

“The Public Eye Awards 2006”

Nomination form A

(for companies that have excelled in socially and environmentally irresponsible behaviour)

Nominated company or corporate group:

Name: Delta & Pine Land Company

Headquarters: Scott, Mississippi, United States of America

Turnover / net profit: 2004 annual turnover US\$315 million

Branch of trade: Plant breeding and seed sales

Owned by: Publicly-traded corporation

Number of employees: 528 full-time employees (plus 102 employees of joint ventures)

CEO: Mr. W. Thomas Jagodinski

Further information/data on the company/corporate group:

Delta & Pine Land (D&PL) is the world's 10th largest seed companyⁱ and the largest cottonseed company. D&PL sells conventional and genetically modified seeds, specializing in cotton and soybeans.

Delta & Pine Land licenses genetically modified insect resistant (*Bollgard*/Bt cotton) and herbicide resistant (*Roundup Ready* cotton and soybean) traits from Monsanto and incorporates them into their soybean and cottonseeds. D&PL is working to incorporate Syngenta's insect resistant traits into their cotton and also has a joint venture with a subsidiary of Dupont, Verdia Inc., to develop insect resistance and herbicide resistance.

Delta & Pine Land is a global seed company with subsidiaries in Australia, Argentina, Brazil, China, South Africa and Turkey. The company is exploring markets in India and Africa. D&PL's seed company acquisitions and subsidiaries include:

- Arizona Processing
- Mississippi Seed Co.
- Hartz Cotton
- Sure Grow Seeds
- D&PL South Africa, Inc.
- D&PL Semillas Ltda (Costa Rica)
- Deltapine Australia Pty. Ltd.
- Turk DeltaPine, Inc. (Turkey)
- Deltapine India Seed Private Ltd.
- D&M International, LLC
- D&PL China Pte Ltd.
- Hebei Ji Dai Cottonseed Technology Company Ltd.
- CDM Mandiyu S.R.L. (Argentina)
- MDM Sementes De Algodao, Ltda. (Brazil)
- DeltaMax Cotton, LLC (50%)

Nominated in the category (please do *not tick more than one category*):

environment

social rights (human and labour rights)

taxes

Reasons for the nomination:

General information on the case

Delta & Pine Land Company is the lead developer of Terminator seed technology, and is the only company actively promoting its commercialization. While not as big or well-known as corporate Gene Giants like Syngenta and Monsanto, Delta & Pine Land is playing a very specific role in supporting the biotechnology industry by leading industry efforts to develop genetic seed sterilization or Genetic Use Restriction Technology – commonly known as Terminator technology. Delta & Pine Land (D&PL) is the only corporation that publicly vows to commercialize Terminator seed technology - plants that have been modified to render sterile seeds at harvest and are explicitly designed to stop farmers from saving seed. Although Syngenta and other corporations own patents on Terminator, Delta & Pine Land is the only corporation publicly promoting Terminator, and it is the company that has developed the technology the furthest.

Background: Subsidized by United States public funding, researchers from Delta & Pine Land and the US Department of Agriculture (USDA) initiated research on Terminator technology in 1983. In 1998, D&PL and USDA won their first patent on Terminator. Then-President of D&PL, Murray Robinson, said that his company's genetic seed technology could someday be used on over 400 million hectares worldwide. He also said that the technology would provide seed companies with a "safe avenue" for introducing proprietary products into giant, untapped seed markets such as China, India and Pakistan.ⁱⁱ In 2003, D&PL stated, "These patents have the prospect of opening significant worldwide seed markets to the sale of transgenic technology in varietal crops in which crop seed currently is saved and used in subsequent seasons as planting seed."ⁱⁱⁱ

Update (October 2005): On 5 October 2005, D&PL and the US Department of Agriculture won a new patent on Terminator from the European Patent Office (EP 775212B). On 11 October 2005, D&PL and the US Department of Agriculture were awarded a Canadian patent on Terminator (CA 2196410).

- **Worldwide Opposition to Terminator**

The genetic modification of plants to produce sterile seeds provoked intense worldwide opposition when it came to public light in 1998. Many governments, scientific bodies, civil society, indigenous peoples' and farmers' organizations condemned the technology outright as a threat to food sovereignty and biodiversity. The aim of Terminator seed technology is to maximize seed industry profits by forcing farmers to return to the commercial seed market every year. If commercialized, Terminator would make it biologically impossible for farmers to save their seeds and breed their own crops. Over 1.4 billion people – mostly the rural poor – depend on farm-saved seeds as their primary seed source. If a farmer loses the ability to save her seed, she cannot continue to select plants that are best adapted to local conditions and needs. Because of the impact that Terminator would have on the livelihoods of peasants and small-scale farmers Terminator seeds can be understood as "homicide seeds."

- According to Rafael Alegría of Via Campesina, an organization representing over 10 million peasant farmers worldwide: "Terminator is a direct assault on farmers and

indigenous cultures and on food sovereignty. It threatens the well-being of all rural people, primarily the very poorest.”

