

International Treaty on Plant Genetic Resources: Implications for Australian Agriculture Symposium

Canberra
Friday, 20 August 2004

Program

- 9.00am** **Registration**
Great Hall, University House, Cnr Balmain Cres and Liversidge St, The Australian National University
- 9.30am** **Session 1 - Treaty Overview**
Chair: Professor Brad Sherman, Director, Australian Centre for Intellectual Property in Agriculture
- The Treaty and What it Means for Australian Agriculture*
Paul Morris, Executive Manager, Market Access and Biosecurity, Department of Agriculture, Fisheries and Forestry-Australia
- Intellectual Property Clauses and their Impacts on Plant Breeder's Rights and Patents*
Kathryn Adams, Senior Research Fellow, Australian Centre for Intellectual Property in Agriculture
- 10.30am** **Morning Tea**
- 11.15am** **Session 2 - Treaty Implementation Issues**
Chair: Dr Simon Hearn, Managing Director, Rural Industries Research and Development Corporation
- The Horticulture Industry Perspective*
Dr Nigel Steele Scott, Board Member, Horticulture Australia Limited
- The Germplasm Bank Perspective*
Dr Lindsay Cook, Chief, Division for Plant Industries, NSW Agriculture
- Agreeing on the Standard Material Transfer Agreement: Is the Devil in the Detail?*
Geoff Budd, General Counsel, Grains Research and Development Corporation
- 1.00pm Close**

Speakers

Kathryn Adams

Abstract

The International Treaty on Plant Genetic Resources for Food and Agriculture came into effect on 29 June 2004 and Australia is a signatory. The Treaty affirms the principle of Farmers' Rights and the role of farmers in conserving and making available plant genetic resources. Treaty Signatories also recognise their responsibility to conserve the world's diversity of plant genetic resources for food and agriculture. Recipients using the Multilateral System agree not to claim any intellectual property rights that limit the facilitated access to plant genetic resources in the form received from the Multilateral System. Developing countries that are signatories can obtain facilitated access to plant genetic resources but "such access and transfer shall be provided on terms which recognise and are consistent with the adequate and effective protection of intellectual property rights". In addition, signatories agree "that nothing in the Treaty implies a change in the rights and obligations of the Contracting Parties under other international agreements" (eg UPOV). This paper will look at the implications of the Treaty for Australia in relation to Plant Breeder's Rights, patents and the UPOV Convention.

Bio

Kathryn Adams is a Senior Research Fellow at the Australian Centre for Intellectual Property in Agriculture at Griffith University. Kathryn has a wealth of experience and background in plant intellectual property having been the first Registrar of Plant Breeder's Rights in Australia and Executive Director or non-Executive Director with a number of Australia's Rural Research and Development Corporations including cotton, grains, horticulture, energy and forest and wood products. She has also been the Director of the QLD Horticulture Institute, Executive Director with the QLD Environmental Protection Agency and worked with CSIRO and NSW Agriculture. She is an agricultural microbiologist and a lawyer with Masters degrees in Law, Business and Environmental Studies.

Geoff Budd

Abstract

The centrepiece of the International Treaty on Plant Genetic Resources for Food and Agriculture is to be a standard Material Transfer Agreement (MTA). But the Treaty itself took 7 years to negotiate and crucial issues remain to be decided. What intellectual property rights can recipients claim on material received under the MTA? What level of benefit sharing will there be on commercialisation? This paper will outline the key issues in relation to the MTA and how they could affect Australian plant breeders.

Bio

Geoff Budd specialises in contracts and intellectual property, and formerly international trade law. He worked for seven years in commercial law firms, and has been the General Counsel at the Grains Research and Development Corporation (GRDC) for the last three and a half years. The GRDC is a key funder of agricultural research in Australia, investing over \$120 million per year. During his time at the GRDC, Geoff has developed an in-depth knowledge of the issues surrounding the application of intellectual property laws to agricultural research and its commercialisation.

