



**MODERNIZING CANADIAN SEED REGULATIONS
CSTA'S Input to
CFIA Consultations
December, 2006**

Background

In the fall of 2006, the Canadian Food Inspection Agency (CFIA) launched a consultation process designed to get feedback on its proposal to facilitate the modernization of the Seed Regulatory Framework. According to CFIA, the proposal, which was developed over three years, is intended to strengthen the current variety registration system and facilitate ongoing discussion, analysis and consensus building activities for addressing a range of other important seed regulatory issues. The consultation is being conducted through a work book process. Stakeholders are asked to respond to specific questions around variety registration and consultation.

To facilitate CSTA's input to the consultation, a facilitated session was held at the time of the CSTA semi-annual meeting in Winnipeg. CSTA staff compiled all of the comments made during that session and completed the consultation workbook in December.

This document provides brief background on each of the workbook questions, and CSTA's input to each of the questions.

Part 2 – Seed Consultative Framework

National Stakeholder Forum

Background

To enhance stakeholder engagement, improve understanding and facilitate stakeholder-to-stakeholder and stakeholder-to-government discussion and consensus building on national, cross-commodity seed policy and regulatory issues, a national stakeholder-led forum with a long-term governance structure would be recognized by the CFIA to provide expert guidance to the Seed Program.

Question 7: Please rate your degree of support for the CFIA Proposal to introduce provisions that would allow it to recognize a National Stakeholder Forum as part of the official CFIA Seed Program Consultative Framework (1 is do not support6 is strongly support)

CSTA Rating: **5** *This rating reflects the two dissenting responses at the semi-annual meeting.*

Question 8 Please explain the rationale

CSTA Response:

- It is important for a consistent and timely process to consider and recommend change.
- A national body that meets regularly will improve transparency and improve the ability to manage change.
- Issues and crop kinds are very diverse, so a broadly representative national body will help to facilitate timely and comprehensive consultations, by improving understanding of all of the issues.
- A process like this will help to ensure that the seed program can bring all stakeholders from farmers to end use customers together to facilitate product innovation.
- Bringing interested stakeholders together in a formal process is a better use of the time of industry participants, than is an ad hoc consultation process

Question 9 Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal

CSTA Response:

- CFIA needs to be very vigilant in ensuring that the national forum is very broadly representative, of crop kinds and regions, and must not be dominated by any one crop type, scientific interest, industry size, or region.
- The national forum's membership should be reviewed on a regular basis to ensure that participation is still relevant, and reflects the sector at the time.
- It is important that the CFIA ensure that the participation in the forum, while broadly based, is reflective of the seed sector, and that the participants are competent.
- The mandate and rules of operation for the national forum should be made clear at the outset.
- The focus of consultations and other discussions must be on seed and must be science based. For example, the seed forum should not either deal with the issues of special interest groups outside of the seed sector.
- The national forum should be an integral part of the decision making process of the CFIA. CFIA must commit to taking the recommendations of the forum seriously.
- In order to ensure the fullest possible participation in the national forum, CFIA should pay all of the travel and accommodation costs for those who are members of the forum.

Crop Specific Consultative Groups

Background

The CFIA would, as required, work with stakeholders to establish Crop Specific Consultative Groups (CSCGs). These groups would be recognized by the CFIA to facilitate dialogue, analysis, options identification and consensus building within specific crop sectors and regions on seed policy issues having regulatory implications. It is anticipated that where the need for a CSCG is established, existing organizations and processes would be drawn upon to the extent practical to help minimize costs and maximize operational efficiencies.

Question 10: Please rate the degree of support for CFIA to recognize Crop Specific

Consultative Groups as part of the consultative process

CSTA Rating: **6** *This rating reflects that there was only one dissenting response*

Question 11: Please explain the rationale for the rating provided

CSTA Response

- Regulations and initiatives for the seed sector are not “one size fits all”. Crop specific consultative groups will ensure that advice will be specific to each crop kind.
- Facilitates expert advice on specific crop kinds, from those who best know the crop, the industry, and domestic and international markets
- Crop specific groups, which would be more focused and smaller, could come together more quickly on issues specific to the crop kind, and make recommendations more quickly for quicker and more responsive change

Question 12: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal

CSTA Response:

- The mandate and rules of operation crop specific consultation groups should be made clear at the outset
- The mandate should have a clear focus on seed regulatory issues and be based on sound science. Marketing and other policy issues should be left to the industry.
- All regions and parts of the crop value chain should be represented, but the make-up of CSCGs must clearly represent those most affected by the regulatory system. CSTA supports a strong representation from the seed trade because that is where the best expertise can be provided.
- All crop groups should be given the opportunity to form crop specific consultation groups, regardless of the size of the industry (eg. flowers, herbs)
- In order to keep the groups flexible and responsive, crop specific consultation groups must be relatively small (no more than 7?)
- Crop Specific Consultation Groups must be an integral part of the decision making process of the CFIA. CFIA must commit to taking their recommendations seriously, and in a timely manner.
- CFIA should make use of existing structures (eg. Canola Council of Canada) where possible, and where the recommendations in the points above can be incorporated.
- In order to ensure the fullest possible participation, CFIA should pay all of the travel and accommodation costs for those who are members of CSCGs.

Part 3 – A More Flexible Variety Registration System

The CFIA is proposing a new two-tiered registration framework that would introduce additional registration options where the pre-registration performance assessment requirements could be reduced or completely removed. The framework also includes a transparent, predictable process for making changes to the tier placement of crops to facilitate responsiveness of the system to evolving crop sector challenges.

Tier 1: Performance Assessment

Background

Crop varieties subject to this tier of registration would continue to require assessments of both DUS (must be distinct, uniform and stable) and performance prior to registration. Where the current registration system requires the performance of varieties to be evaluated against established minimum merit criteria for agronomic, disease and/or quality characteristics, the proposed new model would allow increased flexibility to vary assessment parameters to suit the evolving needs of each crop kind community, including registration assessment options to require assessment of the performance of varieties with no minimum merit requirements. Registration options in this tier would range from the status quo to requiring only performance assessment of a characteristic (eg. agronomic) with no merit criteria applied.

Question 13: Please rate your degree of support for the changes proposed to the current registration model (Tier 1)

CSTA Rating: **4** *This lower rating reflects that almost 1/3 of the responses to this question at the semi-annual meeting consultation session were negative. The comments that followed indicated that the lack of support was not for the proposed changes to the current registration system (tier 1), but to having a tier 1 at all. Almost all of the dissenters were not in disagreement with a listing system*

Question 14: Please explain the rationale for the rating provided

CSTA Response

- Some CSTA members are concerned with continued merit test requirements, mostly because of the costs and time involved with data collection. Those members submit that post registration performance testing, which is conducted by industry, is sufficient and that merit testing should be completely eliminated.
- Other CSTA members submit that CFIA's role is primarily to protect plant, human and animal health and safety, and that variety registration is not fundamental to that mandate. Variety Registration must not impede innovation and the ability of the industry to introduce new choices for farmers. While a listing system is useful for industry and for farmers, detailed requirements for variety registration (like merit testing) can and do impede innovation.
- Other members support the efforts to make the current registration system (Tier 1) more flexible, and submit that properly structured Crop Specific Consultation Groups can help to ensure that merit testing is flexible, and only required where the industry believes it is necessary.

Question 15: Briefly describe the issues that the CFIA should take into consideration with respect to the implementation of this particular aspect of the proposal

CSTA Response

- Exemptions must be maintained, and the ability to exempt crops from variety registration must continue
- Crop Specific Consultation Groups (properly structured) should be responsible for recommending the degree of merit testing, or if merit testing is required at all.
- CFIA will need to undertake a solid communications campaign to inform farmers of the changes and explain the reasons for the changes.
- Resources required to collect data required by CFIA for variety registration purposes are extremely limited and declining, as are the number of facilities to provide those data collection services. In order to ensure that the data is collected in a timely

manner, to bring innovation to agriculture more quickly, CFIA should provide funding to build and maintain the resources required

Tier 11: Listing

Background

Crop varieties subject to this tier of registration will require, at minimum, an assessment of the DUS of varieties for registration. This assessment will be conducted based on information supplied by the applicant, including how the variety was developed and appropriate contact information; a reference seed sample; and a description of the variety that would provide the required information for crop and seed certification.