(Please see Attachment 1: Statements Against Terminator, ETC group)

- **Delta & Pine Land Continues Terminator Research**

In 1999, in response to the avalanche of public opposition, two of the world’s largest seed and agrochemical corporations, Monsanto and AstraZeneca (now Syngenta), publicly vowed not to commercialize Terminator seeds. In 2000, the United Nations Convention on Biological Diversity adopted a *de facto* moratorium on Terminator seeds. As a result, many people believed that the crisis had passed, and the issue faded from public view.

But Delta & Pine Land continued to develop, and vigorously defend and promote Terminator seeds. In 2000, Harry Collins of Delta & Pine Land declared, “We’ve continued right on with work on the Technology Protection System [Terminator]. We never really slowed down. We’re on target, moving ahead to commercialize it. We never really backed off.”^{iv}

While multinational Gene Giants like Syngenta continue to win many patents on Terminator technology, Delta & Pine Land is the only visible promoter of Terminator technology and the only company that is known to be actively developing Terminator seeds in greenhouse trials.

Today, D&PL holds three patents on Terminator technology jointly with the United States Department of Agriculture. In 2001 the USDA gave D&PL licensing rights to the technologies. “Once developed, we intend licensing of this technology to be widely available to other seed companies,” stated Delta & Pine Land.^v

- **Promoting Terminator**

While other seed corporations shy away from public association with Terminator, Delta & Pine Land is keeping the industry dream alive. In 2003, a representative of Delta & Pine Land and a representative of Monsanto co-authored the International Seed Federation’s first position paper supporting Terminator technology.

In 2005 Delta & Pine Land intensified its lobbying efforts to promote Terminator seeds at United Nations meetings. The company produced a 4-page glossy colour brochure for distribution at the February 2005 meeting of scientific advisors to the Convention on Biological Diversity (CBD) in Bangkok, where D&PL and other seed industry representatives actively lobbied government delegates to dismantle the *de facto* moratorium on Terminator seeds. (At this meeting, the Canadian government delegation attempted to overthrow the *de facto* moratorium.)

D&PL’s new brochure makes the specious argument that Terminator seeds will prevent gene flow from genetically modified plants. D&PL makes the outrageous and scientifically-unsupportable claim that Terminator “provides the biosafety advantage of preventing even the remote possibility of transgene movement.”

(Please see Attachment 2: Delta & Pine Land Company, “Technology Protection System: Providing the Potential to Enhance Biosafety & Biodiversity in Production Agriculture”)

Characteristics of irresponsible corporate behaviour:

Actively Developing Terminator Seed Technology: D&PL is developing and promoting a technology that has been condemned by many governments, civil society, scientific bodies and indigenous, peasant and farmer organizations as an immoral application of genetic engineering. D&PL is currently conducting greenhouse tests of Terminator in the United States.

“Greenwashing” a Dangerous Technology: In many areas of the world, unwanted gene flow from genetically modified plants is causing genetic contamination – even in the South’s centers of genetic diversity (the areas where our major food crops originate or where genetic diversity is greatest). Ironically, in response to heightened concerns about this genetic pollution, Delta & Pine Land is promoting dangerous Terminator technology as a biosafety tool. The company argues that engineered sterility offers a built-in safety feature because if genes from a genetically modified Terminator crop cross-pollinate with related plants, the seed produced from unwanted pollination will be sterile – it will not germinate. However, assurances that Terminator can be 100% effective are scientifically unsupportable. There are a number of known biological events that can interfere with the reliability of any one of Terminator’s many components, resulting in its failure and rendering it completely useless as a biosafety tool.^{vi} Rather than being a biosafety tool, Terminator is itself a biosafety hazard. For example, through the movement of pollen in the first generation, Terminator could contaminate neighbouring farmers’ crops, resulting in yield losses. If Terminator is accepted under the guise of biosafety, it will have devastating consequences for farmers and food security.

Update (August 2005): A tornado destroyed two of Delta & Pine Land’s greenhouses and damaged others. We do not know if Terminator plants were being tested in the greenhouses or what biosafety risks, if any, might be posed – but this event shows that even seemingly secure physical containment is vulnerable. (“D&PL storm losses top \$1 million” Woodrow Wilkins Jr., *Delta Democrat Times* 30/08/05)

Actively Lobbying to Dismantle a United Nations Agreement: D&PL’s efforts to promote Terminator at United Nations meetings conflict with, and work to overturn, the *de facto* moratorium on Terminator adopted by the United Nations Convention on Biological Diversity (CBD) in 2000. D&PL, in concert with the corporate seed industry and allied governments, is actively lobbying to dismantle the CBD’s precautionary language on genetic seed sterilization and is seeking new language that will allow field-testing and commercialization of the technology. In February 2005, the Canadian government took up this position at UN negotiations and almost succeeded in overturning the *de facto* moratorium.

