AFFA RESPONSE TO QUESTIONS TAKEN ON NOTICE

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON PRIMARY INDUSTRIES AND REGIONAL SERVICES INQUIRY INTO DEVELOPMENT OF HIGH TECHNOLOGY INDUSTRIES IN REGIONAL AUSTRALIA BASED ON BIOPROSPECTING AND BIOPROCESSING

The Committee sought information during the hearing on 27 June 2001 and in a subsequent letter of 3 July 2001 to Mr Bernard Wonder, on the following matters:

1. What has been the role of AFFA on domestic access and benefit sharing?

- *What has AFFA done to promote the issues of a nationally consistent framework for domestic access and benefit sharing through the Commonwealth-State Working Group (CSWG) and SCARM?*
- *Summaries of the reports from the consultancies let by AFFA and funded by Biotechnology Australia to progress access matters identified by the Commonwealth-state working group in its 1996 report.*
- *Any SCARM papers that might have been produced that deal with access and benefit sharing issues.*

2. What is AFFA's preferred national system for access and benefit sharing and does it provide consistency and certainty?

- *How does the AFFA view differ from the Voumard recommendations?*
- *In light of the significance of the International Undertaking on Plant Genetic Resources, would you please comment on whether Voumard's recommendation on this subject addresses the concerns expressed by AFFA in its submission to the Voumard inquiry (referred to by Mr Wonder, mid page 119). The recommendation in question, on page 131 of the report, is: "That material which is the subject of existing international agreements, such as the Food and Agricultural Organisation International Undertaking on Plant Genetic Resources, be excluded from the ambit of the regulations."*
- *You might also like to comment, given AFFA's comments about property rights on page 14 of your second submission, on Environment Australia's claim in its submission to the committee's inquiry that the regulations proposed in the Voumard report 'will not alter existing property law in Australia'.*

3. What are the access regimes in the States?

Overview

In view of the increase in the level and diversity of bioprospecting both in Australia and overseas, the issues of access to biological resources and of sharing of the benefits from the subsequent research, development and commercialisation of products has acquired a new national and international significance. Historically, much of the access to biological resources in public collections and on public land, has had limited or no restrictions and been provided at low or zero cost. Similarly, Australian researchers have had access to a wide variety of exotic material held in collections in Australia or through overseas collections. Again this material has been provided at minimal or no cost. International agreements in this area have provided broad guidance with respect to access, consistent with a relatively open regime. Discoveries made through this process have been protected under appropriate national property right laws (such as patent and plant breeders rights laws). In aggregate, Australian agricultural researchers and industries have been net beneficiaries of this open availability of access to resources and so maintaining ready exchange of biological resources internationally is critically important. Accordingly any consideration of access and benefit sharing in Australia must take into account international developments.

In recent years, increased activities in the area of bioprospecting have lead to calls for greater consistency – particularly across jurisdictions – with respect to access to regimes, especially in relation to permits to collect biological resources. There has also been a focus on what returns (benefits) exploitation of these resources may generate for owners or sovereign nations under access regimes. The establishment of the Commonwealth-State Working Group on Access to Australia's Biological Resources (on which the then Department of Primary Industries and Energy played an important role) in the 1990s was an attempt to address access and benefit sharing issues across jurisdictions. This resulted in a set of principles being developed to underpin access regimes in an Australian context (these principles were finalised in October 1996 and released for comment in December 1997).

Following some subsequent discussions with the States, led by AFFA and Environment Australia (EA), further work in this area was effectively deferred pending the finalisation and response to the Inquiry into Access to Biological Resources in Commonwealth Areas (Voumard inquiry) initiated in December 1999. AFFA contributed to the Voumard inquiry and has been liaising with EA in the further development of Commonwealth policy on access to biological resources, including through possible regulations arising from the recommendations of the inquiry. At this point, these regulations have not been finalised and so the Commonwealth's position on these issues remains under consideration.

As inferred above, an important input to developing this framework will be consistency with the Australian position in international negotiations and the eventual outcome of these negotiations. AFFA has led the development of Australia's position on access and benefit sharing for the purpose of the FAO International Undertaking on Plant Genetic Resources negotiations. This has involved regular consultations (lead up to and post negotiating sessions) with States and Territories (both central agencies as well as agriculture interests) and non-government interests. At this point, negotiations have resulted in draft text for discussion at the FAO conference of

Ministers in November 2001. Regardless of whether or not Australia signs on to the final agreement, the implementation of the Undertaking by other countries will have an impact on the access to biological resources by Australian researchers and industries and needs to be taken into account in development of an Australian system.