Question 16: Please rate your degree of support for the establishment of a variety listing option (Tier II)

CSTA Rating: **6** *This reflects that all of the responses during the consultation session were positive.*

Question 17: Please explain the rationale for the rating provided

CSTA Response:

- Increases the flexibility of the registration system
- Reduces the cost and data collection burden placed on systems that are not able to carry it
- Speeds up variety registration, providing more options, more quickly for farmers

Question 18: Briefly describe the issues that the CFIA should take into consideration with respect to the implementation of this particular aspect of the proposal

CSTA Response:

- Tier II listing must not replace current exemptions, and the option to exempt crop kinds must continue.
- Some CSTA members support this tier being a “simple listing” without requirements for distinguishability, uniformity and stability.
- If they continue to be required, criteria for distinguishability, uniformity and stability must be flexible, reflecting the different needs of different crop kinds, and to minimize the cost and time burdens on the system.
- Crop Specific Consultation Groups (if properly structured see above) should be responsible for recommending flexible options to meet requirements for distinguishability, uniformity and stability.
- CFIA will need to undertake a solid communications campaign to inform farmers of the changes and explain the reasons for the changes.

Part 4 – Contract Registration

Background

Contract registration is a type of variety registration that imposes segregation requirements on seed of certain varieties that do not meet merit and other regulated requirements (eg. kernel visual distinguishability). There are currently nine contract registered varieties.

The CFIA proposes to amend the contract registration system to:

- Strengthen enforcement and compliance provisions to more effectively mitigate and manage risks associated with contract registered varieties; and
- Increase its monitoring capacity through a third party auditing model to ensure consistent, thorough oversight of all contract registrations.

Question 19: Please rate your degree of support for a strengthened contract registration system to support the introduction of value-added varieties.

CSTA Response: **3** *This reflects that well over 1/3 of the respondents at the consultation session did not support “strengthened” contract registration which would give CFIA a stronger role in ensuring compliance. Additionally, a few responses indicated possible support depending on whether or not strengthened contract registration would require more costly and time consuming compliance. Even the responses that were positive to this section, stated the condition that the system must facilitate increased contract registration.*

Question 20: Please explain the rationale for the rating provided

CSTA Response:

- Some CSTA members believe that identity preservation will be a market decision and there is no need for CFIA regulations in this area.
- Many CSTA members are very concerned with the language around contract registration in the consultation work book and in the explanatory documents, which appear to suggest that this will be an increase in regulatory requirements, resulting in increased costs and a greater paper burden. They are concerned that the proposals would not result in increased value chain systems, but would be a deterrent. There is a call for “streamlined” contract registration, not “strengthened” contract registration.
- Many CSTA members, who have indicated support for the proposal, have made it conditional on the system facilitating rather than being a deterrent to increased use of value chains systems.

Question 21: Briefly describe the issues that the CFIA should take into consideration with respect to the implementation of this particular aspect of the proposal

CSTA Response:

- Strengthened regulation must be cost and time effective and must not impose an additional burden on users.
- Strengthened contract registration must have as its goal, increased use of value chain systems.
- It will be important for regulations to be simple, and transparent. It is suggested that the Crop Specific Consultation Groups could help design flexible regulations based on crop kinds.

Enforcement and Compliance Authority

Background

The CFIA proposes to strengthen its regulatory authority to provide for corrective and preventative actions to be taken to resolve or mitigate potential risks of leakage from contract registration based segregation systems. This would include additional provisions to refuse applications for, and suspension or cancellation of, contract registration when unacceptable risks or problems are identified. Provisions for additional review and oversight authorities would

also be included to ensure comprehensive and ongoing review, oversight and management of potential risks.

Question 22: Please rate your degree of support for strengthening CFIA's authority with respect to enforcement and compliance for contract registration

CSTA Rating: **3** *For the reasons stated before Question 19*

Question 23: Please explain the rationale for the rating provided

CSTA Response:

- Many members believe that the market will enforce itself, and that there is no need for additional enforcement measures in regulations. A strengthened enforcement role for government will reduce flexibility and be a deterrent to value chain systems and innovation
- Others support strengthened enforcement, because they believe it might build confidence in Canadian identity preserved systems, however they state that it must not add extra costs

Question 24: Briefly describe the issues that the CFIA should take into consideration with respect to the implementation of this particular aspect of the proposal

