

An Analysis of the Canadian Food Inspection Agency's “Proposal to Facilitate the Modernization of the Seed Regulatory Framework”

Prepared by the National Farmers Union
December 2, 2006

Summary and background

On October 4, 2006, the Canadian Food Inspection Agency (CFIA) posted a notice on its website (www.inspection.gc.ca) that it had begun a 60-day consultation period on its “Proposal to Facilitate the Modernization of the Seed Regulatory Framework.” The CFIA’s Proposals have implications for all Canadians. These Proposals will affect the types of foods Canadians grow and eat and may partially determine whether certain new genetically-modified (GM) crop varieties are cultivated and consumed here. This paper will focus on the many measures contained in the CFIA’s Proposal that will harm farmers—that will increase the power and control of seed companies and thereby increase farmers’ seed costs. Such measures include:

- **Laying the groundwork for a seed variety “treadmill.”** The CFIA’s proposed options for faster seed variety registration, coupled with existing policies that allow companies to quickly de-register varieties, will probably mean that more varieties will be registered and, most important, that varieties may only be registered and on the market for a short time. A variety treadmill of rapid registration and deregistration will constrain farmers’ abilities to save and re-use seed; amortize seed investments; purchase older, less-costly varieties; choose from a broad selection of diverse and competing varieties; or compare performance.
- **Increasing the number of seed varieties registered on a “contract” basis.** Contract registration creates closed-loop systems in which farmers are banned from saving and re-using seeds and in which farmers often must sell their crop to just one buyer (or just a few). Proliferating contract-registered varieties will further restrict farmers’ control of their seeds, crops, and production systems, and increase costs by requiring annual seed re-purchase.
- **Fast-tracking introduction of genetically-modified (GM) crops.** Faster variety registration may have advantages, but also large disadvantages. For example, expediting the registration of GM Roundup Ready wheat (or barley or oats)—a possibility under the CFIA’s proposed Tier 2 (Listing) registration system or an expanded Contract registration system—could mean that a GM variety could be registered and seeded before farmers and other citizens understand the consequences in terms of market loss or health effects.
- **Giving control over variety registration to industry-linked commodity organizations.** The CFIA’s proposal would take some power and jurisdiction away from its various Variety Recommending Committees* and give greater decision-making powers to the Crop Specific Consultative Groups (CSCGs) the CFIA’s proposes to create. The CFIA proposes to “draw on existing crop kind based committees and organizations either in whole or in part” (p. 8) in creating its CSCGs. The Canadian Canola Growers Association has offered

* There are several such committees; some examples include the Atlantic Field Crops Committee, the Ontario Cereal Crops Committee, the Atlantic Regional Potato Evaluation Committee, and the Prairie Registration Recommending Committee for Grain (PRRCG). Processes and powers vary by committee.

to form the CSCG for canola. It is likely that similar commodity groups would form the nuclei of CSCGs for other crops. Many such commodity groups have a history of supporting industry interests and working against farmers' interests. To give just one example, the Canadian Canola Growers' repeated interventions in defence of Monsanto patents while that corporation used those patents to sue over 100 farm families.

- **Entrenching a seed policy consultative process that has proven hostile to farmers.** The CFIA proposes to officially recognize the National Forum on Seeds (NFS) as part of its three-part “permanent consultative framework.” The NFS is a creature of the same mix of organizations and interests that formed the Seed Sector Review. Throughout its various iterations, this industry-led coalition has proposed a nearly endless string of policies that would reduce farmers' rights to save seeds and would increase farmers' costs. (See the NFU's May 13, 2004 “Nine Things Farmers Should Know about the Seed Sector Review” and the NFU's March 8, 2005 report “on proposed amendments to the Plant Breeders' Rights Act to bring existing legislation into conformity with the 1991 UPOV Convention.”)
- **Utilizing a cost-benefit analysis model built atop flawed assumptions.** In the CFIA's current consultations on variety registration and in its previous consultations on Plant Breeders' Rights, the implicit or explicit message is: “make regulatory change X and farmers will benefit by having access to more and better seed varieties and, hence, farmers will benefit financially.” This is a seductive but deeply flawed assumption. Seeds are products sold to farmers by profit-maximizing corporations. There is no evidence that putting additional seed products on the market will benefit farmers, especially in the current environment of rapidly-escalating market power of seed sellers. The data examined below shows instead that farmers are already purchasing too many inputs and paying too much for them. Those who claim economic benefits for farmers must prove such benefits are real.

