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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

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Geneva, October 27, 2005

ADDENDUM TO DOCUMENT C/39/12

REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS
ON THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS

Document prepared by the Office of the Union

The Annexes I to XII to this document (in the alphabetical order of the names in French of members) contain the reports from Australia, Bolivia, Chile, European Community, Spain, Nicaragua, Panama, Portugal, Republic of Korea, Czech Republic, Romania and Slovakia.

[Annexes follow]

ANNEX I

AUSTRALIA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

No amendment to the *Plant Breeder's Rights Act 1994* or its Regulations for the relevant year.

Case law: Federal Court Decision - *Cultivaust Pty Ltd & The State of Tasmania v Grain Pool Pty Ltd & The State of Western Australia* [2004] FCA 638 (May 2004). The appeal was heard as *Cultivaust Pty Ltd v Grain Pool Pty Ltd & Others*, SAD 135 of 2004.

This case is interesting because it deals, perhaps for the first time, with issues related to Articles 14(2) and 15(2) of the 1991 Act of the UPOV Convention in relation to reasonable opportunity to exercise rights on propagating material and the consequence in relation to the scope of the breeder's right in respect of the harvested material.

On July 21, 2004, Cultivaust Pty Ltd lodged an appeal to the Full Bench of the Federal Court against the adverse judgment from the single judge of the Federal Court that their rights in relation to 'Franklin' barley had not been infringed by the Grain Pool Pty Ltd. The Appeal was heard on August 15 and 16, 2005. The Court reserved its judgment.

2. Cooperation with Examination

No new cooperation agreements have been entered into in 2004/05.

3.+4. Situation in the Administrative Field

On October 27, 2004, responsibility for administering the Plant Breeder's Rights Scheme (PBR) was transferred to IP Australia, the government agency that administers patents, trade marks and designs.

The move, announced as part of the new Government's Administrative Arrangements Orders, made the Department of Industry, Tourism and Resources (of which IP Australia is a division) responsible for the *Plant Breeder's Rights Act 1994*. As a consequence, the Plant Breeder's Rights Office has transferred to IP Australia from the Department of Agriculture, Fisheries & Forestry.

The Government's decision to transfer PBR reflects a desire to bring together registered intellectual property (IP) rights into a single organization to provide a more strategic and coordinated approach to IP policy development in Australia. The move will also provide an opportunity for improved coordination of IP processing for users of the IP systems.

In December 2004, the PBR Office physically moved locations. As a consequence, its contact details have changed to:

Plant Breeder's Rights Office
Discovery House, Phillip, ACT 2606
PO Box 200, Woden, ACT 2606
Australia

Phone: 1300 65 1010 International: phone +61 2 6283 2999
Facsimile: 02 6283 7999 International: facsimile +61 2 6283 7999

e-mail: assist@ipaustralia.gov.au

In 2004-2005, the Australian PBR Office has accredited a further three Centralised Test Centres (CTCs) for DUS testing of the following genera: *Zingiber*, *Zantedeschia* and *Prunus*. Two further CTCs have had their accreditation extended for testing of *Bracteantha*; and *Impatiens* and *Verbena*, respectively.

These accreditations are in addition to the existing 34 CTCs for the following 48 plant types: Potato, Sugar Cane, Canola, Wheat, Oats, Clematis, *Mandevilla*, *Diascia*, *Argyranthemum*, *Pelargonium*, Perennial Ryegrass, Tall Fescue, Tall Wheat Grass, White Clover, Persian Clover, *Bracteantha*, *Aglaonema*, *New Guinea Impatiens*, *Bougainvillea*, *Verbena*, *Agapanthus*, *Camellia*, *Lavandula*, *Osmanthus*, *Ceratopetalum*, *Rosa*, *Euphorbia*, *Limonium*, *Raphiolepis*, *Eriostemon*, *Lonicera*, *Jasminum*, *Angelonia*, *Cuphea*, *Cynodon*, *Zoysia*, *Petunia*, *Calibrachoa*, *Hordeum*, *Leptospermum*, *Rhododendron*, *Osteospermum*, *Antirrhinum*, *Dahlia*, *Anubias*, *Ananas*, *Dianella* and *Plectranthus*.

