

Nine things farmers need to know about the Seed Sector Review

National Farmers Union
May 13, 2004

On May 5, the Seed Sector Review released its *Report of the Seed Sector Advisory Committee* (RSSAC), the final report of the Review's phase one. (See www.seedsectorreview.com) Few farmers have heard of the Review—an ambitious, industry-led initiative to restructure Canada's seed and grain quality assurance systems. Begun in 2003, the Review is a joint venture of the Canadian Seed Growers Association, the Canadian Seed Trade Association¹, the Canadian Seed Institute, and the Grain Growers of Canada².

Review participants initially identified three objectives: “Regulatory flexibility and timeliness; supportive environment for science and innovation; and profitability of the sector.” The first objective translates to “deregulation“ for the companies involved, and Review documents detail plans for deregulating our seed and quality assurance systems. The third objective is refreshingly clear: more profit for seed companies. And the second objective—a “supportive environment for science and innovation”—is largely a restatement of the first and third goals: A “supportive environment” for seed companies is one that is more profitable and less regulated. The Seed Sector Review proposes removing rules that protect farmers and introducing new rules designed to *restrict* farmers and to increase the profits of corporate seed developers such as Monsanto and a dwindling number of seed growers.

The proposals and directions outlined in the Review's May 5 Report have wide-ranging and costly implications for farmers. Review participants plan on using farmer, public, and industry money to create a “permanent, industry-wide consultative body” that will consolidate and implement their ideas and proposals. Below are nine points that farmers should be aware of.

1. Collect royalties on farm-saved seed. The Review's Report examined ways to collect royalties from farmers who save and re-use their own seed. The Report notes: “Suggestions were made that royalties could be collected through elevators or seed processors or through CWB contract programs.” (RSSAC, pp. 33 & 41) Royalties collected on farm-saved seed will go mainly to big companies, not to farmer seed growers. Review documents are clear on this point: more money is needed for “research.” That means most of the money will go to the corporations that develop seeds, not to the farmers who propagate them.

2. Compel farmers to buy Certified seed. The Report lists ways that farmers could be “encouraged” to purchase more Certified seed. These include initiatives to “Link crop insurance premiums with the use of Certified seed” (RSSAC, p. 41)—requiring higher premiums from farmers who do not use Certified seed, presumably irrespective of a farmers' actual risk level or yield history. In a previous report, the Review suggested that farmers who did not purchase Certified seed might be denied crop insurance altogether. (Seed Sector Review, 2nd Meeting of the Industry Advisory Committee, p. 11.) Another option to encourage Certified seed sales was that “CWB contract programs should be based on the use of Certified seed.” (RSSAC, p. 41).

3. Terminate the right of farmers to sell common seed? While they did not reach consensus, Review participants repeatedly returned to the idea of requiring the use of variety names on all seed sales. Because such a move would effectively outlaw the sale of “common” seed, farmers would lose the right to sell seed to neighbors or family members.

¹ 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.

² The Grain Growers of Canada 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.

Requiring all seed to be sold by variety name, however, requires many supporting regulations such as varietal purity standards. These, in turn, according to the Review Report, would probably require field inspections, documentation, declarations, etc. The Review admits that, as a result of these additional regulations, “the producer of common seeds will be faced with additional costs...” The Review Report goes on to say that the end result of increased regulations “might be that common seed becomes too expensive, making certified seed more economical.” (RSSAC, p. 42) The use of “economical” in this context is perverse: certified seed would become more economical, not because it would become cheaper, but because the alternatives would become more expensive. The Review repeatedly states the need to “level the playing field between pedigreed and non-pedigreed seed” (p. 42) and to narrow “the price spread between Certified seed and common seed...” (p. 37) by increasing the price of the latter.

A key element of the Seed Sector Review is its willingness to advocate additional regulations. At first glance, the Review seems a blueprint for industry deregulation—to get government, the Food Inspection Agency, and others away from the seed and grain quality systems so that the dominant players can maximize their profits. And while some might argue that deregulation has merits, what the Seed Sector Review proposes is not simple deregulation, but a more pernicious initiative: increasing regulation and a *re*-regulation of the sector in the interests of the largest players. The Seed Sector Review advocates fewer restraints on seed companies *but additional restraints on farmers*.

4. Replace KVD. Another example of the willingness of the dominant players to create additional regulations when it suits them is the Review’s desire to replace our current wheat quality system—based on kernel visual distinguishability (KVD)—with a more complex and costly system based on instrument testing, identity preservation, and, in some instances, Variety Eligibility Declarations (VEDs).