AFFA considers that a key objective in any access regime is to maintain incentives for bioprospecting (and avoid disincentives) so that the potential benefits can be realised, subject to normal commercial practice and reasonable environmental and sustainable development safeguards. The challenge is to design a system that secures returns for access to public resources while avoiding disincentives to beneficial development of those resources. This challenge is particularly complex in the case of biological resources given the array of scientific, environmental, intellectual property and ethical issues involved.

AFFA accepts the need for a new framework for dealing with access and benefit sharing, including in response to issues raised in the Voumard inquiry. However AFFA considers that a less onerous system than that proposed in the Voumard recommendations would achieve the benefits of consistency, certainty and a return to the community, while being more conducive to the further development of industries based on bioprospecting. Such a system should also not simply exclude material covered by international agreements, but rather be broadly consistent with the likely directions of future international agreements to ensure that we do not increase the complexity of domestic arrangements by having multiple systems in place.

Key elements of the system preferred by AFFA (further elaborated later) would be:

- A model material transfer agreement (MTA) for access to *in situ* material (*and ex situ* material in some cases) under Commonwealth ownership or control.
- The MTA to include a flexible benefit sharing agreement contingent on the material being commercialised (this may include monetary and/or non-monetary components as well as incorporating any international obligations).
- Consideration of exemptions for benefit sharing if the recipient company or institution is prepared to make the developed material publicly available for further research.
- Access to and benefit sharing regarding biological resources on freehold property would be subject to private negotiation (although the model MTA for Commonwealth areas may serve as a model for the private sector).
- States and Territories would be encouraged to adopt the Commonwealth approach as a basis to achieve a nationally consistent framework.

Finally, AFFA recognises that the increased interest in bioprospecting provides Australia with a particular opportunity given that it is one of only 12 mega-diverse areas in the world with a wealth of resources to explore. Economic benefits (such as improved productivity and competitiveness) and environmental benefits can be secured from biological resources (both terrestrial and marine) provided suitable processes are in place to encourage discovery and innovation whilst also ensuring a sustainable use and development of our biological resource base. It is important, therefore that whatever regime is eventually established that there is an appropriate balance achieved between encouraging the further development of industries based on bioprospecting and the achievement of reasonable returns for the community from the

use of resources. AFFA believes a system with the characteristics noted above would achieve such a balance.

What has been the role of AFFA on domestic access and benefit sharing?

What has AFFA done to promote the issues of a nationally consistent framework for domestic access and benefit sharing through the Commonwealth-State Working Group (CSWG) and SCARM?

Until the commencement, in December 1999, of the Voumard inquiry into access to biological resources in Commonwealth areas, AFFA, jointly with EA, chaired the Commonwealth State Working Group on Access to Australia's Biological Resources (CSWG), and the corresponding Commonwealth IDC developing the Commonwealth position for CSWG. The then Department of Primary Industries and Energy had played a major role in the development of the 1996 CSWG principles (released for comment in December 1997) which were designed to encourage a nationally consistent approach to access management regimes. Further work through CSWG on implementing a nationally consistent framework was effectively deferred in late 1999 pending the finalisation of the Voumard inquiry and a Commonwealth response to that inquiry. Prior to this inquiry, as late as June 1999 WA, SA, Queensland, AFFA and EA had been working to identify regulatory regimes arising in all jurisdictions that may impact on access (permit) systems. Further work had been planned to address issues arising through the CSWG on access and benefit sharing, and the CSWG principles.

The CSWG has been a whole of Government process involving Commonwealth, State and Territory agencies covering portfolios much wider than the SCARM agencies. While SCARM has indicated support for the work of CSWG and has been kept informed of developments, both domestically and internationally, it has been recognised by SCARM agencies that the key role in driving the development of a national framework is through the CSWG.

