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26/04/2007 12:09 PM

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bcc

Subject RE: PBR enforcement Issues Paper  
Classification UNCLASSIFIED  
Privacy

Dear Cameron

Thanks for the opportunity to provide feedback on the Review of Plant Breeders' Rights Issues Paper.

I note that the paper makes no mention of the International Treaty on Plant Genetic Resources for Food and Agriculture, which came into force on 29 June 2004 and was ratified by Australia in December 2005. This commits Australia to a multilateral approach to benefit sharing that will impact on PBR and royalty payments for breeders accessing international programs such as the GRDC-sponsored importation of wheat and synthetic lines from CIMMYT, Mexico <[www.wheat-research.com.au/CAGE\\_index.html](http://www.wheat-research.com.au/CAGE_index.html)>. Under the standard Materials Transfer Agreement associated with that treaty, which has now been agreed upon (June 2006) and is available on <http://www.fao.org/ag/cgrfa/itpgr.htm>, there is a royalty payment payable into the Global Crop Diversity Trust:

"The sMTA calls for a royalty of 1.1% of sales to be paid into a fund when

- (a.) genetic material is accessed from the Treaty's multilateral system,
- (b.) it is incorporated into a product that is a plant genetic resource, such as a new crop variety,
- (c.) the product is commercialized, and
- (d.) there are restrictions, such as patent protection, that limit use of the product for further plant breeding and research.

Users can opt for a lower royalty rate (0.5%) if they apply it to all products of a particular crop regardless of whether there are restrictions to further use and regardless of whether multilateral system materials were used in making them. The Treaty's Governing Body will control and dispense funds raised, using them to support crop diversity related programs." <[http://www.croptrust.org/documents/newsletter/newsletter\\_croptrust\\_v3\\_final.htm](http://www.croptrust.org/documents/newsletter/newsletter_croptrust_v3_final.htm)>

Secondly the Treaty specifies that there is to be exchange of information, access, transfer of technology, and capacity building. The Treaty applies to 35 food crops and 29 forage crops (specified in Annex I to the Treaty) and makes provision for Farmers' Rights as well as PBR.

*(I am in the process of writing a paper on this subject, which I would have complete by 8 May. I would be happy to provide you with a copy at that time if it would be useful to you.)*

Regarding other questions posed in the Review of Plant Breeders' Rights Issues Paper:

p. 13 "Culture": Australian farmers are concerned about short-term goals in commercial breeding stimulated by the PBR system. GRDC attempts to counteract this by participating in international germplasm access programs such as CAGE, described above.

4.2.9, questions 18, 19 and 20: "Lack of robust and cost-effective varietal identification" and sample tracking. I believe Diversity Arrays Technology is now sufficiently robust and cost-effective to provide diagnostic whole-genome profiles for major crops wheat and barley <[www.triticarte.com.au/default.htm](http://www.triticarte.com.au/default.htm)> as well as a number of the priority crops <<http://www.diversityarrays.com/genotyping/serv.htm>> named under the International Treaty on Plant Genetic Resources for Food and Agriculture. As an example, high-density profiling using 2500 markers spread across wheat's hexaploid genome can be done in batches of 94 samples for AU\$2.80 per marker or \$75/sample. Lower-density services are also available.

Question 21: a central coordinating body: I suggest some efficiency could be gained by association with the proposed Australian National Genetic Resources Centre (ANGRC; contact: [paul.hattersley@csiro.au](mailto:paul.hattersley@csiro.au)) which would unify five independent state-based Genetic Resource Centres:

- the Australian Winter Cereals Collection (Tamworth NSW);
- 2 the Australian Temperate Field Crops Collection (Horsham VIC);
- 3 the Australian Tropical Crops and Forages Collection (Biloela QLD);
- 4 the Australian Medicago Genetic Resource Centre (Adelaide SA); and
- 5 the Australian Trifolium Genetic Resource Centre (Perth WA).

Questions 22 and 27: some association with :

CAGE <[www.wheat-research.com.au/CAGE\\_index.html](http://www.wheat-research.com.au/CAGE_index.html)>, which manages data from nationally coordinated trials of imported germplasm from CIMMYT and potentially other international breeding institutes; and

Graincare on-farm QA system < <http://www.graincare.com.au/index.htm> >, which has the capacity to support identity preservation of samples.

Thanks again for the opportunity to contribute to this review.

Regards,

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