

**Article for the CPTA Newsletter
January 17, 2012**

Plant Breeders' Rights is Not Regulation

“Plant Breeders’ Rights is not a regulatory function and should not be part of any regulatory review process. PBR amendments need to proceed on their own, expedited time schedule.”

This comes from a letter that was widely distributed throughout Agriculture and Agri-Food Canada (AAFC) and the Canadian Food Inspection Agency (CFIA) following the receipt of CFIA’s proposed multi-year regulatory modernization plan.

While the stated objectives of the regulatory modernization plan are commendable: *“To support Canadian’s access to safe, reliable and wholesome agricultural products, while that the same time creating and maintain a regulatory environment that supports competitiveness and innovation in the agricultural sector.”* CFIA is also responsible for some Acts and some activities that are not of a regulatory nature. One important one is the Canadian Plant Breeders’ Rights Act.

Canada’s current Plant Breeders’ Rights Act came into force in 1991, and is in compliance with the 1978 convention of the Union for the Protection of New Plant Varieties (UPOV). Despite the fact that Canada signed the 1991 UPOV convention, we have yet to amend our Plant Breeders’ Rights legislation to comply. Canada is one of the only developed countries whose legislation does not comply with the 1991 convention and it is having a significantly negative impact on the seed sector, on farmers and on Canada’s competitiveness. Plant Breeders and developers don’t have a full box of tools to help generate funds for investment in research and plant breeding, and Canadian farmers are losing out on potentially beneficial varieties that have been developed in other countries.

The European Seed Association has identified Canada’s outdated Plant Breeders’ Rights legislation as a barrier to trade in seed - directly to Canada’s Minister of Agriculture and Agri-Food, the President of the Canadian Food Inspection Agency; and to the European negotiating team for the Canada/EU Trade agreement:

“This situation is particularly relevant to the business environment and bilateral relationship between the EU and Canada as a potential factor raising a barrier to trade in seeds, since many European seed companies would not sell their varieties in Canada if they cannot rely on effective IP protection.”¹

Over the past 20 years, there have been numerous studies, analyses, impact assessments and consultations. There are endless supplies of fact sheets and information documents, and an advisory committee which recommended that Canada’s legislation be updated. Despite all of this, in its Regulatory Modernization Plan, the CFIA placed Plant Breeders Rights renewal in a 3 to 5 year time frame.

The seed industry, which is not able to generate returns to invest in new varieties; and the farmers who do not have access to new varieties – developed in Canada or internationally, need to make it clear to Canada’s policy makers and to the CFIA that 20 years has already been too long. Plant Breeders Rights legislation needs to be updated.

1 European Seed Association letter to Mr. Philippe Meyer, Directorate-General for Trade, European Commission January 18, 2010

CSTA encourages all members and their farmer customers to make it clear to governments that PBR is not a regulation. It is a tool that is required to stimulate investment and innovation. Not amending the Act is in direct conflict with the innovation and trade agendas of Federal and Provincial governments. It should not be part of the CFIA regulatory modernization initiative. It should proceed on its own, expedited time frame.

If you need background information, fact sheets or any supporting information, [contact us](#) at the CSTA. We can help.