

Variety Registration Working Group III Summary Report



Ottawa October 25 2005



The third meeting of the National Forum on Seed (NFS) Variety Registration Working Group was attended by about 40 individuals representing seed growers and suppliers, plant breeders, crop producers, processors and handlers from across Canada, as well as interested government departments and agencies. Invitations had been sent to more than 150 organizations with a view to getting their input regarding the Variety Registration Pre-Proposal prepared by the Canadian Food Inspection Agency (CFIA). The Pre-Proposal document is the starting point for CFIA consultations with stakeholders intended to elicit feedback on the proposed approach to amend the registration system which will ultimately contribute to a final proposal for change in 2006. Consultation over the next year is also intended to: (1) strengthen the consultation framework; (2) lead to changes in the Variety Registration system by March of 2007, and (3) identify and review additional priority areas for improvement within the seed regulatory system.

Working Group participants generally supported the direction of the proposed regulatory reform and reiterated the importance of increasing flexibility in the variety registration system so it can better meet the needs of the seed industry and its value chain. The group noted several areas where further clarification is required and welcomed the opportunity to work with CFIA to refine the proposal and bring it forward for regulatory approval and implementation as soon as possible.

The Variety Registration Pre-Proposal includes three elements: a new Tiered Registration System; an ongoing crop-specific Consultative Process, and an amended Contract Registration regulatory system. Each of these elements was the subject of table discussions which were then

reported and synthesized in plenary. The following summarizes the main observations and feedback of participants. Specific feedback on the cost/benefit sections and additional questions and suggestions concerning definitions and wording of the Pre-Proposal are listed in Appendix 1.

Tiered Registration:

- strong support for tiered registration system;
- agreement that status quo should be the starting point for crop placement within tiered system, with changes requiring consensus across complete crop kind value chain;
- proposal should make explicit reference to continued existence of 'exempt crop' category and default placement for new crop kinds;
- minimum time requirement should be set for crops to remain at new level when they move between tiers or sub-categories;
- would like to see voluntary registration option included for exempt crops such as corn;
- concern that affidavit and data requirements for plants with novel traits may be too stringent, particularly for non rDNA varieties;
- some feeling that proposal does not fully address need for market acceptability of new genetically modified crop varieties.

Consultative Process:

- general support for proposed option, but further clarification is required on what would constitute "sufficient consensus" for changes to crop placement within a Tiered Registration System, how Crop Specific Consultative Groups (CSCGs) would be constituted and how they would relate to existing Recommending Committees;
- while noting that the scope and role envisaged for CSCGs differs from that of Recommending Committees and other current structures, there was strong endorsement for existing

organizations to be the starting point to identify CSCG representation;

- it was noted that there may be value in restricting CSCG terms of reference so resources are not expended on peripheral issues (e.g. daylight savings time);
- bottom-up, industry-selected membership is desirable;
- make-up of individual crop groups should be flexible, but respect general principles such as inclusion of complete value chain and achieving national/regional balance;
- concern about who will bear costs and provide impetus to set up and maintain CSCGs, particularly for new or small crops without sufficient critical mass to do this themselves; also, crop groups should have flexibility to work with other crop kinds to create efficiencies;
- grace periods will be important if moving into and between tiers implies significant new information/testing requirements for existing varieties, but perhaps grandfathering should be an option;
- very difficult to quantify costs and benefits for this element or to make meaningful cost/benefit comparisons between options without knowing how CSCGs would be set up and funded and extent of overlap with existing groups and committees.

Contract Registration:

- full agreement that amending current Contract Registration program to increase flexibility and improve enforcement would make this provision more useful to the seed industry;
- strong support for risk-based approach to contract registration;
- clarification is required regarding proposed responsibility and methodology for risk assessment;
- need to clarify who will be consulted on Terms of Reference for Contract Registration;
- compliance provisions may not go far enough (e.g. two-year suspension for a repeat offender)

and proposal should include responsibility for costs/liabilities of contract registered varieties getting into general commodity stream;

- CFIA might consider having registrant post a bond where harm potential is high;
- concern that 'case-by-case' assessment may impose unnecessary regulatory burden for low-risk varieties, hence it may be preferable to have differential tracks/requirements depending on potential for adverse effects;
- support for third party audits, which should include test for leakage into general commodity stream; CFIA could perhaps accredit auditors;
- need to clarify linkages with regulatory requirements of other agencies—e.g. CGC and CWB;
- proposal does not appear to have provisions for third party interventions or appeal mechanisms.