CFIA's Proposal to change our Variety Registration System comes amid a barrage of initiatives that individually and collectively undermine farmers' rights to save seeds and that, as a result, increase farmers' costs and seed companies' profits. A short list of such initiatives includes:

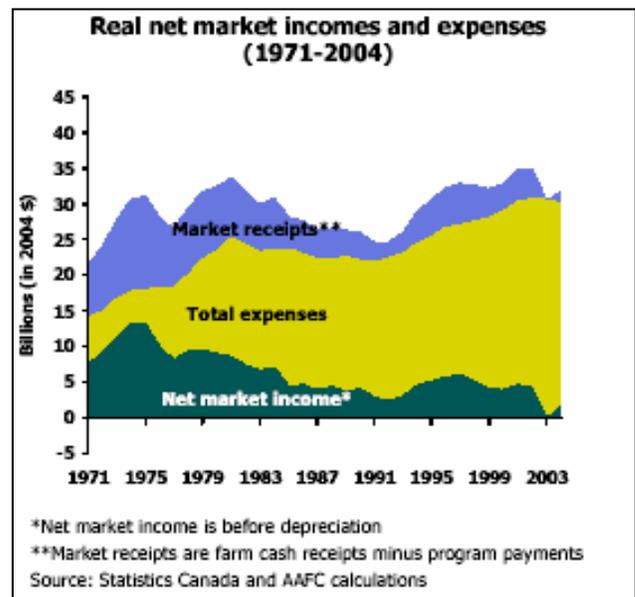
- Repeated attempts to legislatively expand seed companies' Plant Breeders' Rights—giving companies legal and litigative powers over PBR-protected varieties that are even more powerful than companies now possess on seeds containing patented genes (see the NFU's March 8, 2005 report on proposed amendments to the *Plant Breeders' Rights Act*);
- A proliferation of Technology Use Agreements (TUAs) and contracts to control seeds and restrict seed saving and re-use;
- Increased patenting of genes, including the recent introduction of gene-patented (but non-genetically-modified) lentil varieties;
- A “litigation chill” among farmers who have watched Monsanto and other companies sue over 100 farmers*—innocent farmers may be purchasing more commercial seed simply to avoid any possibility of having to spend tens-of-thousands defending themselves against seed company allegations;
- Efforts by the Canadian government and seed transnationals to introduce “Terminator Technology” and other Genetic Use Restriction Technologies (GURTs)—seeds modified to be sterile after one season, forcing farmers to purchase new seed each year;

* See *Monsanto vs. U.S. Farmers* by The Center for Food Safety.

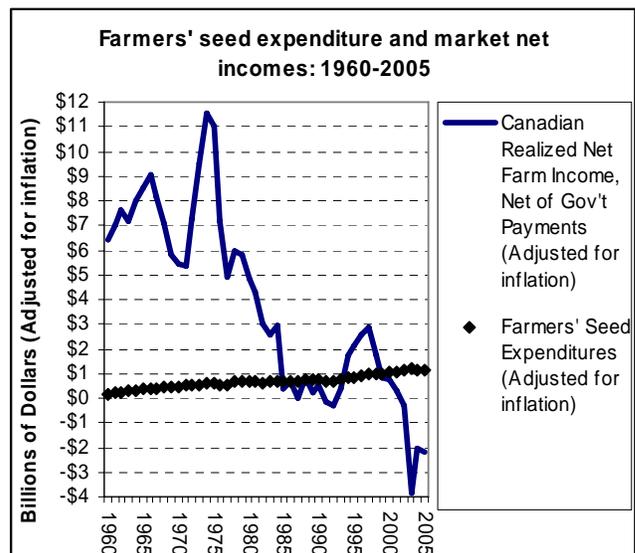
- Seed company mergers and takeovers that concentrate control and choke off competition;
- A withdrawal by government from publicly-funded and -controlled plant breeding; and
- Interlocking changes on other fronts—proposed changes to the Canadian Wheat Board and the Grain Commission—that would deeply integrate the Canadian grain system into the US system; there is a drive to merge ownership and regulation between the two systems.

