

Implementing Commitments
A submission to
Members of Parliament
January, 2012

Growing for the World Une Croissance Axée Sur le Monde

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EXECUTIVE SUMMARY

By 2050, the world's farmers will have to produce as much food as has been consumed since the beginning of humanity. They will have to almost double current production while facing the challenges of climate change and competing demand for water and land.

With its favourable climate, diverse land base and innovative farmers, Canada is well positioned to lead the world to meet the challenges and the seed industry is ready to develop and deliver the innovative new plant varieties that our farmers will need.

The Canadian Seed Trade Association appreciates and welcomes the Government's commitments to creating a positive environment for investment and innovation in Canadian agriculture. However, positive results can only be achieved if the commitments result in action on a timely basis. It appears that the priority given to two very important issues does not match the commitment stated by the government.

1. Regulatory amendments required to facilitate more timely variety registration for forages and soybeans are simple and straightforward; however, after 2 years of work and ongoing consultation, they are still not a priority for regulators.

We request that regulatory officials be instructed to make these amendments a very high priority in the very short term.

In the longer term, if Canadian farmers are to have access to new and improved varieties, and if varieties are to continue to be subject to variety registration, the process for moving crop kinds between parts of the system must be improved.

2. Despite 20 years of discussion, background documents, legislative proposals, assessments, analysis and consultation, there are currently no plans in the shorter term, to amend Canada's Plant Breeders' Rights (PBR) legislation. Canadian plant breeders are growing increasingly frustrated. Seed companies are making decisions not to invest in some crop kinds where other forms of intellectual property protection are not available; and international plant breeders are deciding not to bring their varieties to Canada. As a result, Canadian farmers are not getting access to many potentially beneficial varieties.

The CFIA's plan to renew PBR legislation within a 3 to 5 year time frame is not consistent with the government's innovation commitments. PBR is not a regulatory instrument, and should not be part of a regulatory reform process or schedule. It is an important tool to foster innovation and investment. Amending Canada's Plant Breeders' Rights legislation should be a top priority and it should proceed on its own, expedited time lines.

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"Action is the foundational key to all success."

-Pablo Picasso

Introduction

Taking advantage of seed driven innovation, Canada can lead the world in the effort to feed, fuel and clothe a growing world population, and deliver environmental and health benefits.

The seed industry is ready to work with the value chain, policy makers and regulators to deliver innovation.

It is estimated that 9 out of every 10 bites of food taken by people around the world start with the planting of a seed. Seed is the foundation of the world's food supply, and is an important contributor to its supply of fibre, fuel and industrial products.

Seed is also the driver of the innovation that is going to be required to feed, fuel and clothe a growing world population. By 2050, the world's farmers will have to produce as much food as has been consumed since the beginning of humanity. They will have to almost double current production while facing the challenges of climate change and competing demand for water and land.

With its favourable climate, diverse land base and innovative farmers, Canada is well positioned to lead the world to meet the challenges and the seed industry is ready to develop and deliver the innovative new plant varieties that our farmers will need. However, in order to be successful, the seed sector needs to work in partnership with the value chain, and with policy makers and regulators.

Committing to Innovation

The Seed Industry's Commitment

CSTA's member companies are committed to delivering innovation to farmers. In 2007 they invested 27% of their combined operating budgets in research and plant breeding.

CSTA brings together 130 member companies with diverse businesses, interests and objectives. However, they are united in support of CSTA's mission, which is: "To Foster Seed Industry Innovation and Trade".

CSTA's members are committed to delivering innovation to farmers both in Canada and around the world. In 2007 they invested 27% of their combined operating budgets in research, development and plant breeding. We would submit that is a larger commitment than what is made by most other sectors.

Private sector innovators have delivered hundreds of new varieties to farmers over the past decade, and investment in 2012 is expected to be close to double what it was in 2007.

The Government's Commitment

CSTA appreciates and welcomes the commitment of Governments to policy that would enable and facilitate both public and private sector research, and increased private sector investment. We also appreciate the commitment to modern regulatory structures; to attracting new investment and gaining and maintaining international market access.

CSTA thanks the government for its strong commitment to science as the basis for regulations and trading rules.

