



# International Licensing Platform Vegetable

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Chris van Winden



# ILP Vegetable was launched 13 November 2014

- ▶ Background
- ▶ Initiative vegetable breeding companies
- ▶ Result Steering Committee → ILP
- ▶ Antitrust Laws
- ▶ Arbitration system
- ▶ Expert Committee
- ▶ MFN Clause
- ▶ Variety Patents
- ▶ Patent Register
- ▶ Membership

## Background

- ▶ Discussion in politics and society about patents, covering biological material
- ▶ Proponents: foster innovation, knowledge sharing and continued investment in R&D
- ▶ Opponents: patents unnecessary → protection by PBR system; no breeders exemption so no access to biological materials or after a delay or at high cost

## Initiative vegetable breeding companies

- ▶ 11 companies in Steering Committee;  
listed companies and family companies from
  - ▶ France
  - ▶ Germany
  - ▶ Japan
  - ▶ Netherlands
  - ▶ Switzerland
- ▶ Agree to disagree
- ▶ 4 Years of negotiations

## Result Steering Committee → ILP Vegetable

- ▶ Guaranteed access to patents covering biological material
- ▶ Fair and reasonable cost
- ▶ Members will make all patents related to vegetable breeding traits accessible to fellow members of the ILP Vegetable
- ▶ No provisions for patents related to GM traits

## Antitrust Law

- ▶ Process guided by a lawyer, specialized in antitrust matters
- ▶ Assessment of risks under the EU and US Antitrust rules
- ▶ ILP Vegetable does not constitute a problem under the antitrust laws of the EU and the US

## Arbitration System - Baseball procedure

- ▶ Bilateral negotiation (3 months)
- ▶ Decision-making by independent experts
- ▶ 2 license fee proposals
- ▶ Choice of most reasonable proposal
- ▶ Fee for baseball procedure to be paid by party with not chosen proposal
- ▶ Result Standard License Agreement (SLA)

# Expert Committee

- ▶ 7 Independent experts
- ▶ Chairman
- ▶ 6 Experts from:
  - ▶ US (2)
  - ▶ Germany
  - ▶ UK/South Africa
  - ▶ NL (2)
- ▶ Initial board 3 members
- ▶ Objection board 3 members

## Most Favoured Nation (MFN) Clause

- ▶ MFN percentage is lowest percentage in SLA
- ▶ MFN available for each subsequent member
- ▶ MFN percentage can be revised (lowered or increased)

## Variety Patents

Granted patent under title 35 of US Act  
(or equivalent right in other countries)

- ▶ Each member can use varieties owned by other members, which are protected by a variety patent under 2 conditions
  - ▶ notify the patentee member that he intends to start breeding with the protected variety
  - ▶ newly bred variety must be sufficiently different from the protected variety

## Patent Register

Patent register available on website  
123 patents in the register

## Membership

- ▶ Membership is open for all interested parties (with or without owning patents)
- ▶ Small member <100 employees
- ▶ Medium member 100 < 500 employees
- ▶ Large members  $\geq$  500 employees
- ▶ Fee € 7.500, 15.000, 22.500
- ▶ Application Form
- ▶ Members' Agreement



[www.ilp-vegetable.org](http://www.ilp-vegetable.org)