Seed companies are using all available means to expand their control over seeds: legislative (*PBR Act* amendments), legal (patents, lawsuits, contracts, TUAs), biological (Terminator Technology, hybridization), regulatory (proposed changes to variety registration), and commercial (mergers and takeovers). It is hard to imagine that anyone could miss this pattern. In terms of control of and profits from seeds, the pendulum has swung dramatically toward the seed corporations. At the same time, farmers have found themselves in the worst farm income crisis in Canadian history, largely as a result of rising input costs and overdependence on purchased technologies.

This top graph is prepared by Agriculture and Agri-Food Canada (www.agr.gc.ca/pol/pub/cp/pdf/cp_e.pdf). The graph shows 33 years of inflation-adjusted farm revenues (the top line), total expenses before depreciation (the middle wedge), and net income from the markets (the shrinking bottom wedge). Note how the middle wedge, total expenses, has expanded over the past three decades to consume 100% of farmers' revenues—driving net incomes from the markets down to near-zero. As economist Richard Levins quips: “The shortest possible economic history of . . . agriculture during the twentieth century would be this: non-farmers learning how to make money from farming.” We see this in the seed sector: companies learning how to maximize their profits at the expense of farmers. The CFIA should not be accomplice to such acts.



This second graph gives a closer look at the relation between farmers' expenditures on seeds and farmers' net incomes from the markets. Note that farmers' seed outlays have risen significantly and continuously over the past 45 years, but that their net incomes from the markets have fallen. Adjusted for inflation, farmers' expenditures on seeds are up *seven-fold*. But farmers' market net incomes are down sharply—languishing now in deeply negative territory.*



The point is not that increased seed purchases and seed costs cause the farm crisis, rather, the

* In the top graph, net income from the markets does not take into account depreciation; in the bottom graph it does.

point is that an *overall* strategy by input makers of *all* kinds—fuel, fertilizer, machinery, and seeds—have resulted in a situation where all the money in farming now goes to those input manufacturing and marketing corporations, leaving farmers with perennially negative returns.

In recent decades, farmers' pesticide choices, seed choices, fertilizer choices, and technology choices have expanded dramatically. And farmers' incomes have *fallen*. One need not necessarily accept that farmers have been hurt by this proliferation of commercial inputs, but it is clear that it will be extraordinarily hard to demonstrate that farmers have been helped.

If the rationale for changes to Canada's Seed Variety Registration System is that better and faster access to improved seed lines will benefit farmers, the government of Canada and the CFIA must stop; they must look very carefully and critically at that rationale—the data does not support such claims. Better seeds often do create benefits in terms of yield and disease resistance and other agronomic performance measures; but those benefits are captured by others.

The National Farmers Union strongly recommends that CFIA scrap its “Proposal to Facilitate the Modernization of the Seed Regulatory Framework”—changes that are part of a pattern of initiatives that individually and collectively increase seed companies' power and profits.

The NFU further recommends the CFIA explore regulatory and legislative initiatives that could stop the transfer of power and profits to seed companies, that could re-balance power between companies and farmers, and that could have positive effects on farmers' net incomes. Such initiatives include:

- ***Banning the cultivation or commercialization of GURTS/Terminator technologies;***
- ***Enshrining in legislation farmers' rights to save, re-use, and sell seeds and appropriate mechanisms to ensure that farmers can realize those rights (for instance, recent proposals to change Canada's PBR system would have dramatically reduced farmers' access to commercial seed cleaners, effectively curtailing farmers' ability to re-use their own seeds);***
- ***Banning contracts and TUAs that restrict farmers' rights to save seeds;***
- ***Increasing public funding for plant breeding;***
- ***Ensuring varieties that are granted Plant Breeders' Rights remain registered for as long as feasible—giving farmers the opportunity to benefit from these varieties after the expiration of PBR; and***
- ***Suspending seed corporations' powers to sue farmers for possession of seeds or patented genes and implementing an alternative system of third-party variety possession verification and dispute arbitration.***

The NFU also recommends that the CFIA cease moves to constitute and recognize consultative bodies based on the Seed Sector Review organizations and industry-linked commodity groups—many of the organizations involved have displayed a clear pattern of policy recommendations and actions hostile to the interests of farmers.

More recommendations are included in the sections below.