In addition, the Australian PBR Office maintains and updates weekly a Homepage (www.ipaustralia.gov.au/pbr/index.shtml) that includes PBR information, downloadable forms, and a database including information on current applications, variety descriptions, images and grants.

Financial Year	Applications Received	Applications Completed	Applications pending
2004/2005	369	398	
Total 1988 to 2005*	4,803	36,581	1,145

*= as at June 30, 2005

5. Activities for the Promotion of Plant Variety Protection

PBR Australia has been involved in the following promotional activities:

QP Workshops. Australia and New Zealand. Canberra, Sydney, Brisbane, Melbourne, Launceston, Adelaide, Perth and Christchurch, August-September 2004.

Visit by Canadian delegation (Quality Assured Seeds and Saskatchewan Trade and Export Partnership) to discuss PBR enforcement and the possibilities of registering improved malting barleys in Australia that are destined for the Chinese brewing market. Canberra, September 24, 2004.

Plant Breeder's Rights. Australian Council for Intellectual Property, Melbourne June 8, 2005.

[Annex II follows]

ANNEX II

BOLIVIA

1. Situation in the Legislative Field

On December 20, 2004, Supreme Decree No. 27938 was enacted, through which the National Intellectual Property Service was incorrectly defined as the competent authority for the protection of breeders of plant varieties; this situation was remedied with the enactment of Supreme Decree No. 28152 of May 17, 2005, Article 13 of which re-establishes the competence of the Ministry for Rural Affairs and Agriculture, through its National Seeds Program (this Decree can be downloaded from www.semillas.org).

2. Cooperation with Examination

No change.

3. Situation in the Administrative Field

No change, apart from the repercussions caused by the problem referred to in paragraph 1.

4. Situation in the Technical Field

DUS tests have been carried out on new species acquiring new capacities, mainly at our Regional Seeds Office in Santa Cruz. To date, tests have been carried out on the following species:

- Glycine max (L.) Merr.;
- Phaseolus vulgaris L.;
- Triticum aestivum L. emend. Fiori et Paol.;
- Oryza sativa L.;
- Zea mays L.

5. Activities for the Promotion of Plant Variety Protection

The first Forum on Intellectual Property for the Protection of Agricultural Biotechnology was held in Buenos Aires on June 2 and 3, 2005, organized by the Argentinian intellectual property authorities, where aspects relating to UPOV and its activities were discussed. This event is an international forum at which the repercussions in the intellectual property sphere of biotechnology innovations for agriculture are discussed.

From August 8 to 12, 2005 the Fourth Training Course for Ibero-American Countries on the Protection of Plant Varieties and Access to Phylogenetic Resources for Agriculture and Food was held in Santa Cruz de la Sierra and jointly organized by

UPOV, an important event in which we had the good fortune to participate with various representatives, since it was held in Bolivia.

RELATED ACTIVITY SECTORS OF INTEREST FOR UPOV

Bolivia has rules which regulate genetically modified organisms (GMOs) and all the activities relating to their introduction, investigation, handling, production, use, transport, storage, conservation, commercialization and free use. The rules are known as the Regulations on Biosafety and were approved through Supreme Decree No. 24676 of June 21, 1997.

As part of the Regulations on Biosafety, the National Biosafety Committee has been set up, a body which has recently recommended the approval of the Soya event resistant to Glyphosphate 40-3-2, which has also been approved by the competent authority.

The legal approval process was as follows:

Legal Provision	Competent Authority	Date	Summary
Administrative Resolution No. 016/2005	Ministry of Sustainable Development	March 14, 2005	Authorizes the release into the atmosphere for cultivation, and import of RR soya event 40-3-2 for research and/or experimentation purposes, seed production and agricultural production. Includes the authorization for commercialization for purposes of consumption as human and/or animal feed, subject to satisfying the requirements of the food safety assessment.
Administrative Resolution No. 044/2005	National Service for Agricultural Health and Food Safety - SENASAG	April 5, 2005	Food safety assessment. Authorizes the use of RR soya event 40-3-2 for the production of foodstuffs and drinks intended for national consumption.
Multiministerial Resolution No. 01/2005	Ministries of: Sustainable Development; Rural Affairs and Agriculture; Health and Sport; and Economic Development	April 7, 2005	Agricultural and seed production, processing, and internal and external commercialization of soya resistant to Glyphosphate event 40-3-2, and its derivatives, are authorized.

