



GENERAL CODE OF CONDUCT

The mission of ESA consists in working for fair and proportionate regulation of the European seed industry; for effective protection of intellectual property rights relating to plants and seeds; and for freedom of choice for customers (farmers, growers, industry, consumers) in supplying seeds as a result of innovative, diverse technologies and production methods.

Besides having a clear and workable legal framework regulating the plant breeding and seed business and providing effective IP protection it is also of utmost importance for the members of ESA to have a business environment where the players manifest mutual respect and act according to the applicable rules. Members of ESA are therefore expected to take all reasonable steps in order to arrive to and maintain such a business environment.

PART I - Undertakings

In view of the above, the present Code of Conduct lays down the minimum standards to be undertaken in order to meet the above outlined goals.

The Signatories¹ therefore undertake to:

-  Respect the present Code of Conduct
-  Respect EU law as well as national laws and measures relevant regarding ESA's fields of competence
-  Respect the applicable ESA Statutes² and the missions and objectives enshrined therein

In addition, the Signatories:

-  Accept and agree to follow the Complaint Procedure as outlined in Part II of the present Code of Conduct
-  Accept that neither ESA nor the Complaint Committee, as established under point 2.3, can take any steps in order to ensure compliance with the present Code of Conduct other than those described under Part II
-  Accept that neither ESA nor the Complaint Committee can be held liable for any potential consequences of the complaint procedure.

¹ Signatories include parties who have provided a signed copy of the present Code of Conduct to the ESA Secretariat as well as those parties who – upon registration for the ESA Annual Meeting – indicate on-line their acceptance of the terms of the present Code of Conduct.

² The ESA Statutes are available on the open part of the ESA website.

PART II – Complaint Procedure

2.1 The Complaint Procedure is confidential. With the exception of the case of insufficient clarification or no clarification, as stipulated in point 2.6, the ESA Secretariat shall make sure that names of the parties and details of the complaint and the procedure remain confidential. The name of the complainant however shall remain secret before the Signatory against whom the complaint is deposited unless the complainant decides otherwise.

2.2 Any Signatory may submit a complaint against another Signatory alleging non-compliance of the latter with the present Code of Conduct and in particular with the Undertakings as outlined under Part I. The complaint must be addressed to the ESA Secretariat and must be based on reasonable evidence. The ESA Secretariat informs the ESA Board about the complaint.

2.3 The ESA Board appoints a Complaint Committee which is charged with addressing the complaint and transmitting information between the parties involved in the complaint procedure. The Complaint Committee shall consist of three members and shall have the power to conduct the complaint procedure. Members of the Complaint Committee are appointed on a case by case basis from a shortlist of experts. The shortlist from which Complaint Committee members are appointed is available on request from the ESA Secretariat but the exact composition of the Complaint Committee in individual cases shall remain secret. The work of the Complaint Committee is coordinated and facilitated by the ESA Secretariat.

2.4 Once a Complaint Committee is appointed to deal with a complaint first it assesses whether the complaint is based on reasonable evidence. If this is not the case it addresses the complainant for further information. If such further information is not provided by the complainant within the deadline set by the Complaint Committee, it may consider the complaint as withdrawn.

2.5 If the Complaint Committee considers the complaint submitted to the ESA Secretariat to be based on reasonable evidence it addresses the Signatory against whom the complaint is put forward and asks clarifications regarding the alleged non-compliance. The Signatory so addressed by the Complaint Committee shall provide the requested clarification within 30 days from the receipt of the request.

2.6 The Complaint Committee shall decide whether the provided clarification is satisfactory or additional clarification is needed. In the latter case it addresses a second request to the Signatory at issue according to the same rules as applicable for the first request. In case the necessary clarification is provided on the basis of which the Complaint Committee concludes that there is no case of non-compliance the clarification is made available for the complainant and with that the complaint procedure terminates.

2.7 In case no sufficient clarification is provided or no clarification is provided within the deadline the Complaint Committee decides to publish, after having called upon the Signatory concerned

without any immediate answer, the information about the on-going complaint procedure on the ESA website. If following this publication clarification is provided by the Signatory concerned, it will also be published in the same part of the ESA website and with that the complaint procedure terminates if on the basis of the provided clarification the Complaint Committee is able to conclude that there is no case of non-compliance.

2.8 In case, on the basis of the information submitted to it, the Complaint Committee is convinced that the case examined constitutes a serious breach of compliance with the present Code of Conduct it proposes – in a motivated opinion – to the ESA Board to decide on denying participation of the Signatory and/or its representatives to the ESA Annual Meeting. The decision of the ESA Board shall take place in accordance with the rules set out in Article 3§6 of the ESA Statutes, as amended and adopted by the General Assembly of 2010.

2.9 Provisions of the present Code of Conduct shall be interpreted in light of Belgian civil law.