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Submission 9

PGRFA

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**SUBMISSION TO THE JOINT ~~STANDING~~  
COMMITTEE ON TREATIES**

**THE INTERNATIONAL TREATY ON PLANT  
GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE**

**PREPARED BY THE  
SEED INDUSTRY ASSOCIATION OF AUSTRALIA**

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## INTRODUCTION

The Seed Industry Association of Australia (SIAA) is the peak national body representing the interests of the Australian sowing seed industry.

SIAA membership encompasses the entire seed supply chain comprising plant breeders, seed growers, seed processors and seed marketers. The combined annual turnover of SIAA members is approximately A\$800 million with the estimated value of the industry at A\$1.2 billion.

SIAA also represents the Australian seed industry globally through memberships of the International Seed Federation and the Asia and Pacific Seed Association.

The SIAA has been a key contributor to date in the formulation of Australia's position on the International Undertaking on Plant Genetic Resources for Food and Agriculture and looks forward to continuing its involvement in the Treaty on PGRFA.

SIAA welcomes the opportunity to forward the following comments to the Joint Standing Committee on Treaties and remains at its disposal for further comment.

## RECOMMENDATION

**The Seed Industry Association of Australia contends that Australia should not ratify the Treaty on Plant Genetic Resources for Food and Agriculture because to date AFFA have not clarified how the Treaty will impact on the day to day running of the Australian seed industry in an administrative, financial and legislative capacity.**

SIAA also seeks more detailed information and discussion between Government and industry on a range of issues outlined below to allow industry to assess the full impact of ratification.

## CONSULTATION

In a general sense, whilst SIAA acknowledges that the Department of Agriculture Fisheries and Forestry Australia has consulted with industry with respect to the Treaty, to date there has been no discussion between AFFA and industry regarding the benefits or other wise of Australian ratification.

The discussions to date have largely centered upon the wording of the Treaty. Very little discussion has taken place regarding the impact of Australian ratification on the Australian seed industry in an administrative, financial, legal and policy sense.

## FUNDING

SIAA remains concerned that the cost of administering the Treaty has not been defined to industry.

- o How much will it cost Australia to administer to treaty;
- o How will the funds be raised, and
- o How will the functions of the Governing body be financed?

## **MATERIAL TRANSFER AGREEMENT**

The methodology for operating the MTA has not been defined and as such industry it is unclear as to how the MTA will co-exist under the Treaty and common law contracts within Australia in the context of current business practice.

The SIAA contends that it is premature to ratify prior to Australia considering the outcomes of the expert group that has been formed to develop and propose recommendations regarding the MTA.

Australia to date has not formed its position on a number of areas soon to be discussed by the expert group. These can be classified into three main areas:

- Technical        -        what constitutes commercialisation triggering BS?
- what means incorporation of material under the MLS?
- Accessibility and freedom to use for further research?
  
- Financial        -        level, form and manner of payment;
  
- Policy            -        how will the MTA be binding upon the parties in contract?

## **LEGAL IMPLICATIONS OF RATIFICATION**

The SIAA questions AFFA's view that Australia would not need legislative change to administer the obligations of the treaty on Australian stakeholders.

In a debriefing paper distributed to industry by AFFA on 22 August 2002 regarding the implications of ratification AFFA states:

*"Changes to domestic legislation do not appear necessary..... . However when the Treaty comes into force for Australia it will be necessary to ensure that holders of ex situ PGRFA conform with the requirements of the treaty, particularly in relation to the material transfer agreements.*

The above statement by AFFA appears to suggest that legislative change may be required - this needs further clarification.

## **SCOPE OF COVERAGE – resources held by breeders**

With reference to Articles 11.2 – 11.4 of the Treaty, the SIAA remains concerned this is a default mechanism whereby contracting parties (i.e. the Australian Government) are encouraged to invite all other holders of PGRFA into the multilateral system, to take whatever measures it deems necessary to achieve this objective, and the governing body in turn will have the option of denying access to any party that fails to comply.

This appears to be a 'back door' way of attracting private germplasm into the MLS. More importantly, if private holders of PGRFA do not submit their material, what are the ramifications?

## **CONCLUSION**

Until the above issues have been addressed and discussed with industry, the SIAA strongly encourages the Australian Government to refrain from ratifying the Treaty.

SIAA also contends that Australia will not be adversely affected if it does not ratify in the immediate term as it only takes 90 days for Australia to assume its seat on the governing body from the date of ratification. Accordingly, Australian plant breeding activity and trade in sowing seed is not threatened by a delay in ratification.

SIAA also notes that only 11 of the required 40 countries have ratified to date – why have only a small number of countries ratified and what is the position of Australia's major trading partners including the USA.

Yours sincerely

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