[Annex III follows]

ANNEX III

CHILE

1. Situation in the Legislative Field

1.1. Amendments to the Law and Regulations

One of the obligations by which Chile is bound in the Free Trade Agreements signed in the past few years is that of amending its legislation on protection of plant varieties so as to bring it into line with the 1991 UPOV Act, by January 1, 2009.

In this connection, the Seeds Division of the Agriculture and Breeding Service, a unit charged with carrying out all the duties and tasks involved in keeping the Register of Protected Plant Varieties, has initiated contacts with the different players in the sector (National Association of Seed Producers (ANPROS) Breeders' Committee, Legal Studies, Creators of Varieties, etc.) in order to ascertain their concerns as to the legal amendment in question and to work on the basis of consensus.

It is estimated that at the end of 2006 a preliminary draft will be available containing the amendment to the current Law No. 19.342, which would be submitted for legislative consideration by the National Congress at the beginning of 2007.

1.2. -

1.3. Extension of Protection to other Genera and Species

Chilean legislation establishes that the breeder's right may be exercised over all botanic genera and species.

As of August 31, 2005, protection has been granted to varieties of 54 different species (28 agricultural, 16 fruit and 10 ornamental), with an increase of three species (*Cucumis sativa*, *Lathyrus sativus* and *Zea mays*) in relation to those existing as at August 31, 2004.

2. Cooperation with Examination

Cooperation agreements have not been concluded with other countries.

3. Situation in the Administrative Field

As of November 1, 2004, Decree Law No. 23/2004 entered into force, as a result of which the former Seeds Department has been renamed as the Seeds Division.

In the period between January 1, 2004 and August 31, 2005, breeders' rights have been recognized for 117 new varieties. Of the total number of such registrations, 18 (15 per cent) correspond to agricultural species, 62 (53 per cent) to fruit species and 37 (32 per cent) to ornamental species.

The total number of protected varieties, as at August 31, 2005, was as follows:

SPECIES	PROTECTED VARIETIES		
	Local	Foreign	Total
Agricultural	54	52	106
Fruit	12	207	219
Ornamental	4	82	86
TOTAL	70	341	411

4. Situation in the Technical Field

No new changes took place in this respect.

ACTIVITIES FOR THE PROMOTION OF PLANT VARIETIES

In July 2004, the First Seminar-Workshop on Intellectual Property for Plant Varieties was held and was attended by four foreign exhibitors (UPOV – URUPOV - SunWorld and Stratton Ballen and the Nursery Licensing Association (NLA)). The Seminar-Workshop was attended by a total of 160 professionals from different spheres (creators of varieties, research centers, law firms representing varieties, nursery owners, official bodies, etc.), who familiarized themselves with the latest new features and problems relating to the protection of plant varieties.

In December 2004, the Seeds Division, in conjunction with the ANPROS Breeders' Committee, provided training on copyright for judges and prosecutors from the central regions of the country, appointed within the new Chilean criminal procedural system.

At the beginning of September 2005, the Seeds Division of the Agriculture and Breeding Service trained inspectors from the Customs Service of the Metropolitan Region in relation to supervising the copyright in breeding materials, both for the import and export of such materials.

[Annex IV follows]

ANNEX IV

EUROPEAN COMMUNITY

Period: October 2004 - October 2005
(Report prepared by the European Commission in close relation with
the Community Plant Variety Office (CPVO))

PLANT VARIETY PROTECTION

1. Legislation

Accession to UPOV

The Council of the European Union approved the accession of the European Community to the International Convention for Protection of New Varieties of Plants, as revised at Geneva on March 19, 1991, by its Council Decision of May 30, 2005¹. Thus, on June 29, 2005, the European Community deposited its instrument for accession to UPOV with the Secretary-General of UPOV. On July 29, 2005, the European Community became full member of UPOV.

The European Community became from that date the first intergovernmental organization to join UPOV.