CSTA has received with interest and appreciation, the ongoing statements of commitment to innovation, competitiveness and trade made by the Government of Canada and supported by Provincial Ministers.¹

In July, the Ministers said that the objective of agriculture and agri-food policy must be: *to achieve a profitable, sustainable, competitive and innovative agriculture, agri-food and agri-products industry that is market-responsive, and that anticipates and adapts to changing circumstances and is a major contributor to the well-being of Canadians.*"

CSTA welcomes the commitment of Ministers:

- to research and development, including increased collaboration and partnership and increased private sector leadership and investment;
- to modern regulatory structures and institutions, and to policies;
- to enabling the industry to attract new entrepreneurs, investments and business models;
- to gaining and maintaining market access

We continue to welcome and recognize the government's strong support of science as the basis for regulations and trade, and have clearly stated that support. We thank you for resisting efforts both domestically and internationally to undermine science.

Putting Commitments into Action

At this time, and in some cases for many years, issues of critical importance to our ability to deliver innovation have been given very low priority with regulators and policy makers. It is time to make them a high priority.

The seed industry stands ready to bring more innovation to Canadian farmers, and we appreciate the stated commitments in declarations, speeches, news releases and interviews made by government and its officials. However, until the commitments are actually implemented, our ability to bring that innovation is severely limited. At this time, and in some cases for many years, very important issues have been given very low priority with regulators and policy makers. It is time to make them a high priority: for the seed industry; for farmers and for the Canadian economy.

Modern Regulatory Structures

Two years after a new variety registration system was implemented, the system is still just a framework and has done nothing to expedite the introduction of new varieties.

Seed of most crop kinds cannot be sold in Canada unless the variety is registered under the Seeds Act and Regulations. Under the current system, this requires a recommendation from an officially recognized committee and up to three years of pre-registration trials.

After decades of analysis, work and consultation, regulations were put in place to establish the framework of a more flexible registration system. However, two years later the system is still just a framework and has done nothing to expedite the introduction of new varieties.

¹ Quotes are from the St. Andrews Statement, July, 2011 <http://www4.agr.gc.ca/AAFC-AAC/display-afficher.do?id=1309901575227&lang=eng>

Much work has gone into preparing the rationale, and obtaining industry support for moving forage crops and soybeans into Part 3 of the registration system. But this does not appear to be a priority for regulators. We request that regulatory officials be instructed to make these amendments a very high priority in the very short term

The impact is being strongly felt in the forage sector where official committees are seriously under resourced, and for many forage species, do not even exist any more. In the calendar year 2011, 125 new full registrations were granted, and only 13 of them were for new forage varieties.

In the soybean sector, markets often open and close faster than the current registration system can function. There is very strong value chain support for moving soybeans to Part 3 of the variety registration system.

Much work has gone into preparing the rationale for moving forage crops and soybeans into Part 3 of the registration system. Part 3 still ensures regulatory oversight but the time to register a new variety could be substantially shortened because recommending committees are not required.

The regulatory amendments that are required are very simple and straightforward; however, after 2 years of work and ongoing consultation, it does not appear to be a priority for regulators.

We request that regulatory officials be instructed to make these amendments a very high priority in the very short term.

In the longer term, if Canadian farmers are to have access to new and improved varieties, and if varieties are to continue to be subject to variety registration, the process for moving crop kinds between parts of the system must be improved.

Attracting Investment

Access to suitable and continually improving varieties, whether they are developed in Canada or internationally, is an important contributor to the success of Canadian farmers.

The ability of Canadian farmers to meet new market opportunities, and remain competitive depends on their ability to produce more in a financially and environmentally sustainable manner. Access to suitable and continually improving varieties, whether they are developed in Canada or internationally, is an important contributor to their success.

Whether new and improved varieties are developed in Canada or internationally, the ability to generate a return to cover the cost of development is necessary, and that means that plant breeders must be able to adequately protect their intellectual property. This is entrenched in international trade law. The World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) requires member countries to provide protection for plant varieties.

In 1992, Canada signed the UPOV convention of 1991, signaling its intention to amend its PBR legislation to comply. Now, 20 years later, Canada is one of the only developed countries whose legislation does not comply with UPOV 1991.

Most countries, Canada included, use a system of Plant Breeders' Rights, which comply with guidelines established by the International Union for the Protection of New Plant Varieties (UPOV), to protect new varieties. The ability to protect intellectual property not only helps to generate funds for re-investment in plant breeding and research, but uniform protection facilitates trade in varieties developed internationally.

