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ESA is the voice of the European seed sector. ESA's members are national associations and individual companies active in research, breeding, production and marketing of seeds of agricultural and ornamental plant species. ESA represents more than 7000 seed businesses in the EU and beyond.

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# POSITION

## ESA SMA

### POSITION PAPER ON THE ACCESS TO AND USE OF PROPRIETARY PARENTAL LINES OF MAIZE

ESA is the voice of the European seed industry, representing the interests of those active in research, breeding, production and marketing of seeds of agricultural, horticultural and ornamental plant species. One of the priorities of ESA's mission is to work for effective protection of Intellectual Property Rights relating to plants and seeds. The ESA Maize Section (SMA) represents specifically European seed companies involved in research, plant breeding, production and marketing of Maize varieties.

Proprietary parental lines (\*) of hybrids should not be used by third parties for the purpose of breeding, except when agreed upon by the owner. Seed of proprietary parental lines may incidentally be included in bags of commercial hybrid seed. Proprietary parental lines may also incidentally happen to be present in fields in which hybrids are grown.

In both cases, this presence results from technicalities in producing and processing hybrid seed and does not reflect the owner's intent to make its parental lines available to the public.

ESA SMA considers therefore that it should not be permissible to take advantage of this presence by using those proprietary parental lines for further breeding. In addition, to protect themselves against the unauthorized use of proprietary parental lines for the purposes of breeding, breeders may use any relevant legal mechanisms such as bag tag warnings and/or shrink-wrap agreements.

Maize seed companies being member of the ESA SMA section are of the view that - without prejudice to the freedom to take independent decisions - companies should not use accidentally present seeds of proprietary parental lines of Maize hybrids for the purpose of breeding, except when agreed upon by the owner.

(\*) This position paper applies exclusively to parental lines that have been developed solely to produce hybrids and not parental lines exploited as commercial varieties for the purpose of producing commodities.