Implementing rules as regards the “grant of compulsory licences” and “public inspection and access to documents held by the Community Plant Variety Office”

On June 30, 2005, the European Commission amended Commission Regulation (EC) N° 1239/95 as regards implementing rules on the grant of compulsory licences and on public inspection and access to documents held by the Community Plant Variety Office by adopting Commission Regulation (EC) N° 1002/2005² which entered into force on the 20th day following its publication in the Official Journal of the European Union (July 1, 2005).

The changes of the implementing rules were made necessary to comply with amendment of Article 29 (grant of compulsory licences) of the “basic” Council Regulation (EC) N°2100/94 on Community plant variety rights³ as amended by Council Regulation (EC) N°873/2004 (see 2004 report) and with the insertion of an Article 33(a) (public inspection and access to documents) in the basic Council Regulation (EC) N°2100/94 as amended by Council Regulation (EC) N°1650/2003 of June 18, 2003⁴.

¹ OJ L 192, 22.7.2005, p. 63

² Commission Regulation (EC) N° 1002/2005 of June 30, 2005, amending Commission Regulation (EC) N° 1239/95 of May 31, 1995, establishing implementing rules for the application of Council Regulation (EC) N° 2100/94 as regards proceedings before the Community Plant Variety Office, (OJ L 170, 1.7.2005, p. 7).

³ OJ L 227, 1.9.1994, p. 1. Regulation as last amended by Regulation (EC) N° 873/2004 (OJ L 162, 30.4.2004, p. 38).

⁴ OJ L 245, 29.9.2003, p. 28.

Fees payable to the Community Plant Variety Office by the holder of a Community plant variety right

On July 20, 2005, Commission Regulation (EC) N° 1177/2005⁵ amended Regulation(EC) N° 1238/95⁶ establishing implementing rules for the application of Council Regulation (EC) N° 2100/94 as regards the fees payable to the Community Plant Variety Office. The amendment did not change the level of the fees but prolonged a transitional period (2003-2005) during which the application fees and the fees for technical examinations were reduced. The amendment in July 2005 means that the transitional period for annual fees was prolonged until 2007 and the transitional period for fees for technical examinations until 2006. During 2005, the Administrative Council proposed to the European Commission to decrease the level of the annual fees structurally to €200. The European Commission is working on a proposal to lower the fees to €200 to be applicable from January 2006 and onwards.

Seminar on Enforcement of Plant Varieties Rights

On request from the breeders' organizations, a seminar on enforcement of plant variety rights took place on October 4 and 5, 2005, in Brussels. This event is an effort from the side of the European Communities to support breeders in their struggle to enforce their intellectual property rights to plant varieties throughout Europe. The speakers consisted of various experts such as lawyers, judges, law makers from Member States, officials from the Commission and the CPVO, and of course breeders. The Vice Secretary-General of UPOV, Dr. Jördens, chaired one of the sessions.

2. Situation in the Technical and Administrative Fields

Strategic discussion: In March 2004, the CPVO, on request of its Administrative Council, took the initiative to launch in parallel with the review of the distribution of DUS testing in the enlarged European Community, a "strategic" debate as regards the modalities of DUS testing in the future. The aim of that strategic discussion is to analyze whether there are ways to rationalize the present system for DUS testing in a way which would be beneficial to its stakeholders, including the national PVR and listing authorities, the breeders, the organizations in charge of the testing, and the CPVO.

Meetings: To improve the efficiency of the technical network, the CPVO organizes on a regular basis several technical meetings:

◆ *Annual meeting with the EU Examination Offices.* The last meeting took place in November 2004: in addition to the representatives from the examination offices of the CPVO, experts from the candidate countries for EU accession (Bulgaria, Croatia, Romania), Norway, Switzerland, the UPOV Office, the European Commission and Breeders' representatives participated in that meeting.

⁵ OJ L 189, 21.7.2005, p. 26

⁶ OJ L 121, 1.6.1995, p.13

♦ *Experts meetings for ornamentals, agricultural crops, vegetables and fruit* have dealt with their specific problems.

DUS Technical protocols: Pursuant to Council Regulation 2100/94, DUS examination must be performed following technical protocols adopted by the Administrative Council. The CPVO has prepared and implemented a working plan, aiming to produce Technical Protocols for the most important genera and species for which the CPVO did receive applications. The UPOV Test Guidelines are used as a basis for that work. Until now, 99 Technical Protocols have been adopted, and the CPVO plans to continue on this way. However, the most important species in terms of number of applications are today covered by a technical protocol of the CPVO.