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Detailed analysis

1. Changes to the Variety Registration System

Across Canada, the CFIA’s Variety Registration Office (VRO) works with numerous committees to determine which seed varieties should be registered. There are several such recommending committees; examples include the Atlantic Field Crops Committee, the Ontario Cereal Crops Committee, the Atlantic Regional Potato Evaluation Committee, and the Prairie Registration Recommending Committee for Grain (PRRCG). Processes, powers, and variety assessment procedures vary by region, crop, and committee. For most crops, however, these recommending committees oversee a series of tests and trials and assemble experts to evaluate the data and make recommendations to the VRO. To give one example of how such processes work, the following looks in detail at the current Variety Registration System for most western grains. That system works like this*:

- In order for a seed variety to be grown in farmers’ fields and sold and processed into food, that variety must first be “registered”—that is, accepted as a high-quality seed variety that meets certain criteria and that will well-serve farmers, customers, and consumers of food.
- Canadian Food Inspection Agency’s Variety Registration Office (VRO) has ultimate authority to grant registration to a crop variety.
- The VRO has given the Prairie Registration Recommending Committee for Grain (PRRCG) a mandate to conduct tests and assess the various parameters of varieties submitted for registration and to then make recommendations to the VRO.
- The PRRCG oversees laboratory work and the “co-op field trials.”
- The PRRCG is “arms length” from CFIA. Members are drawn from professionals engaged in the production, development, or evaluation of grain varieties in Western Canada. The PRRCG consists of an executive committee, main committee, and four subcommittees: wheat, rye, and triticale; barley and oats; oilseeds; and special crops. Each subcommittee has three evaluation teams: breeding/agronomy, disease, and quality.
- The Variety Registration System operates under the principle that a new variety must have “merit” in order to be registered; the proposed variety must, in co-op trials and lab tests, prove itself to be equal to or better than currently registered varieties.

* Summarized from “How Western Grains are Registered”, Meristem Information Resources.

- A key step in the registration process is the two- or three-year co-op trial phase (independent field trials to determine yield, performance, and quality). The breeding/agronomy evaluation team of the appropriate PRRCG subcommittee has the largest say in whether a proposed line will be allowed into co-op trials. Once co-op trials are complete, the seed variety's owner can decide to submit the variety to the PRRCG for approval. The owner gathers a package of data and submits it to the appropriate subcommittee at least seven days prior to the PRRCG's annual meeting.
- The PRRCG's annual meeting is in late February each year. At that meeting, the evaluation teams (breeding/agronomy, disease, and quality) from the appropriate subcommittees (wheat, rye, and triticale; barley and oats; oilseeds; and special crops) rate the varieties and those ratings inform the members of the subcommittees who then vote to approve or reject registration.
- One exception to the preceding is the currently existing system of "contract registration." Contract registration is used for a very few varieties (currently 9) that fall outside the normal traits of a particular crop class, but have a specific end use. These are crops designated as too harmful to be co-mingled with ordinary crops and commodities. Proponents of such varieties must utilize a closed-loop system to segregate the variety and guard against contamination. One further significant exception exists: corn is exempt from the Variety Registration System outlined above.

In its "Proposal to Facilitate the Modernization of the Seed Regulatory Framework", the CFIA proposes a de-facto three-tiered system.

The CFIA's proposed Tier 1 ("Mandatory Assessment") would partially replicate the current system: varieties would be evaluated based on various merit criteria—they would have to prove equal to or better than current varieties in a series of lab tests and co-op field trials. The CFIA's Proposal, however, opens the door to more easily vary or remove merit requirements. The CFIA's Proposal has this to say:

Tier I would require a DUS assessment at the time of registration as well as a mandatory prior assessment of crop varieties which may or may not include merit. Subcategories within Tier I would include requirements ranging from full mandatory prior assessment including merit evaluation of agronomic, disease and quality traits to prior assessment of only one of agronomic, disease, and/or quality traits without merit requirements. (p.12)

Writing last year, Grant Watson, Senior Advisor to the CFIA's Plant Production Division, highlights this move away from merit saying:

Although still under discussion, there is a general trend to move away from the merit principle as a key pillar for variety registration. ... [S]tarting 10 years ago this concept of merit has slowly been eroding as crops were exempted from both merit and registration.*

The CFIA's Proposal includes a second tier. Tier 2 ("Listing") is new to the Canadian seed Variety Registration System. Under this proposed Tier 2, there wouldn't be any requirement

* "80 Years of Variety Registration," at www.inspection.gc.ca/english/plaveg/variet/vrhiste.shmtl

for the variety to go through a recommending committee process—no lab testing, no co-op trials, no independent verification of yield or disease resistance, no requirement to demonstrate the variety is equal or superior to existing varieties. The CFIA’s proposed Tier 2 “Listing” system would create a “buyer beware” system, essentially replicating the current US system. The CFIA’s Grant Watson, in the same publication, says: “Canada appears to be headed to a buyer/seller relationship much like what exists in the United States.”