KVD is an integral part of Canada’s simple, effective, and inexpensive quality management system—a system that, according to Canadian customers, delivers the highest quality and most consistent grain in the world. Moving away from KVD would increase farmers’ costs for administration, testing, segregation, identity preservation, dispute settlement, and transport costs.

No one has shown that the benefits of moving away from KVD outweigh the costs.

5. Removal of “merit” as a registration requirement. Until recently, new varieties of wheat and many other grains had to pass a merit test. On a balance of factors—yield, disease resistance, agronomic performance—new varieties had to be an improvement over existing ones. Recently, for some grains, the merit standard was watered down: new varieties did not need to be superior to existing varieties, only equal. The Review suggests that the merit criteria might be dropped altogether. (RSSAC, p. 19)

Farmers’ right to save seed

Around the world, as corporations such as Monsanto use patents and trade agreements to take control of seeds, farmers are fighting back and asserting their rights over the seeds they helped develop over thousands of years. The most important of those rights is the farmers’ right to save and re-use their seeds, unencumbered by restrictions and without a obligation to pay royalties.

The Canadian Seed Trade Association (CSTA) was one of four main groups in the Seed Sector Review. In the Western Producer, CSTA Vice-President Bill Leask said: "Within the current Patent Act, we're saying there is no so-called farmer privilege to save seed. We don't think there should be."

In 2002, Canada signed the International Treaty on Plant Genetic Resources for Food and Agriculture. That Treaty affirms farmers’ right to save and re-use seeds.

In whose interests?

The *Seeds Act* and other protections introduced in the first half of the 20th Century were designed to protect farmers from seed companies: standards and labels would protect farmers from disreputable seed sellers hawking inferior or inappropriate seeds. (In 1923, seed sellers were promoting “Alaska”, a wheat variety they claimed would yield 100 bushels per acre.)

More recent initiatives such as PBR, patenting, and the recommendations in the Seed Sector Review Report are designed to protect seed companies from farmers.

6. Paving the way for new GM crops. As revealed in the debate around Roundup Ready wheat, genetically-modified (GM) crops can trigger market losses and other costs totalling hundreds of millions of dollars per year. Monsanto and similar companies counter that the solution is to segregate GM crops from non-GM. Such segregation is costly, and, in the case of wheat, impossible in our current bulk-handling system which is based on KVD, standardized grades, and wheat blending. To ease the introduction of new GM crops, biotech companies need to restructure our quality system and to introduce identity preservation and affidavit systems. And to ensure that revenues on these crops are maximized, companies need tighter restrictions on farmers and additional mechanisms to collect royalties.

7. More powerful seed companies and more expensive seed. Mergers and acquisitions between seed, gene, and pesticide companies over the past two decades have meant increasing concentration and declining competition in the seed sector. Today, four companies dominate the GM seed industry: Syngenta, Bayer, Monsanto, and DuPont. Second, these companies have been working behind the scenes to expand patent and Plant Breeders' Rights (PBR) protections. Third, the dismantling of public sector plant breeding has reduced the competition that these companies face from non-corporate breeding efforts. This combination of increased concentration, increased patent protection, and decreased public sector participation has dramatically increased the power and control of the dominant seed corporations. The proposals and directions contained in the Review's Report—compelling farmers to buy seed, outlawing common seed, expanding tools for royalty collection, reducing government participation—would further empower the dominant seed corporations. The effects on seed prices would be predictable.

8. A fundamental tightening of the rules governing seed. Canada's PBR regime is based on the UPOV (International Union for the Protection of New Varieties of Plants) Convention as adopted in 1961 and revised in 1978. The Seed Sector Review recommends replacing our "UPOV '78" framework with the much more restrictive (for farmers) UPOV '91.

Changing from UPOV '78 to UPOV '91 would:

- Extend plant breeders' protection and royalty periods from 15 years to 20 years.
- Extinguish farmers' automatic right, protected in UPOV '78, to save, re-use, and sell seed (called "Farmers' Exemption" within the UPOV Convention).
- Create "a cascade right to extend PBR to harvested material and end products in crops where breeders did not have the opportunity to exercise his [sic] rights on propagating material." (RSSAC, p. 32) This is the change that seed corporations need in order to collect royalties at elevators and seed cleaning facilities.
- Open the door for the patenting of seeds protected under Plant Breeders' Rights—introducing double protection for seed developers.

The Review's Report (presumably endorsed by Grain Growers of Canada commodity groups) concluded: "There were no downside concerns expressed with moving to UPOV '91. ... [T]his change should be made as soon as possible." (RSSAC, p. 34)

Who pays?

The Seed Sector Review's report on the "3rd Meeting of the Industry Advisory Committee" (p. 6.) deals with the issue of who pays for regulatory changes. The following is an excerpt. [Emphasis added.]