3. Information concerning the functioning of the Community Plant Variety Protection Statistics

Until mid-September 2005, the CPVO had received 23,287 applications. By the end of 2005, more than 11,500 varieties will be under active Community protection.

From October 2004 to August 31, 2005, the CPVO received 2,515 applications. So far, the year 2005 shows an increase of 5.3% compared with the same period last year. In 2004, the CPVO granted 2,179 titles.

Since 1995, the CPVO has received a total of 23,287 applications (Status 15/09/2005). The CPVO received applications for varieties belonging to 1,087 different genera/species.

The breakdown by group of species is as follows:

- 61.1% Ornamentals
- 22.7% Agricultural crops
- 10.5% Vegetables
- 5.5% Fruit
- 0.2% Miscellaneous

4. Centralized Database for Variety Denominations

During the last two years, the CPVO has developed a centralized database of variety denominations for the purpose of checking proposed variety denominations for similarity. Since July 2005, the database is available on-line, although not all expected contributors have provided their data yet. The CPVO continues to complete the database so that examination offices in charge of the testing of variety denominations will have an efficient tool at their disposal.

[Annex V follows]

ANNEX V

SPAIN

PROTECTION OF PLANT VARIETIES

1. Situation in the Legislative Field

The approval of the Regulations under Law No. 3/2000, of January 7, containing the Legal Rules Governing the Protection of Varieties of Plants, is in the final stage.

It is expected to be published by the end of 2005. The approval of these Regulations is of great importance since they clarify a number of aspects which the Law left to regulatory practice, such as the definition of a small farmer, the system for the collection of the royalty stemming from the breeder's exemption, as well as procedural questions.

2. Cooperation with Examination

The Spanish Plant Varieties Office has continued to work with the Community Plant Variety Office in receiving applications for Community Titles and producing technical reports relating to the DUS examination for said Community Office.

Spain is an examining office of the Community Office for the species *Choisya matrella*, as well as for the following species with the UPOV code:

ALLIUM_CEP_CEP	HORDE_VUL
ALLIUM_SAT	LACTU_SAT
ASPAR_OFF	LYCOP_ESC_ESC
BRASS_NAP_NUS	ORYZA_SAT
CAPSI_ANN	PHASE_VUL
CICCER_ARI	PRUNU_AMY
CITRU	PRUNU_CSF
CTRLS_LAN	PRUNU_DOM_INS
CUCUM_MEL	PRUNU_PER
CUCUM_SAT	TRITI_AES
DISTI_SPI	TRITI_TUR_DUR
FRAGA	VITIS
GOSSY	ZEAAA_MAY
HLNTS_ANN	

Similarly, cooperation is undertaken with various countries. More specifically, Poland has requested from Spain the DUS reports for the tests corresponding to two varieties of asparagus; Austria requested the DUS report for a variety of sunflower and currently France is processing the application for a variety of Citrus L., for which Spain is carrying out the technical examination.

3. Situation in the Administrative Field

In 2004, 45 applications for plant variety certificates were received.

As at December 31, 2004, the number of plant variety certificates in force was 709.

4. Activities for the Promotion of Plant Varieties

Intense activity was conducted at the national level in the form of seminars and technical meetings designed to provide information for all the sectors concerned on the community, Spanish and international systems for the protection of varieties of plants.

Bilateral cooperation and cooperation with the Union Office has continued and assistance has been provided in particular for the Latin American region. Further training has also been provided for experts.

Special mention should be made of the organization in Bolivia, together with the Spanish Agency for International Cooperation and UPOV, of the "Fourth Training Course for Ibero-American Countries on the Protection of Plant Varieties and Access to Phyto-genetic Resources for Agriculture and Food", held from August 8 to 12, 2005.

52 people from different countries participated in the above event.

ACTIVITIES IN OTHER SECTORS OF INTEREST FOR UPOV

The Register of Commercial Varieties is open and contains 52 agricultural, 52 horticultural and 26 fruit species (including stocks, strawberry and vines).