Canada became a member of the UPOV in 1991, when its Plant Breeders' Rights legislation was approved by UPOV and enacted. Our legislation complies with the UPOV convention of 1978. In 1991, UPOV instituted a revised convention, which Canada signed in 1992, signaling its intention to amend its PBR legislation to comply with the UPOV Convention of 1991. Now, 20 years later, Canada is one of the only developed countries whose legislation does not comply with UPOV 1991.

Amending Canadian Plant Breeders' Rights legislation is a very high priority for the seed industry and for many Canadian farm groups, but it does not appear to be a high priority for the CFIA, which administers the Act. PBR is not a regulatory instrument. It is an important tool to foster innovation and investment. Amending Canada's Plant Breeders' Rights legislation should be a top priority and it should proceed on its own, expedited time lines.

Facilitating Trade

Given the importance of international trade to our sector, we appreciate Canada's commitment to a more open trading environment, particularly to the development of an international policy around the unintended presence at very low levels of genetically modified material.

Much of the attention to this issue was generated by recent incidents in the Canadian flax industry. However the seed sector has been affected by LLP for quite some time. We encourage the government to ensure that LLP policies, processes and solutions also accommodate the needs of the seed industry.

Amending Canada's PBR legislation to comply with UPOV 1991 is a very high priority for the seed industry, and for a growing number of producer groups, who need and want new varieties. However, it doesn't appear to be a very high priority for the Canadian Food Inspection Agency, which currently administers the Act.

Despite 20 years of discussion, background documents, legislative proposals, assessments, analysis and consultation, there are currently no plans in the shorter term to amend Canada's legislation. Canadian plant breeders are growing increasingly frustrated. Seed companies are making decisions to not invest in some crop kinds where other forms of intellectual property protection are not available; and international plant breeders are deciding not to bring their varieties to Canada.

Recently the Canadian Food Inspection Agency released a regulatory renewal plan which places renewal of PBR legislation in a 3 to 5 year time frame. This is not consistent with the government's innovation commitments.

We submit that PBR is not a regulatory instrument, and should not be part of a regulatory reform process or schedule. It is an important tool to foster innovation and investment. Amending Canada's Plant Breeders' Rights legislation should be a top priority and it should proceed on its own, expedited time lines.

The value of international trade of seed (imports and exports) is over \$500 million annually. Canada exports seed of about 50 different crop kinds to over 70 countries around the world.

Given the importance of international trade to our sector, we very much appreciate Canada's participation in regional and international trade negotiations, economic partnerships and a number of international and regional bodies on phytosanitary requirements, biotechnology approval processes and more. Canada has committed to facilitating a more open trading environment.

We particularly welcome the proactive steps that Canada is taking to work towards the implementation of an international policy to facilitate trade where an unintended presence at very low levels of genetically modified (GM) material, which is approved in at least one country but not in the country of import, may be found. (LLP).

While much of the attention to this issue was generated by recent incidents in the Canadian flax industry, the seed sector has been affected by LLP for quite some time. The large scale commercial production of some GM crops in Canada, and the nature of production, handling and transportation systems around the world, means that very low levels of GM material can be found in shipments of seed. This has been particularly difficult for our forage seed exporters, whose second largest market is the European Union, which maintains a zero tolerance.

Seed production, regulation, handling, transportation and trade is very different than that for grain, but LLP policy is as important. We have appreciated being part of the consultative process, and encourage the government as it moves forward to ensure that solutions and policies also accommodate the needs of the seed industry.

Conclusion

Seed is the foundation of the Canadian agriculture and agri-food industry. It is the driver of innovation and competitiveness, and the seed industry stands ready to deliver benefits to Canadian farmers.

The seed innovation pipeline is bulging with new improved varieties, developed through both biotechnology and conventional plant breeding, which will deliver even better productivity to farmers and will bring improved traits to enhance food quality, health and the environment. Whether these innovations are available to Canadian farmers and consumers on a timely basis depends on the investment environment in Canada

The Canadian Seed Trade Association appreciates and welcomes the Government's commitments to creating a positive environment for investment and innovation in Canadian agriculture. However, positive results can only be achieved if the commitments result in action on a timely basis, and it appears that some issues that are very important to drive innovation, are not a priority for regulators. This does not match the commitment stated by the government.

We look forward to working with policy makers and regulators to turn welcome commitments into real results for Canadian farmers.