

31 August 2015

Dr. N. K. Dadlani
Director - Technical Affairs
The Asia & Pacific Seed Association
P.O. Box 1030, Kasetsart,
Bangkok 10903, Thailand
Via email: dadlani@apsaseed.org

Dear Dr Dadlani

Re: Revised APSA Position on Intellectual Property Rights for the Seed Industry

Thank you for the opportunity for APSA members to comment on the revised *APSA Position Paper on Intellectual Property Rights for the Seed Industry*. The ASF very much appreciates the importance of industry position papers that are fully endorsed by all members for delivering strong and united advocacy efforts. That is the best way to bring about desired change.

As previously stated in our submission to the APSA Intellectual Property Rights (IPR) workshop held in May this year, the ASF fully supports APSA's development of a position on IPR. The growth of global agricultural markets continues to represent a major challenge, but also opportunities for the plant and seed industry in both established and emerging markets within Asia and the Pacific. This challenge can only be met by continuously increasing innovation in the field of seeds and plant varieties. As private funding of the plant breeding industry grows, good IPR law and protection is paramount to increasing the rate of innovation.

The ASF would like to congratulate the drafting group on the work it has done in revising this Paper. The new draft to a significant extent incorporates previous input from members, and the discussions at the workshop. In particular, we applaud the new, concise format and the improved layout, as well as the clear statement at the beginning of the Paper for countries in the region to ratify and implement the 1991 Act of the UPOV Convention. This position should be expressed by all APSA members at every possible opportunity in the region.

In our submission to delegates of the IPR workshop, the ASF did express concerns in relation to wording around Plant Breeders' Rights (PBR) and patents. We also asked that the Paper be redrafted and presented to members in two stages:

1. The APSA position on PBR.
2. The APSA position on patents after the membership has been engaged and had a well-informed debate and vote on the positions on patents. If adopted, this could be included into the position adopted in 1.

Plant Breeders Rights

APSA's position on PBR has been revised in this new version. In particular, wording has been included in paragraph (j) that is in line with UPOV 91 principles in regards to farm saved seed and

non-commercial use. This new wording is also in accordance with the position expressed previously by ASF members and we would therefore support it.

We would also like to request that this paragraph be reviewed further by the drafting group so as to ensure that both farmers' privilege and the exception for acts done privately and for non-commercial purposes are appropriately identified and addressed in the Position Paper as per the wording in UPOV 91.

Patents

Paragraph (k) in the revised version addresses patents. The ASF had previously informed the APSA drafting group that its members were unable to reach agreement on whether to support a position that patents should not be applied to essential biological processes and native traits. That is why the ASF proposed that APSA members have further discussion on this issue before wording to this effect is included in an APSA IPR Position Paper.

The ASF notes that there continues to be disagreement on a position on patents within its membership and that further detailed discussion has not been undertaken at a regional level. The ASF's position is therefore that mention of patents must be removed from this Position Paper, and that a separate position be developed at a later stage after further discussion. We cannot endorse the Position Paper as currently drafted, with paragraph (k) included, and our position is that this paragraph be deleted.

Thank you again for the opportunity to comment on this revised version. The ASF looks forward to a new version incorporating this round of comments in time for consideration at Goa. It is imperative that this Paper be adopted unanimously by APSA members if advocacy in this area is going to be successful.

Yours sincerely

A handwritten signature in blue ink that reads "Bill Fuller". The signature is written in a cursive style with a small circle at the end of the last stroke.

Bill Fuller
CEO
Australian Seed Federation

Cc Tom Burns tom.burns@apsaseed.org