To date, records are in force for 105 applications to the Register of Commercial Varieties for varieties containing genetically modified organisms of cotton, maize and sugarbeet species. The Spanish List of Commercial Varieties includes 25 varieties of maize which contain genetically modified organisms.

[Annex VI follows]

NICARAGUA

PROTECTION OF PLANT VARIETIES IN NICARAGUA

1. Situation in the Legislative Field

Currently, Nicaragua has Law No. 318 on the Protection of Plant Varieties and the Regulations thereunder contained in Decree 37-2000 which contains provisions of the 1991 Act requiring the introduction only of “extension to the harvested product” and the granting of protection for 25 years to trees and vines.

The breeder’s right is applicable to the varieties of all plant genera and species (Article 10).

2. Cooperation with Examination

-

3. Situation in the Administrative Field

We have the support of an additional staff member, devoted to the activities of the Plant Variety Office:

- Activities (in addition to the statistics already sent to the Office of the Union)

Instructions were prepared for completing the form so that it serves as a guide for the applicant as to how to complete each point of the application and its annexes.

- Particular achievements, experience gained, problems encountered, suggestions (including for the future work of the Union)

Particular achievements and experience gained:

We have granted three breeder titles and in the coming months two titles will be granted.

National and foreign applications have been received.

Problems encountered:

Owing to a lack of funds, we are unable to attend the meetings of the Council and the technical groups in order to make our contribution.

Training (placement) is required in countries that have acceded to the 1991 Act of the UPOV Convention, since Nicaragua has a country agreement to accede to the 1991 Act of the Convention in 2010.

4. Situation in the Technical Field

Working groups have been set up with Nicaraguan specialists in different crops for the preparation of variety descriptors: in basic seeds, oil products and vegetables.

A field visit has been made to observe *in situ* the behavior of the variety for which protection is sought.

Field visits for the technical exchange of experiences concerning observation of plant variety characteristics have been conducted.

5. Activities for the Promotion of the Protection of Plant Varieties

Meetings, seminars, etc.

Nicaragua participated as an exhibitor in different seminars and conferences (National Forum: Law 318 and its impact on national agriculture intended for university professionals, university students and national producers).

- Seminar on the application of UPOV provisions, the right of breeders of ornamental varieties, experience in Ecuador, and Andean and Nicaraguan legislation;
- Training designed for judges, producers and lawyers;
- Talks at universities;
- Regional seminar on the UPOV system (emphasis on the 1991 Act) for the protection of plant breeds;
- Workshop designed for breeders from the Nicaraguan Institute of Agricultural Technology (INTA).

Publications

Electronic journal of the Intellectual Property Registry containing details of the activities of and work done by the Plant Variety Office.

Webpage: <http://www.rpi.gob.ni>, <http://www.mific.gob.ni>

RELATED SECTORS OF ACTIVITIES OF INTEREST FOR UPOV

Certification of seeds: The rights to import, distribute and market seeds are subject to the regulations established in the Law on Seed Production and Trade (Law No. 280), published in Gazette No. 26 of February 9, 1998.

Standards and regulations in the field of genetic engineering (freeing of genetically modified organisms, etc.).

The Regulations under Law No. 291 on Animal Health and Plant Protection contain provisions for the freeing of genetically modified organisms and a draft Law on Biosafety and Genetically Modified Organisms has recently been presented to the National Assembly.

Research and Development (Innovations – new types of varieties, new techniques)

The work of the breeders of the INTA covers:

- Basic seeds (maize, sorghum, beans)
- Vegetables (tomato, bird pepper, onion, chayote)
- Fruit (avocado pear, citrus fruits, strawberry pear, pineapple)
- Crops of the humid tropics (cocoa, ginger, rubber)
- Root and tubers (yucca, new coco yam, sweet potato, potato)
- Oil products (soya, sesame, cotton)
- Palm trees (coconut)
- Woodlands (black timber, oak, earpod, olive tree)
- Musaceae (banana)

Genetic improvement of maize in Nicaragua:

- Tolerance to rotting of the ear;
- Tolerance to stunted growth;
- Tolerance to drought;
- Increase in the quality of protein;
- Production of hybrids.

Genetic Resources

A legal database is currently in existence, which applies to access to genetic resources and is administered by the Ministry of the Environment and Natural Resources.