Dr Lindsay Cook

Abstract

The key issues arising from the provisions of the International Treaty on Plant Genetic Resources for Food and Agriculture for Australian plant genetic resource centres are:

- The terms of the Material Transfer Agreement (MTA);
- The requirement to agree to, and pass on to any other recipient of the germplasm, the obligations;
- Not to seek intellectual property over the germplasm in the form in which it was received;
- If a variety results from the use of the germplasm, and it is protected by a form of intellectual property which doesn't allow further research, to pay a levy to the Treaty's trust;
- Identifying sources of germplasm in other countries which are, and are not, subject to the terms of the Treaty; and
- Identifying germplasm in their collections which may be subject to the terms of the Treaty.

Bio

Dr Lindsay Cook is Chief, Division of Plant Industries in the New South Wales Department of Primary Industries. In that role he manages and leads the almost 900 staff devoted to research and extension programs aimed at assisting the State's field crop, pasture and rangelands, and horticultural industries to be both profitable and sustainable. The Division also has programs directed specifically at natural resource management, and is responsible for the policy on regulations affecting the plant industries. Dr Cook developed an interest in plant breeder's rights and in plant genetic resources in the late 1970's and was involved in almost all of the 13 reviews, task forces, etc. which examined the role, funding, operations and effectiveness of Australian Plant Genetic Resource Centres from the late 1970's to the mid 1990's. As a result of this background he was nominated to be the representative of the States and Territories on most of the Australian delegations which re-negotiated the old International Undertaking on Plant Genetic Resources into the new International Treaty on Plant Genetic Resources for Food and Agriculture.

Paul Morris

Abstract

The International Treaty on Plant Genetic Resources for Food and Agriculture will contribute to ensuring that current and future generations have available plant genetic resources for food and agriculture on fair and equitable terms. It is the only multilateral agreement which specifically covers the conservation of, sustainable use and exchange of plant genetic resources for food and agriculture. The Treaty is especially important for Australian plant breeders. The international competitiveness of our food and agriculture sectors depends on a steady flow of plant breeding improvements. To be able to deliver these improvements, plant breeders must have access to plant genetic material which, for virtually all our commercial agricultural crops, needs to be sourced from overseas. The Treaty defines the international terms of exchange for important plant genetic material used in food and agriculture.

Bio

Paul Morris is Executive Manager, Market Access and Biosecurity (MAB), in the Australian Government Department of Agriculture, Fisheries and Forestry. MAB has responsibility for portfolio activities aimed at maintaining and improving international trade and market access opportunities for agricultural, fisheries, forestry and food industries. This is achieved through establishing scientifically-

based quarantine policies, providing effective technical advice, entering into negotiations with key trading partners, participating in multilateral forums and international sanitary and phytosanitary (SPS) standard-setting organisations, and collaborating with portfolio industries and exporters. MAB also has carriage of the negotiations and ratification of the International Treaty on Plant Genetic Resources for Food and Agriculture for the Australian Government. Mr Morris has appeared before the Australian Parliament Joint Standing Committee on Treaties to present the case for ratification.

Dr Nigel Steele Scott

Abstract

Horticultural produce is unusual amongst the food crops in that the source of genetic material is divided in approximately equal proportions between sexual propagation, through seeds, and clonal propagation, mostly by cuttings. Australia is largely dependent on imported seed for most sexually propagated crops. As most of these crops have been intensively bred the impact of the ITPGR is likely to be on new introgressions into established crops such as tomato and potato. In the case of clonally propagated crops the origin of much of the source material is ancient, not easily traced, and often confused by subsequent undocumented clonal selection. On the other hand, some newly selected clonal material may be easily seen as new accessions covered by the ITPGR arrangements.

Bio

Dr Nigel Steele Scott has been actively involved in plant science since he graduated with a PhD in Agricultural Science from the Waite Institute in 1965. His particular interests have been in Horticultural crops and genetics, both conventional and molecular and he was awarded a centenary medal in 2001. He retired from the position of Deputy Chief of CSIRO Plant Industry in 2003. He is a Fellow of the Australian Academy of Technological Science & Engineering.