Despite the period that has elapsed since the development of the CSWG principles, they remain relevant and were broadly accepted by the Voumard committee. The CSWG principles provide an overall framework in which governments, individually and collectively can address their own needs as well as those of other stakeholder groups. For example, CSWG principles address the need for effective stakeholder consultation and ensuring that Australia captures appropriate economic and other benefits from access to its biological resources, and ensure the widest possible sharing of those benefits. AFFA recognises this by seeking to clearly differentiate between the roles of government as an owner of biological resources and governments' wider roles and responsibilities as they affect the climate for bioprospecting and bioprocessing. These wider roles and responsibilities include effective R&D regimes, innovation policies and programs and natural resource management policies which have other objectives, but which significantly affect the environment for bioprospecting and the pattern of rights and benefits.

Since the release of the Voumard Report in September 2000, AFFA has been consulting with EA (which has the lead in developing regulations under the Environment Protection and Biodiversity Conservation Act) and other agencies on a regulatory system to implement access to biological resources in Commonwealth

areas. The government has yet to finalise its position on these regulations, although some general comments on AFFA's preferred position are provided below. It is intended that the Commonwealth regime will then provide the basis for resumed discussions with the states and territories on a nationally consistent system.

AFFA has also played an important role with respect to international negotiations on this matter, particularly in respect to negotiations on the FAO International Undertaking on Plant Genetic Resources where it has led the negotiating team. This has included regular consultation with State and Territory agencies. Australia is currently a signatory to the existing Undertaking that was established in 1983. The existing Undertaking is a *non-binding* agreement that provides for unrestricted access to plant genetic resources for agricultural purposes amongst member countries. Its application is primarily in the realm of publicly owned or collected materials since in many member countries privately owned material is beyond the direct influence of governments.

Australian agriculture has benefited from the current Undertaking given that much of Australia's current agriculture production systems, and improvements to those systems, are based on the importation, utilisation and storage in national collections of exotic material. As mentioned above, it remains important that any domestic benefit sharing scheme within Australia does not inadvertently impair Australian access to overseas sources of biological material. For example, if Australia insists on a system of monetary benefits applicable to the commercial use of Australian biological material, it would be difficult to argue that other countries from which Australian scientists and farmers obtain material should not also apply a charging system. This would represent some inevitable restriction on international access that would need to be fully considered in terms of net benefits to Australia as a significant importer of such material.

Negotiations to revise the Undertaking have been underway in the FAO since 1993 to bring it more into line with the Convention on Biological Diversity (CBD) and the promotion of sustainable agriculture. Recent negotiations in July 2001 established, on an ad referendum basis, a new text that may be submitted for decision to the FAO conference of Ministers in November 2001. The draft revised Undertaking attempts to maintain relatively unrestricted access to biological material under the control of governments in the public domain while securing reasonable benefits, particularly for developing countries which provide significant sources of agricultural biological material for development and research in developed countries. It should be noted that there remain some important differences between parties on definitions, listings of material and the application of intellectual property and so there is no guarantee that this text will be agreed to by Ministers at that meeting. A copy of the revised draft text can be provided when it is available from the FAO Secretariat.

If, in the future, the Undertaking were to be adopted by governments it would be a *binding* agreement that would stipulate under standard Material Transfer Agreements (MTAs) the payments of benefits into an international account by recipients who commercialise research based on such material. This would be enforced under contractual law in the member countries and the level of such payments at commercialisation stage would be determined by consensus of parties in the governing body of the Undertaking. Funds contributed would be used to promote an

integrated approach to the exploration, conservation and sustainable use of biological resources for food and agriculture. This would include promotion of the collection of such resources and exchange of information on conservation, technology and capacity building with a particular emphasis on developing countries.

It is clearly acknowledged in the draft revised Undertaking that member countries have national sovereignty over both *in situ* (native) and *ex situ* (collections) of biological material, although access to *ex situ* material is expected to be freely available from public collections. Hence, while such international developments do not preclude the application of an access and benefit sharing system in Australia, the need to reconcile any domestic system with such international developments is highly important to avoid having two systems of access and benefit sharing operating in Australia. The significance of this is further highlighted in the response to the second question.

Summaries of the reports from the consultancies let by AFFA and funded by Biotechnology Australia to progress access matters identified by the Commonwealth-state working group in its 1996 report.

At attachments A and B are the executive summaries of the two consultancy reports relevant to this question:

- *Access to Biological Resources: Issues in the Forestry Sector*, November 2000, by RH Walker Consulting Pty Ltd; and

- *Access to Biological Resources in the Fisheries and Aquaculture Sectors*, September 2000, by Richard Stevens, Fisheries Adviser.