CSTA Response

- Definitions of "unacceptable risk", "harm" and clear criteria spelling out conditions for refusal or cancellation of contract registration, are required
- Strengthened regulations on enforcement will require an easily accessible and timely system for appeal
- This must not impose additional costs on the seed sector

Monitoring Capacity

Background

To provide for increased compliance capacity, it is proposed that an accredited third party auditing program would be established for contract registrations to monitor compliance with the terms and conditions of registration. Audits would be conducted by an accredited third party conformity verification body that would be subject to audits by the CFIA. The degree of detail and frequency of the audit would be dependant upon the level of risk associated with the variety and past history of compliance. The results of audits would be required to be retained and reported to the CFIA. All contract registrations would be subject to renewal of registration every two years. Renewal of registration would be based on reassessment of the risks involved and the history of compliance with the terms and conditions of registration.

Question 25: Please rate your degree of support for strengthening the monitoring capacity for contract registration

CSTA Rating: **4** *the responses were somewhat more positive for this proposal, with support for independent third party monitoring, but with the caveat that it not increase the cost burden.*

Question 26: Please explain the rationale for the rating provided

CSTA Response:

- Monitoring by an independent third party monitor, trained and knowledgeable of the seed industry and the Canadian system, could help to build confidence in Canadian identity preserved systems, and help brand Canadian quality – but it must not impose additional costs on the seed sector.

Question 27: Briefly describe the issues that the CFIA should take into consideration with respect to the implementation of this particular aspect of the proposal

CSTA Response:

- Monitoring should be done by independent third party, trained and knowledgeable monitors – not government
- Monitoring must not impose additional costs on the seed sector

Part 5 – Seed Regulatory Framework

Background

The efficiency, sustainability and competitiveness of Canada's agricultural producers are directly affected by seed policies and regulation. Seed policies are no longer only of interest to agricultural producers and the major national associations of the seed industry. Recent experience with consultation on Canada's variety registration system has demonstrated a diverse and expanding community of stakeholders and interested parties. Modernization of the seed regulatory framework could result in more innovative, competitive, sustainable and efficient food, feed, fibre and fuel production systems. If you have any specific ideas on how the seed regulatory framework can be improved, we would like to know.

Question 28: Please briefly identify any other areas within the Seed Program that you feel could be improved and provide a brief explanation of why improvement is needed.

CSTA Response: *Is a compilation of the comments made at the CSTA consultation session during the semi annual meeting in November, 2006.*

Role of CFIA – should only to be to regulate when it is required for health and safety of plants, animals and humans. The market place is more efficient than government and should be allowed to function. Regulations should facilitate the market place, not hinder it.

Simple Regulations – the regulatory system, especially when it comes to variety registration and certification, must be simple and clear to facilitate understanding by end users.

Plant Breeders' Rights – Canada should move to UPOV 91 as soon as possible, and the process for obtaining a Plant Breeders Right must be simplified, and more time effective. (eg. the process to get a PBR is too slow).

CFIA Resources – CFIA must have the resources required to fulfill its mandate in a timely fashion, so that approvals and other decisions can be made quickly. In addition, CFIA must carry out all of its mandated functions, including enforcement of the Seeds Act when it comes to the use of Variety names.

Variety Names – a clear, enforceable, and enforced policy on the use of variety names

Facilitate Innovation – In addition to speeding up the variety registration system, and undertaking its enforcement responsibilities, CFIA should be a facilitator of innovation – to support the introduction of new varieties that will allow Canada to lead in the areas of bio-fuels and other non-food uses, as well as new food uses.

Acts and Regulations – that affect seed should be harmonized to ensure that they are not contradictory (eg. Seeds Act, Grain Act and Plant Breeders Rights Act)

Harmonization – of variety registration systems with the United States to ensure that new products are equally available to farmers in the U.S. and Canada

PNTs – clarify the criteria for triggering a PNT evaluation and ensure that those who are responsible for making the determination (importers, developers etc.) are clearly informed

Coexistence and AP – develop clear policies around coexistence and aggressively work towards harmonized policies on adventitious presence of genetically enhanced products in non GE that will facilitate the trade of seed

Final Comments

All of these recommendations were made with the goal of developing a system that will facilitate and promote innovation, to allow farmers to capture opportunities, and create an investment environment for the seed industry.

CSTA members were all supportive of getting this done – it may require that CFIA make decisions in the absence of full consensus.