Next Steps:

CFIA officials expressed appreciation for the Working Group's feedback and indicated they would take this input into account and revise the Pre-Proposal as required. The Variety Registration Working Group's deliberations will be reported to the NFS at its forthcoming December meeting. Some representatives at the meeting noted that a few commodity groups, such as potatoes, would be ready to begin crop-specific consultations this winter; CFIA is open to expressions of interest from groups willing to facilitate early development of Crop Specific Consultative Groups.

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APPENDIX 1

Specific Questions and Suggestions re: Variety Registration Pre-Proposal

Nomenclature and Definition Issues:

1. Consultative Process for Crop Placement in Tiered System
 - “crop movement” could be easily mistaken as reference to transportation system;
 - suggestion to reword to “Crop Placement in Tiered System”
2. Contract Registration
 - name could be confused with non-regulated production under contract (e.g. identity preserved production) which does not have same potential for harm;
 - suggestion to replace with alternate term such as “Special Registration”, “Controlled Registration” or “Elite Registration”.
3. CSCG Acronym
 - not easy to remember or pronounce.
4. DUS (Distinct, Uniform, Stable)
 - DUS is usually thought of as a Plant Breeders’ Rights term and may cause confusion in variety registration context;
 - suggestion not to refer to DUS in this proposal (page 6).
5. Producers and Growers
 - distinction may not be clear;
 - suggestion to further distinguish—i.e. “crop producers” and “seed growers”.
6. What is a “crop”?

- need clarity on what would constitute a distinct, separate crop in proposed variety registration system.

Comments and Suggestions on Cost/Benefit Analysis:

1. Tiered Registration System
 - regarding who benefits from prohibiting commercialization of inferior varieties, suggestion to add CGC or change to “All” for this benefit under Merit-Based Registration Option (bottom of page 3);
 - rewording suggestion to better underscore significance and nature of flexibility benefit for Tiered Registration Option (page 5)—2nd benefit statement would read, “Reduces regulatory compliance burden for some crops by introducing options regarding merit requirements.” —5th benefit statement would read, “Provides more options for registration while still maintaining the benefits of the registration system.”
 - rewording suggestion for 4th benefit statement under Tiered Registration Option (page 5) to reflect lack of agreement that this option encourages plant breeding activity, —new statement would read, “Facilitates commercialization of superior varieties for some Tier 1 crops.”
 - suggestion to add benefit statements for Tiered Registration Option to effect that some level of testing and assessment will be in place for crops subject to merit requirements;
 - that there is potential for regional registrations; and that it does not impose new requirements—i.e. starting point is status quo;
 - observation that costs for collecting and assembling data aren’t included;

- observation that costs of testing to meet Tier 1 requirements can be significant and that post-registration testing should be flagged as a potential/indirect cost for some crops;
 - observation that costs associated with maintaining **Recommending Committees** are small relative to costs of coping with issues without them;
 - observation that there are risks and costs as well as benefits associated with being exempt from registration requirements;
 - observation that costs attributed to reduced availability of objective performance information under the No Registration System Option would depend on the value/use of information currently generated in the variety registration system, which in some cases may be relatively minor.
2. Crop Specific Consultative Process
- suggestion to add benefit statement for Crop Specific Consultation Option to effect that it allows flexibility for good regional input and solutions;
 - suggestion to delete benefit statement under Crop Specific Consultation Option which states this would be a “less resource intensive, more efficient process”; group noted more resources could be required in some instances, especially when consensus was difficult to achieve;
 - observation that costs associated with existing and proposed consultation processes may be underestimated;
 - observation that inclusiveness has a cost that should be identified unless CSCGs can be self-sufficient;
 - observation that “cost” of not having stakeholder-to-stakeholder discussion under first two options may not be that significant; similarly, concern about

lack of transparency and predictability may be overstated.

3. Contract Registration

- suggestion to add cost statement for Increased Flexibility and Enforcement Option to effect that there is increased risk of leakage of contract registration varieties into conventional crop stream, with potential to seriously damage markets.

Other Questions:

1. Have crop insurance officials been consulted?
 - they may be concerned about what information would be provided, or not provided, in certain tiers and sub-categories since they use some of this variety information.
2. How does the Tiered Registration System fit with international requirements for distinctness?
 - tiered menu system can presumably accommodate international trade requirements, but outside Tiers 1 and 2, will distinctness be established in Canada or, if it occurs elsewhere, can a variety be grown here as certified seed?

Other Suggested Changes/Additions/Comments:

Wording changes on Page 12

1. suggestion to remove reference to “other interested parties” in first shaded box since all interested parties are already included in “complete crop value chain”;
2. suggestion to incorporate and emphasize value of “participation” of complete value chain; what is proposed is more than a “consultation” process;
3. near bottom of page, reference to CSCGs providing advice to “other governments” should be amended to “other government departments and agencies.”.