In addition to Tier 1 and Tier 2, the CFIA’s proposal is to significantly expand the current Contract registration system, thus creating a de-facto Tier 3. Currently, just 9 varieties are registered in the contract system. The CFIA’s Proposal says:

There is increasing pressure to accommodate within the variety registration system higher volume lower risk innovative and value added varieties that do not meet current merit requirements for registration, but that also have significant market potential. This would require either a relaxation or elimination of current merit requirements for entire crop kinds or a new, more robust contract registration model geared to high volume production. (p. 18)

The CFIA’s Proposal is to expand Contract registration based on the following components:

- Case-by-case risk assessment of potential adverse effects;
- Contract registration terms that may include reproductive isolation requirements, isolation distances, post-harvest land-use requirements, and restrictions on seed re-use;
- Third-party audits of the seed company’s segregation systems; and
- Increased CFIA regulatory capacity to deal with non-compliance with the terms and conditions of Contract registration.

The CFIA’s Proposed expansion of the Contract registration system would further normalize a situation where farmers lose all autonomy in relation to seeds. The Contract registration system for seed begins to replicate the model exemplified by contract chicken production in the United States. In that system, if a grower questions the conditions imposed, he or she is simply excluded as an eligible producer and is left unable to produce and sell.

The National Farmers Union strongly recommends that CFIA scrap its “Proposal to Facilitate the Modernization of the Seed Regulatory Framework”—changes that are part of a pattern of initiatives that individually and collectively increase seed companies’ power and profits.

More specifically, the NFU strongly encourages the CFIA to resist pressures to create a seed variety registration system that reduces the rigour of testing and evaluation for seeds. To this end, CFIA should not create a Tier 2 “Listing” registration system nor an expanded Contract registration system. Our merit-based system must be retained and expanded.

2. Faster registration, de-registration, and the variety “treadmill”

Currently, seed companies and other developers can de-register seed varieties relatively easily and quickly—they need only submit a request and minimal paperwork.* In a system where varieties can be quickly de-registered, adding the option to quickly *register* new varieties makes possible the creation of a variety treadmill—more varieties will be registered and, most important, varieties may only be registered and on the market for a short time. A seed variety treadmill of rapid registration and deregistration will hurt farmers in several ways:

- It will constrain farmers’ abilities to save and re-use their own seed because their farm-saved seeds will more quickly become de-registered;
- Farmers will have fewer years over which to amortize their seed investment because a given variety will be registered and usable for fewer growing seasons;
- Farmers will lose some of their options to purchase older, less-expensive varieties;
- Varieties protected under Plant Breeders’ Rights will face reduced competition (and reduced price disciplines) from older varieties for which Plant Breeders’ Rights have expired;
- There will be less data available to farmers on long-term seed performance;
- There will be a reduction in farmers’ abilities to choose from a broad selection of diverse and competing varieties; and
- Farmers will find it harder to compare the performance of varieties (more on this point, below).

The NFU recommends that the CFIA ensure that seed companies cannot set farmers upon a variety treadmill. To that end, the NFU recommends that the CFIA:

- ***not water down existing registration systems based on merit (see recommendations previous);***
- ***ensure that varieties granted Plant Breeders’ Rights remain registered for as long as feasible—giving farmers the opportunity to benefit from these varieties after the expiration of PBR (to remove such varieties for purely commercial reasons and force people to buy new varieties that offer little or no advantage is unfair and an abuse of the PBR privilege);***
- ***Take away from seed companies the right to deregister varieties and set up an alternative process wherein recommending committees make such decisions after considering all interests and the public good, and that those decisions are subject to appeals by the public.***

**Seeds Act* regulations allow cancellation of registration “if requested by the registrant.” In theory, the regulations allow that “If our office is notified in writing that pedigreed seed of a specific variety is still available and there is still commercial interest in the variety, the cancellation of registration will be deferred pending resolution among the interested parties.” In practice, this seldom creates a significant impediment or delay to rapid deregistration.

