), and others.

Another treaty that Malaysia would need to sign but has yet to do so is the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

The analysis says that the treaty would make it procedurally easier to apply for patents, thus more products are expected to be patented.

“Malaysia, New Zealand and Vietnam have not yet joined the Budapest Treaty, so these obligations would be new for them,” it said.

The leaked document states that Malaysia would have a four-year transition period to ratify UPOV 91 and the Budapest Treaty.

The countdown still start after the TPPA comes into force.