Pitting Northern Farmers Against Southern Farmers: In the past, D&PL has depicted peasants and small-scale farmers in the South as backward, lazy and uninformed about the benefits of new technology. At a United Nations Food and Agriculture Organization meeting in 1998, D&PL’s Harry Collins reflected the corporate seed industry’s ignorance about the realities of subsistence farming and farm-based food security in his written remarks: “The centuries old practice of farmer saved seed is really a gross disadvantage to third world farmers who inadvertently become locked into obsolete varieties because of their taking the ‘easy road’ and not planting newer, more productive varieties.”^{vii}

More recently, Delta & Pine Land is adopting a strategy to win acceptance for Terminator by pitting northern farmers against southern farmers. D&PL’s new brochure explains that some farmers are not paying for “advanced seed technologies.” In other words, farmers in countries that do not recognize the seed industry’s patents on genetically modified seeds

are unfairly competing with farmers in the North because they can get access to patented seeds without paying royalties to corporations (namely Monsanto). D&PL explains that genetic seed sterilization "will insure farmers a more level playing field" because Terminator seeds would not germinate if re-planted – thus eliminating the problem of farmers saving patented seed that is obtained outside of the commercial market. This promotion of Terminator supports Monsanto's fight to "negotiate" systems through which it can collect royalties from farmers in Latin America, as well as the corporation's enforcement of patent protection by suing farmers in North America. Terminator would eliminate these problems for Monsanto and pave the way for other Gene Giants to enforce patent protection without resorting to legal means. (The technology would not have to be 100% effective to work for this purpose.)

Terminator seeds are new corporate enclosure mechanisms that go beyond exclusive monopoly patents. Unlike patents, sterile seed technology has no expiration date, no need for lawyers and are not subject to mandatory licensing provisions.

Consequences:

The United Nations Convention on Biological Diversity *de facto* moratorium on Terminator came under attack in February 2005 as the Canadian government delegation tried to argue for field trials and commercialization.

If Delta & Pine Land, on behalf of the global corporate seed industry, manages to convince governments, scientists and the media that Terminator should be accepted it will eventually be adopted everywhere as a tool to enforce industry monopoly. If Delta & Pine Land is successful in its efforts to commercialize Terminator seeds, the technology will jeopardize the rights of Indigenous peoples, local communities, and peasants and small-scale farmers to save their seeds, create dependency on the corporate seed industry and eliminate options for food sovereignty.

Current Status and Demands Made to the Company

The Ban Terminator Campaign demands that Delta & Pine Land respect the will of the international community as expressed in the CBD's *de facto* moratorium on Terminator and the will of international civil society and farmers and Indigenous peoples by taking the following actions:

- 1) Abandon all research and development of Terminator technology
- 2) Surrender all patents on the technology to the UN Food and Agriculture Organization
- 3) Stop all efforts (public relations campaigns and government lobbying) to promote this technology

Experience shows that corporate pledges are not sufficient. Terminator technology will become a commercial reality unless governments take concrete action to prevent it. The Ban Terminator Campaign seeks to promote government bans on Terminator technology at the national and international levels, and supports the efforts of civil society organizations, peasants and farmers, Indigenous peoples and social movements to campaign against it. Governments will have an important opportunity to ban Terminator at the 8th Conference of the Parties (COP8) to the United Nations Convention on Biological Diversity March 20-31 2006 in Curitiba, Parana, Brazil.

Links to the details of the nomination www.banterminator.org www.etcgroup.org

Nomination Submitted by:

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Yes, a presentation of the case in Davos at the end of January is possible.

We would like to propose that a representative of the campaign from the South speak, from an organization representing peasants or Indigenous Peoples.

Alternatively, the following speakers are proposed:

Hope Shand
ETC group
hope@etcgroup.org
1 919 960 5767

or

Lucy Sharratt
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lucy@banterminator.org
1 613 241 2267

ⁱ Phillips Mcdougall (UK-based agribusiness industry analyst), unpublished report, based on chart of leading seed company sales 2004.

ⁱⁱ Bill Freiberg, "Is Delta and Pine Land's Terminator Gene a Billion Dollar Discovery?" *Seed and Crops Digest*, March/April, 1998.

ⁱⁱⁱ Delta & Pine Land, Securities and Exchange Commission 10-K Form, 2003, p. 6.

^{iv} Harry Collins, Vice-President of Technology Transfer for Delta & Pine Land was quoted in the *Agra/Industrial Biotechnology Legal Letter*, January 2000, p. 4.

^v Delta & Pine Land, Securities and Exchange Commission 10-K Form, 2003, p. 6.

^{vi} Dr. Ricarda A. Steinbrecher (EcoNexus), "V-GURTs (Terminator) as a biological containment tool?," circulated at COP/MOP2 and based on a Submission to SBSTTA10 Convention on Biological Diversity, May 2005.

^{vii} Dr. Harry B. Collins, "New Technology and Modernizing World Agriculture," distributed at FAO meeting 1998