Any SCARM papers that might have been produced that deal with access and benefit sharing issues.

As mentioned above, the CSWG has been the main forum for discussions between the Commonwealth, States and Territories on establishment of a nationally consistent access regime. Discussions of access and benefit sharing regimes for biological resources in SCARM since the development of the CSWG report have been peripheral to other issues. SCARM receives regular updates on relevant domestic and international activities, in particular those relating to the revision of the International Undertaking on Plant Genetic Resources. It has also been considering management reform and improved coordination for the network of Australian plant genetic resources centres.

What is AFFA's preferred national system for access and benefit sharing and does it provide consistency and certainty?

AFFA is working with EA and other Commonwealth agencies to develop a domestic framework for access arrangements drawing on the CSWG principles, the Voumard Report, and our positions developed for international negotiations. In general, AFFA considers that any framework for access and benefit sharing should:

- be consistent with Australia's commitments under international frameworks (that provide reasonably unrestricted access); and
- provide a flexible and workable system to maximise the incentives for bioprospecting subject to normal commercial practices and reasonable environmental and sustainable development safeguards.

On the first of these points, in considering the national interest on biological resources it is important to bear in mind that Australia is party to a multilateral system of access to biological materials for agriculture under which Australia is both a recipient and contributor. In the agriculture and food sector Australia is a significant net beneficiary from the relatively open access available for biological material under the current multilateral system for plant resources. States and Territories have highlighted in discussions that maintaining open access on an international basis is critically important to Australia's future agricultural research and productivity, and as such, any domestic access and benefit sharing regime at the Commonwealth or State levels needs to ensure compatibility with our international expectations for access. For instance, if Australia were to charge for access to public biological material we should not be surprised if other countries were to do the same to us. While this may change depending on the final outcome of the FAO Undertaking and their listings of crops, the principle still stands.

On the second point mentioned above, it is important to establish a workable system based on simplicity, transparency and equity. Moreover, any arrangements for access and benefit sharing need to provide sufficient flexibility to accommodate sectoral specific arrangements flowing from international agreements and to take into account that some sectors (such as primary industries) require access to both exotic and indigenous biological resources. This would include more complex situations where new varieties might be developed from a combination of exotic and indigenous biological resources. The challenge is to get the details right to ensure a practical workable system and to avoid unnecessary impediments.

As mentioned in the overview, key elements of the system preferred by AFFA would be:

- A model material transfer agreement (MTA) for access to *in situ* material (*and ex situ* material in some cases) under Commonwealth ownership or control.
- The MTA to include a flexible benefit sharing agreement contingent on the material being commercialised (this may include monetary and/or non-monetary components as well as incorporating any international obligations).

- Consideration of exemptions for benefit sharing if the recipient company or institution is prepared to make the developed material publicly available for further research.
- Access to and benefit sharing regarding biological resources on freehold property would be subject to private negotiation (although the model MTA for Commonwealth areas may serve as a model for the private sector).
- States and Territories would be encouraged to adopt the Commonwealth approach as a basis to achieve a nationally consistent framework.

To be more specific, this department's preferred position for **biological resources from Commonwealth areas** would be for the Commonwealth to propose a model material transfer agreement (MTA) underpinned by suitable contractual arrangements for *in situ* material (and *ex situ* material in some circumstances). The model MTA with some flexibility should prescribe that the recipient of relevant biological material would provide a proportionate payment (monetary or non-monetary) if development of the material leads to commercialisation. This payment would be to a suitable administrative authority and would not necessarily be a royalty payment but rather a percentage of gross receipts over say the first five years of commercialisation. In order to avoid stifling bioprospecting and subsequent research and innovation, such payments would need to be realistic in a commercial sense with full acknowledgment of both the outlays and risks which can vary widely from venture to venture in the development and commercialisation of biological material.

A single mandatory formula for payments would not be appropriate under such a MTA approach and payments would need to be negotiated on a case by case basis. A number of practical issues also arise in terms of definitions of the point of commercialisation and transfer of obligations in shifting commercial situations such as corporate mergers, joint ventures and IP transfer. The administrative agency should be given latitude to approve MTAs that do not include provision for payments where payments would not be realistic in a commercial setting (eg where bioprospecting and subsequent research is highly expensive, risky and long term). Rather the administrative agency should be given authority to compel notification as a pre-condition for decision making on a request for a permit, but payment conditions should be on a selective basis subject to suitable criteria. The essence is that any monetary or non monetary benefit sharing scheme must be sufficiently flexible to allow for the huge variation in project circumstances when signing onto an MTA with a payment clause. For example, access to near market material would be different to access for material that might require blue sky research to deliver any real value. There also needs to be exemptions if the recipient company or institution is prepared to make developed material publicly available for further research or provides monetary or non monetary resources to facilitate publicly available research. In the absence of such exemptions, universities engaged in non-commercial research would be highly disadvantaged and much research potential would be lost.