3a. Faster registration and potential introduction of GM crops

Between 2000 and 2004, farmers, citizens, and their organizations engaged in a pitched battle to stop the introduction of Monsanto's genetically modified (GM) Roundup-Ready wheat.

Citizens were very concerned about the safety of GM wheat, and rightly so. Still, to this day, not one single peer-reviewed science journal article has been published on the subject of the human health effects of GM wheat. There is not one scientific study that demonstrates GM wheat's safety. Citizens are rightly concerned for themselves and their families.

Farmers are concerned that the introduction of GM wheat would have massive and damaging economic effects. The vast majority of Canada's customers for wheat say that if Canada introduces GM varieties, they will cease to buy *all* wheat. In addition, the introduction of GM wheat (and the GM barley, oats, lentils, etc. that would likely soon follow) threatens to destroy the very possibility of farming organically in Canada—ubiquitous GM variety contamination would raise the risks of organic agriculture to the point where such production becomes untenable. Roundup-resistant GM wheat volunteers would create weed-control problems for all farmers, increasing their herbicide and weed-management costs. Taken together, the costs of introducing GM wheat would have been, at least, hundreds-of-millions of dollars per year and, possibly, over a billion.

Because GM wheat had to proceed through the process of multi-year co-op trials and full PRRCG assessment, citizens and farmers and policy-makers had time to fully understand its potential impacts and to marshal opposition to stop it. In hindsight, such efforts were prudent and valuable. But had the CFIA's proposed Tier 2 Listing registration system or the proposed expanded Contract registration been adopted several years ago, GM wheat might have been approved and planted before its damaging effects were fully understood. The probably-irreversible introduction of GM wheat would have been a disaster for Canada.

There are clear risks to creating an avenue wherein seed companies can fast-track some varieties of seeds. Further, the costs that would result from just one premature introduction of a crop like GM wheat would dwarf any potential benefits of faster variety registration. The CFIA and farmers and seed companies should consider that there are very good reasons for the careful, multi-year data collection system that currently underpins our Variety Registration System—it is designed to give us the time to weed out bad varieties, to consider difficult choices, and to prevent costly mistakes. Fast-tracking registration will not only expedite the introduction of beneficial varieties, it will expedite the introduction of damaging ones. The costs of fast-track registration may far exceed the benefits.

3b. Faster registration and the loss of data on performance

If seed varieties are registered and de-registered with increasing rapidity, farmers will find it harder to judge varieties. Farmers will have less data on medium- and long-term performance, and farmers will have less shared experience with “benchmark” varieties.

Currently, many farmers have experience with certain types of Canola (Westar, Excel, Garrison, etc.) or wheat (Columbus, AC Barry, etc.). These farmers speak a common language when discussing and comparing varieties. A proliferation of varieties and the rapid introduction and withdrawal of varieties will undermine farmers' shared experience and make it hard for farmers to compare performance.

Further, this erosion of farmers' ability to independently compare performance will come at the same time that some performance data may be disappearing from the seed Variety Registration System. Moving crops to a Tier 2 "Listing" or to a Contract registration system would make publicly-available data largely disappear. And removing some merit requirements will further cloud the situation.

It appears that the CFIA's Proposal runs the risk of bringing more varieties on to the market at the same time it undermines farmers' abilities to evaluate those varieties. Farmers will face more choices with less information—a bad combination.

4. Expanded Contract registration

Expanded Contract registration will mean that more farmers will use more seeds which they cannot save and re-use. Contract registration requires systems of segregation and seed control. In almost every case, farmers must agree not to save and re-use seeds. With farmers' rights to save and re-use seeds under attack from nearly every direction—patents, tougher PBR proposals, seed contracts, possible GURTS technologies—it is wrong to move toward a system of increased Contract registration that will contribute to the damaging trend of restricting farmers' rights to their seeds and adding to farmers' costs.

