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SUBMISSION

to the

Joint Standing Committee on Treaties

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

12 February 2003

Introduction

The Grains Council of Australia (GCA) is the peak policy body of the Australian grains industry, representing some 45,000 grain growers. The Council is a non-government, grower funded federation of farmer organisations from Australia's five main grain growing States. GCA is also a major commodity member of the National Farmers' Federation which represents over 120,000 Australian farmers.

GCA's fundamental objective is to maximise the economic and social welfare of Australian grain growers by seeking to initiate and influence policies and interact with government on issues which affect their profitability and international competitiveness. To this end, GCA has been involved in the consultation process instituted by Agriculture, Fisheries and Forestry – Australia (AFFA) in relation to ratification of the International Treaty on Plant Genetic Resources for Food and Agriculture (the Treaty).

GCA has concerns about certain aspects of the Treaty, as set out below and holds the view that ratification should not proceed until these issues are clarified to the satisfaction of the grains industry.

Matters of concern

'Benefit sharing'

The Treaty requires recipients commercialising a product which incorporates material accessed from the multilateral system (MLS) to make payments to a fund to be administered by the Governing Body. Even in exempt cases (where the product is available without restriction to others for further research and breeding) the recipient is still to be encouraged to make such a payment.

GCA is concerned that there is some uncertainty about the process of decision-making on which transactions will trigger 'benefit-sharing' payments and, most importantly, the likely levels of individual payments are also unknown. The only guidance is in the phrase "in line with commercial practice", which remains undefined in the Treaty.

Assuming those questions are decided by the Governing Body, the mechanism and legal basis for the collection of such payments by the Australian Government (it is presumed) from breeders to be remitted to the Governing Body has not been addressed, as far as GCA is aware.

Given the fact that grain growers will ultimately be paying for the seed produced, GCA believes the requirements under the Treaty that plant breeders will face in commercialising the results of their use of genetic material acquired through the MLS should be clearly understood prior to ratification.

Coverage of the Treaty

The Treaty is to cover all Annex 1 plant genetic resources under the management and control of Contracting Parties and in the public domain, with other (private) holders of genetic resources free to include them voluntarily in the Multilateral System.

Recent developments in Australian wheat breeding raise some doubt about the status under the Treaty of plant genetic material held by Australian plant breeders. The new GRDC-sponsored consortia join together public and private organisations and will conduct their business on a commercial basis. GCA regards these consortia as private bodies. However, if the Australian and State governments involved as shareholders regard the material held by those bodies as being 'in the public domain' (and therefore accessible at minimal charge under the Treaty), there may well be implications for the commercial operations of those bodies. Again, clarification is necessary in order for the industry to be able to judge the benefits and costs of ratification of the Treaty.

Material transfer agreements

Under the Treaty, access to plant genetic resources will be effected by a standard material transfer agreement (MTA). It is essential that the MTA is a commercially realistic system, so that breeders are not obliged to comply with time consuming and costly bureaucratic procedures.

The Expert Group and the Interim Committee for the Treaty will be developing proposals for the texts for the MTA over the next year or so. GCA is aware that Australia, as a signatory, is able to participate in the work of those groups without first ratifying and would prefer to see a workable system developed before any commitments are made.

Attitudes and future actions of other countries

According to AFFA, in early December 11 countries had ratified the Treaty and 77 had signed. GCA notes that countries such as the US, Japan, China, Korea, Malaysia, Singapore, South Africa, Brazil, Mexico, Russia, Ukraine and Poland have not ratified and, indeed, most have not signed.

GCA is concerned that the attitudes of these countries have not been explained and the reasons for their opposition or lack of interest have not been explored.

Lack of negative impacts from non-membership

Australia already participates very actively in the international exchange of plant genetic resources, and Australian participants have been generally satisfied with the practical operation of germplasm exchanges internationally, whether in agreement with CGIAR agricultural research centres or through other arrangements.

As far as GCA can determine, there are no negative impacts from not joining the Treaty. AFFA's *National Interest Analysis* states that the capacity of Australian plant breeders to access genetic resources from overseas is likely to become more difficult if Australia does not ratify. However, GCA has seen no evidence that Australian researchers and breeders will not be able to access plant genetic material from the MLS and international collections as they are doing at present.

GCA does note the provision for a review two years after the Treaty starts that contains an implicit threat to withhold access or take other measures against private holders who do not join the system (Article 11.4). Such sanctions would, nevertheless, depend on the outcome of the review and decisions by the Governing Body on appropriate action.

Conservation of plant genetic resources

Conservation of plant genetic resources is put forward by proponents of the Treaty as a major feature. GCA accepts that the Treaty will establish a binding framework through which to conserve plant genetic diversity and use the conserved species sustainably. However, given the uncertain nature of the funds available for such purposes, GCA has reservation about the realisation of those aims through the Treaty, as opposed to other international efforts.

Conclusion

GCA is of the view, therefore, that the benefits to the Australian grains industry of ratification and membership of the Treaty are not clear and, indeed, there may be detrimental impacts through cost burdens imposed on industry from certain requirements of the Treaty.

Recommendations

Given that signatories such as Australia are entitled to participate in the work of the Expert Group and the Interim Committee without first ratifying, GCA recommends that **Australian representatives take part in that activity with a view to identifying the cost and benefits of the Treaty on an industry basis.**

On that basis, GCA recommends that **Australia does not ratify the Treaty until the costs and benefits to Australia have been identified and assessed to the industry's satisfaction.**