The advocated domestic MTA approach above allows for the fact that universities are among the most significant organisations in Australia undertaking research based on access to biological resources. Much university research is likely to be for non-commercial public good and education purposes, in which case the above MTA approach would not require benefit sharing payments. Such payments would only apply if it were proposed to exploit biological resources for commercial purposes.

This will ensure in turn that there is no significant increase in the overall costs of undertaking research and would provide the research sector with adequate certainty in this area

In the case of **biological resources from freehold property**, AFFA recommends that access and benefit sharing is primarily a matter for private negotiation and contracting subject to reasonable safeguards to avoid unconscionable behaviour. Governments have no control over such property rights but could provide useful advice and information to private property holders to improve the operations of what is currently a fairly shallow market often with inadequate knowledge by donors of basic material. The advice and information from government could include a model MTA as a possible basis for private negotiation in the future. While such an approach might seem to violate Principle 3 of the CSWG principles, that advocates "… the widest possible sharing of benefits", this proposal protects existing property rights of land holders. Wide sharing of benefits would be achieved, however, under the preferred approach to biological resources from Commonwealth areas.

The MTA approach is not in any way a novelty. The *ex situ* international collections held in trust by the International Agricultural Research Centres (IARCS) to which Australia provides funding are subject to limited MTAs. The recently negotiated draft revised text for the FAO Undertaking on Plant Genetic Resources also advocates that MTAs stipulate payments by the recipient of biological material in the public domain at the point of commercialisation.

Whether the Commonwealth adopts the above MTA approach or a more heavy handed approach, it will be important that a detailed Regulatory Impact Statement examines the practical impact of any regulations on government, business and other users. Such cost benefit analyses would need to give due recognition to differential impacts within agriculture, fisheries and forestry sectors.

The above MTA system, if adopted, would form a basis for discussions with the states and territories on a nationally consistent framework for biological resources from publicly owned or managed areas. The MTA's could also serve as a model for access and benefit sharing for biological resources from freehold lands. Certainty would be achieved through bioprospectors negotiating MTAs and associated contractual arrangements, specifying the access and benefit sharing to apply in their particular case.

How does the AFFA view differ from the Voumard recommendations?

There is an increasing momentum for improved and consistent regulation which has been fully recognised in the recent Voumard report of July 2000 *Access to Biological Resources in Commonwealth Areas*. AFFA acknowledges that together with facilitating access to biological material, subject to environmental sustainability, it is reasonable for the community to expect some return from the commercialisation of products based on native Australian biological material, particularly when this material has been secured from public property as opposed to private property. As outlined above, AFFA's preferred framework would be both consistent with

Australia's commitments under international frameworks and provide a flexible system to maximise incentives for bioprospecting.

With respect to the second of these principles, AFFA notes that there are elements of the Voumard recommendations that if adopted could prove to be onerous and a disincentive to commercial bioprospecting. In particular, the recommendations include access permit arrangements and a mandatory benefit-sharing contract that would be applied through regulations under s301 of the *Environment Protection and Biodiversity Conservation Act 1999.* Matters to be covered in the s301 regulations would include (among others):

- a requirement that every interested person registered under s266A of the Act be invited to make written submissions about whether a permit should be issued (on environmental grounds) and that these should be taken into account by the Minister in making his decision;
- the "precautionary principle" must be applied, "where appropriate";
- any variations to the model contract must be "acceptable";
- a maximum of three years would be set for the validity of an access permit; and
- the permit may be transferred only with the approval of the Minister.

Concerns relating to consistency with international agreements and property right regimes are discussed below.

In light of the significance of the International Undertaking on Plant Genetic Resources, would you please comment on whether Voumard's recommendation on this subject addresses the concerns expressed by AFFA in its submission to the Voumard inquiry (referred to by Mr Wonder, mid page 119). The recommendation in question, on page 131 of the report, is: "That material which is the subject of existing international agreements, such as the Food and Agricultural Organisation International Undertaking on Plant Genetic Resources, be excluded from the ambit of the regulations."