5. Consultative structures: NFS and CSCGs

On May 5, 2004 the Seed Sector Review (SSR) released its *Report of the Seed Sector Advisory Committee*. The proposals and directions outlined in that 2004 Report include:

- Finding ways to collect royalties on farm-saved seeds;
- Compelling farmers to buy Certified seed;
- Terminating the right of farmers to sell common seed;
- Removing merit as a registration requirement;
- Legislating a UPOV '91-based Plant Breeders' Rights system; and
- Setting up a permanent, industry-wide consultative body.

Following widespread criticism of the SSR Report, most farmers came to understand the damaging implications of many of the Report's proposals.

The now-discredited Seed Sector Review was a joint initiative of:

- the Canadian Seed Growers Association (CSGA),
- the Canadian Seed Trade Association (CSTA),
- the Canadian Seed Institute (CSI), and
- the Grain Growers of Canada (GGC).

Fast forward to the current National Forum on Seed. Its Executive Committee is made up of:

- the Canadian Seed Growers Association (CSGA),
- the Canadian Seed Trade Association (CSTA),
- the Canadian Seed Institute (CSI), and
- the Grain Growers of Canada (GGC).

The CSTA's 165 members include Agricore United/Proven Seeds, BASF, Bayer CropScience, Dow AgroSciences, Monsanto, Pioneer Hi-Bred, Saskatchewan Wheat Pool, and Syngenta Seeds.

The GGC is an umbrella group for the Western Canadian Wheat Growers, Alberta Barley Commission, Atlantic Grains Council, Canadian Canola Growers, Ontario Corn Producers, Ontario Soybean Growers, Saskatchewan Canola Growers, Western Barley Growers, and others.

Although the National Forum on Seed has tempered its message slightly—it no longer is explicit about its wish to dramatically curtail farmers’ rights to their seeds—it is clearly the progeny of the Seed Sector Review. The Forum is explicit on this, saying: The National Forum on Seeds was created to respond to a central recommendation of Phase 1 of the Seed Sector Review....” (www.nationalforumonseed.com/aboutus-e.html).

In their 2004 report, the CSGA, CSTA, CSI, GGC demonstrated a disdain for farmers’ interests and profitability. The CFIA must not build a consultative framework with these groups at its core.

The National Farmers Union does not support the consultative framework as it currently exists with the National Forum on Seeds, nor does it support the CFIA’s proposal to establish and formally recognize the NFS.

Further, the NFU strongly asserts that the CFIA does not possess anything approaching consensus from farmers or other Canadians regarding the creation and formal recognition of the National Forum on Seed. The vast majority of farmers and non-farmer citizens reject the direction embodied in the Seed Sector Review’s “Report of the Seed Sector Advisory Committee” and those farmers and non-farmers have no confidence that the core groups of the Seed Sector Review can be trusted to shepherd a reform process for Canada’s seed system that will have positive outcomes for farmers or other citizens.

The NFU also recommends that the CFIA cease moves to constitute and recognize consultative bodies that are based on the Seed Sector Review organizations and industry-linked commodity groups—many of the organizations involved have displayed a clear pattern of policy recommendations and actions hostile to the interests of farmers. Instead, the CFIA must begin again, with a clean sheet of paper, to create consultative bodies that can understand and advance farmers’ interests within the seed system, as well as the interests of the other parties.

5a. Crop Specific Consultative Groups

The CFIA's Proposal would take some power and jurisdiction away from its various recommending committees and give greater decision-making powers to the Crop Specific Consultative Groups (CSCGs) the CFIA's proposes to create. The CFIA proposes to "draw on existing crop kind based committees and organizations either in whole or in part" (p. 8) in creating its CSCGs. The Canadian Canola Growers Association has offered to form the CSCG for canola. It is likely that similar commodity groups would form the nuclei of CSCGs for other crops. Many such commodity groups have a history of supporting industry interests and working against farmers' interests. To give just one example, the Canadian Canola Growers' repeated interventions in defence of Monsanto patents while that corporation used those patents to sue over 100 farm families..

It is almost certain that in the years following the creation of CSCGs those Consultative Groups would come under pressure to move their crop kinds to the least onerous registration Tier. Seed companies would argue that in order to be competitive and in order for them to invest in research they cannot comply with the time and expense of Tier 1 registration requirements. Such companies would push industry-friendly CSCGs to move their crop toward Tier 2 registration (or, in some cases, increased instances of Contract registration). CSCGs are a vehicle for grain-company- and seed-industry-dominated commodity associations to extend their influence.