"For identify preservation of the end product (not process), **the consumer pays**. If a system is imposed ahead of the rest of the world, **the producer pays**. **Government and taxpayers should pay** for achievement of set minimum standards as they relate to the "public good."

Government should have some responsibility to pay for systems related to real food and environmental safety issues.... **Government** should also be responsible to pay for costs to industry related to imposed regulations.

Some members noted that **the consumer should pay** for any 'lifestyle' regulatory costs such as organic certification, while **producers should be responsible** for food safety related costs at the farm level. It was also noted that if low food prices are to be maintained, then the **taxpayer will have to subsidize** the costs associated with food production regulations. Similarly, **taxpayers should support** 'Brand Canada' efforts. "

It seems that everyone except seed companies, processors, and grain companies should pay.

9. Farmers lose control. To a significant extent, he who controls the seed, controls agriculture. As the control of seed increasingly passes out of the hands of farmers into the hands of seed transnationals, farmers lose options, control, and decision-making ability. The proposals of the Seed Sector Review (and the PBR and life patenting regimes which they are a part of) are especially pernicious. If implemented, farmers would lose their last remnants of control on seeds—they would lose their right to save and re-use that seed. They would essentially lose ownership of their seeds and become renters of corporate seeds.

Conclusion. Until the 1990s, seed development was public. Researchers on the public payroll at public universities and Agriculture Canada facilities developed new varieties to meet the needs of Canadian farmers, and these institutions turned those varieties over to farmers at low cost. In the early 1980s, the public sector accounted for over 95% of formal plant breeding in Canada and 100% of the breeding for cereal crops and oilseeds.³

In recent decades, however, transnationals have moved in to capture the revenues and profits from the seed “industry.” To maximize control and ensure profits, these corporations needed a vast regulatory regime. First came PBR, then gene patenting and the global trade agreements needed to protect these patents. The Seed Sector Review is the latest step. And like previous steps, Review proposals, if implanted, will increase restrictions on farmers, increase the power of the dominant seed corporations, and transfer billions of dollars from farmers to these corporations. The proposals and directions in the Seed Sector Review, if implemented, will damage family farms.

This analysis is brought to you by the National Farmers Union. For two decades, the NFU has worked to maximize farmers’ access to productive and affordable new seed varieties. For more information about the NFU, or to join, phone (306) 652-9465.

Myth: private sector breeding will deliver

Implicit in the government’s withdrawal from plant breeding and its willingness to heap regulations and costs onto farmers is the idea that private sector seed companies will create the seeds that Canadian farmers need.

Big seed companies might develop new corn varieties that North American farmers can plant on millions of acres, but these companies won’t develop the short-season wheat varieties farmers need in the Peace River region. There simply is not enough acreage or money to attract the transnationals.

Nor will these companies do the long-term, basic research needed to develop or adapt new crops, as with canola and lentils.

Government initiatives such as PBR legislation, seed patenting, and, potentially, charging fees on farm-saved seed are all part of a ill-conceived attempt to create enough profitability in the system (transfer enough money from farmers to seed companies) to make a private breeding industry work. As the Review Report says: “Profitability is a perpetual concern. Industry and government systems of enforcement and compliance for breeders’ rights and seed marketing are key to profitability.” (RSSAC, p. 9)

The privatization of plant breeding will fail: Farmers will pay more for seeds that serve them less well; Canada will lose its ability to shape the direction of its agriculture and food systems; and research costs will increase as patenting, contracting, and commercial-secrecy make research difficult and expensive.

Plant breeding and seed research contribute to the public good; they rely on the free exchange of information among farmers and researchers, and they have long-term benefits that cannot be recovered through short-term fees. Breeding and research must be publicly-funded, done in public institutions, and the results must be shared as widely as possible at the least possible cost and with the fewest possible restrictions. The Seed Sector Review is part of an attempt to construct a financial base for a high-cost, inefficient, and unproductive model of private plant breeding and research.

For more information on private versus public plant breeding, see: Terry Boehm, “The Politics of Biotechnology: The Politics of Food,” *Union Farmer Quarterly*, Spring 2003, p.12, and Devlin Kuyek, *Stolen Seeds: the Privatization of Canada’s Agricultural Biodiversity*, 2004.

³ RMA Loynes and AJ Begleiter, “An examination of the potential economic effects of plant breeders’ rights on Canada,” Working Paper for Consumer and Corporate Affairs Canada, 1984, p.109. As cited in Devlin Kuyek’s *Stolen Seeds: the Privatization of Canada’s Agricultural Biodiversity*, 2004, p. 10.