As has been highlighted a number of times in this submission, AFFA believes that any domestic regime on access and benefit sharing needs to be consistent with Australia's commitments under international agreements and with our expectations for access to other countries' material. It has been emphasised that in the agriculture and food sector Australia is a significant net beneficiary from the relatively open access available for genetic material under the current (and likely future) multilateral system for plant resources. Any restrictions that we put in place in Australia to limit access to biological resources beyond that embodied in international agreements could potentially lead to similar limits placed on our access to material in other countries. Further, a simple exclusion of material covered under the current or future Undertakings would not avoid this potential problem and would result in complexity of domestic arrangements by establishing multiple systems covering different biological material.

You might also like to comment, given AFFA's comments about property rights on page 14 of your second submission, on Environment Australia's claim in its submission to the committee's inquiry that the regulations proposed in the Voumard report 'will not alter existing property law in Australia'.

AFFA notes the Voumard report was prepared for the Minister for Environment and Heritage and contains proposals and suggested directions for development of regulations rather than drafting instructions or draft regulations. While it is therefore difficult to determine the full extent of consistency with existing property right regimes, there are a number of elements that appear to go beyond existing policy and regulatory systems and potentially could conflict with existing regimes.

We agree with EA's assessment that any new regulations under the EPBC Act should be developed in a way that does not undermine or conflict with existing property rights. How this will be achieved in practice is being addressed as part of the Commonwealth's current process for development and assessment of regulations under the EPBC Act. AFFA notes that this means that in drafting regulations, special regard will need to be given to how the regulations relate to existing property rights laws. We note the impact of any new regulations, especially a mandatory requirement for benefit sharing as a condition of access, could potentially be inconsistent with or conflict with current arrangements on the exercise of property rights in accordance with domestic law (eg access regimes in fisheries or existing access grants within States/Territories and possibly intellectual property arrangements) and could have implications for Australia's obligations under international agreements. Again, these issues can only be assessed once draft regulations are available.

The concept of attaching mandatory benefit sharing provisions to access rights as proposed in Voumard, also goes beyond the legislative requirements of any existing access permit scheme operated by Environment Australia. While the capacity to put specific conditions on access permits already exists, the mandating of benefit sharing has the capacity to create the perception of property rights where they previously did not exist. The legal and policy implications of these issues would need to be fully investigated, with this again dependent on the final text of the regulations under which they are to be applied. The implications of proposals relating to access to biological resources in the marine environment (recommendation 58) should also be considered in this context.

The Report's recommendation (recommendation 41) to make the granting of patents conditional on 'proof of source' and, where appropriate, 'prior informed consent' raises policy and legal issues, including in respect of our obligations under international agreements, including the World Trade Organisation Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and in relation to Plant Breeder's Rights (PBR) under the International Convention for the Protection of New Varieties of Plants 1991 (UPOV).

In IP Australia's submission to the Voumard Inquiry the following point was made in relation to the difficulties of using patent legislation when controlling access to biological resources:

"The patent system does not require an applicant to provide evidence that they have obtained permission to access resources or knowledge when developing their invention. At present an applicant can obtain exclusive rights to the use of a resource that they do not own and can use any available knowledge in the development of a resource without recognising the source of that knowledge or obtaining permission to use that knowledge."

Australia is a signatory to a number of international treaties relating to patents, including the Patent Co-operation Treaty, the Budapest Treaty and the Paris Convention. The Paris Convention provides that member countries accord each other national treatment. Australia must therefore give equal regard to all applicants filing under the provisions of the national patent system.

What are the access regimes in the States?

States and Territories are at different stages in consideration of access and benefit sharing regimes in their jurisdictions and in some instances (eg Queensland, Victoria) have already entered into commercial arrangements under normal contract law with bioprospecting companies. The details of these arrangements are commercial in confidence.

Queensland, Western Australia and South Australia have policy development processes in train through which their respective interests in access and benefit sharing arrangements are being formulated. These are being undertaken on a whole of government basis. We understand that at this stage no new regulatory regimes have been introduced, although in some instances there are options under further consideration.

We would be able to assist the Committee with identifying contact points in different States, if required.