6. A cost-benefit analysis of the CFIA's proposal

In recent decades, farmers' pesticide choices, seed choices, fertilizer choices, and technology choices have expanded dramatically. And farmers' net incomes have *fallen*. One need not necessarily accept that farmers have been hurt by this proliferation of commercial inputs, but it is clear that it will be extraordinarily hard to demonstrate that farmers have been helped.

If the rationale for changes to the Variety Registration System is that better and faster access to improved seed lines will benefit farmers, the government of Canada and the CFIA must stop; they must look very carefully and critically at that rationale—the data does not support such claims. Better seeds often do create benefits in terms of yield and disease resistance and other agronomic performance measures; but those benefits are captured by others.

The CFIA, in its February 20, 2006 "Preliminary Proposal" notes the view that "The procedural and related administrative burden associated with the current variety registration system is ...perceived as an impediment to innovation." (p. 10) In the narrative cost-benefit analysis that follows, it goes on to list the following benefits of its Proposal, benefits that, the CFIA says, will accrue to farmers: "flexibility to reduce impediments to commercialization of new innovative varieties for some crops" and "reduce[ed] delays in new varieties reaching the market due to flexibility to reduce merit assessment requirements."

The CFIA has accepted as fact seed companies' rhetoric that deregulation will result in more and better varieties for farmers and, as a result, higher net farm incomes. The second half of that assertion is false: the benefits of improved seed performance and higher yields have consistently over the past two decades been captured by others in the agri-food chain. It's

important to understand that a primary reason that farmers are opposing changes to the regulation of our seed system is that farmers will not benefit from such changes. For the CFIA to accept the opposite—that farmers will benefit—is irrational, not supported by the data, and an irresponsible abdication of its duty to regulate based on sound data and good judgement.

The National Farmers Union strongly recommends that the CFIA make no changes to Canada’s seed system until the Agency fully understands the effects of past and potential future changes on farmers, seed transnationals, and on others within the seed system.

The NFU further recommends that the CFIA abandon the flawed assumptions of farmer benefits that currently underpin its cost-benefit model.

Conclusions

The dominant seed and gene transnationals are re-organizing the global seed system to ensure that they will be the primary beneficiaries of that system. The system is being restructured from one primarily focused on producing new seed varieties to one primarily focused on producing profits. The dominant seed transnationals are moving, through the implementation of stronger intellectual property rights regimes and through mergers, to increase their control over seeds and to reduce challenges to their profitability. They are moving internationally, through the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), and nationally, through various states’ governments. These corporations are behaving rationally and according to Canadian laws that require their Boards of Directors to safeguard the best interests of the company and to maximize returns to shareholders and other investors.

Amid the worst farm income crisis in Canadian history, it is critical that CFIA not make any changes to Canada’s seed system that may increase the power of the dominant seed companies, that might reduce farmers’ power, or that might increase farmers’ costs. The CFIA’s “Proposal to Facilitate the Modernization of the Seed Regulatory Framework” does all three, to the clear detriment of farmers.

The National Farmers Union strongly recommends that CFIA scrap its “Proposal to Facilitate the Modernization of the Seed Regulatory Framework”—changes that are part of a pattern of initiatives that individually and collectively increase seed companies’ power and profits.

The NFU further recommends the CFIA explore regulatory and legislative initiatives that could stop the transfer of power and profits to seed companies, that could re-balance power between companies and farmers, and that could have positive effects on farmers net incomes. Such initiatives include:

- ***Banning the cultivation or commercialization of GURTS/Terminator technology;***
- ***Enshrining in legislation farmers’ rights to save, re-use, and sell seeds and appropriate mechanisms to ensure that farmers’ can realize those rights;***
- ***Banning contracts and TUAs that restrict farmers’ rights to save seeds;***

- *Increasing public funding for plant breeding;*
- *Ensuring varieties that are granted Plant Breeders' Rights remain registered for as long as feasible—giving farmers the opportunity to benefit from these varieties after the expiration of PBR; and*
- *Suspending seed corporations' powers to sue farmers for possession of seeds or patented genes and implementing an alternative system of third-party variety possession verification and dispute arbitration.*

Respectfully submitted on behalf of
the thousands of farm family members
of the National Farmers Union.