[Annex VII follows]

ANNEX VII

PANAMA

PROTECTION OF PLANT VARIETIES

1. Situation in the Legislative Field

- 1.1 Through the 1978 Act, on May 23, 1999, Panama acceded to the International Union for the Protection of New Varieties of Plants (UPOV). Title V of Law No. 23 of July 15, 1997, envisages the standards for the protection of plant varieties in Panama and the regulations thereunder are contained in Executive Decree No. 13 of March 19, 1999.
- 1.2 Resolution No. 020-04 of August 17, 2004, establishes the rules for verifying distinctiveness, uniformity and stability in the Republic of Panama; Gazette No. 24,141 of September 21, 2004.
- 1.3 Decision No. DAL-62-ADM-05 of August 18, 2005 published details of the new members of the Council for the Protection of Plant Varieties (COPOV).
- 1.4 The Ministry of Agricultural Development (MIDA) establishes its recommendation for a variety in the process of registration through Ministerial Decision No. ADL-023-ADM-05 of April 4, 2005 and through Decision No. ADL-120-ADM-05 of May 27, 2005.
- 1.5 The Advisory Committee approved the inclusion of the following genera and species for protection:

<u>Common Name</u>	<u>Genus and/or species</u>
1. Onion	<i>Allium cepa L.</i>
2. Mauritius Grass	<i>Brachiaria spp.</i>
3. Lettuce	<i>Lactuca sativa L.</i>
4. Melon	<i>Cucumis melo L.</i>
5. Orange	<i>Citrus Sinensis Osb.</i>
6. Strawberry	<i>Fragaria ananassa Duch.</i>
7. Potato	<i>Solanum tuberosum L.</i>
8. Cucumber	<i>Cucumis sativus L.</i>
9. Pineapple	<i>Ananas comosus (L.) Merr.</i>
10. Sorghum	<i>Sorghum bicolor (L.) Moench</i>
11. Water melon	<i>Citrullus lanatus</i>
12. Carrot	<i>Daucus Carota L.</i>

2. Cooperation with Examination

Cooperation continued in the exchange of examinations with the Colombian Agriculture Institute (ICA) and cooperation was launched with the International Centre for Tropical Agriculture (CIAT).

3. Situation in the Administrative Field

3.1 To date, two (2) journals of plant varieties have been published, Journal No. 153 of September 16, 2004, and Journal No. 166 of April 26, 2005, which may be consulted on the DIGERPI website.

3.2 The Administrative Directorate of MIDA allocates premises for the operation of COPOV, located in building 572, Manuel E. Melo Curundu Street.

3.3 Up to the end of 2004, the following applications had been applied for and recorded. See Table No. 1. Update of document C/36/7.

Table 1. Document C/36/7

Year	Applications filed by:			Titles issued to			Titles having ceased to be in force in reference year	Titles in force at end of reference year
	Residents	Non-residents	Total	Residents	Non-residents	Total		
2000	-	1	1	-	-	-	-	-
2001	-	-	-	-	-	-	-	-
2002	-	4	4	-	-	-	-	-
2003	-	1	1	-	-	-	-	-
2004	5	2	7	-	2	2	-	2

Source: Department of Plant Varieties

4. Situation in the Technical Field

Apart from the validation examinations received from Colombia for rice and the Community Plant Variety Office, no examinations have been obtained from other countries. See Table No. 2. Update of document C/36/5.

Table 2. Document C/36/5

No.	TAXON	Offering/ examining States	States receiving examination reports	States exchanging examination reports
172	Strawberry	OCVV	PA	-
288	Rice	CO	PA	-

5. Activities for the Promotion of the Protection of Plant Varieties

5.1 Training continued for the public sector, academics, officials of the agricultural quarantine, customs, judges, prosecutors and technicians concerning the importance and application of the breeder's right. In addition, conferences were given on the importance of the breeder's right, processing and application of the breeder's right in Panama, DUS technical examination, and the relationship between the Commercial Register and the breeder's right. Table 3 shows the number of trained persons:

Table 3. Staff Trained by Sector in Panama

<u>Place</u>	Date	Producers Importers Agents	Public Sector	Academic and Professional	Total
USMA Students of Law	September 30, 2004	-	-	12	12
Students of the Agricultural Sciences Faculty (FCA) of the University of Panama	October 26, 2004	-	-	25	25
National Institute of Agriculture	October 13, 2005		6	30	36
Members of the National Union of Lawyers (UNA)	November 2004	-	-	20	20
Total		0	6	87	93

Source: Council for the Protection of Plant Varieties

5.2 Written publications include:

- On November 12, 2003, Official Journal No. 135 Volume II of Plant Varieties protected in Panama was published. This document was sent in PDF format to the different members that have acceded to the UPOV Convention and can be obtained on the Department website at <http://www.digerpi.gob.pa>
- During the talks arranged pamphlets, copies of talks, registration applications and a copy of Law No. 23 of July 15, 1997 were distributed.

6. RELATED ACTIVITIES OF INTEREST FOR UPOV

Panama participated in the National Coordination Committee for the “Development of the National Framework of Biotechnology Security for Panama” Project.

[Annex VIII follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

Portugal recognizes plant breeder's rights to whole plant kingdom since November 20, 2004, by publication of an amendment of Article 7 of Decree Law N° 913/90.

2. Cooperation in Examination

The Portuguese PBR's Office continues to cooperate with plant breeders' rights offices from other UPOV members and also with the Community Plant Variety Office.

3. Situation in the Administrative Field

Nothing new to add to the previous situation.

4. Situation in the Technical Field

Nothing new to add to the previous situation.

5. Activities for the Promotion of Plant Variety Protection

Nothing new to add to the previous situation.

[Annex IX follows]

ANNEX IX

REPUBLIC OF KOREA

PLANT VARIETY PROTECTION

Activities for the Promotion of Plant Variety Protection

Symposium

Title: The Development of Seed Science and Industry in the Republic of Korea

Presented by eight speakers; 410 persons participated from national offices

Date: December 10, 2004

Co-hosted by NSMO and KOSID

Visits to and from non-members

1. Participation at the sixth UPOV Asian Regional Technical Meeting for Plant Variety Protection

Four staff members from NSMO/Republic of Korea participated at the sixth UPOV Asian Regional Technical Meeting, organized by UPOV and hosted by the Government of Singapore, from August 28 to September 2, 2005.

2. Participation at a training program for the Protection of Plant Breeder's Rights

Two staff members from NSMO (Republic of Korea) participated in a training course for DUS test for ornamental species for four weeks from June 28 to July 23, 2004, and another staff participated in an image analysis for one week at the *Bundessortenamt* of Germany.

One staff from NSMO (Republic of Korea) participated in a study tour for IPR including PVP with three patent examiners from KIPO for six weeks at the Offices of UPOV, ISF, etc.

Host of the UPOV Technical Working Party for Ornamental Plants and Forest Trees (TWO)

The thirty-eighth session of the Technical Working Party for Ornamental Plants and Forest Trees (TWO) was held in Olympic Parktel, Seoul, from September 12 to 16, 2005. Thirty-four experts from UPOV member and observer countries and around 20 persons from national offices participated. Prior to the TWO session, a Preparatory Workshop of PVP for national experts was held on September 11, 2005. Around 70 persons participated at this workshop from the Republic of Korea and UPOV member countries.

Publication

Title: Korean Plant Variety Protection Report

A list of varieties registered from January 1 to December 31, 2004, was published and distributed as the "Korean Plant Variety Protection Report" to the Office of UPOV, to member countries of UPOV and related organizations.

[Annex X follows]

ANNEX X

CZECH REPUBLIC

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

The Ministry of Agriculture prepared a draft of new law amending the present Act No. 408/2000 Coll. on the protection of plant variety rights. The law proposal is negotiated in the Parliament now.

The new law will provide more detailed rules concerning farm-saved seed and the enforcement of plant variety rights, inclusive of certain measures implementing provisions of Council Directive 2004/48/EC on the enforcement of intellectual property rights. Furthermore, some amendments provide the necessary references with regard to regulations on Community plant variety rights.

2. Cooperation in Examination

A bilateral agreement with Denmark and a designation agreement with the Community Plant Variety Office were concluded.

3. Situation in the Administrative Field

Within the period from September 1, 2004, to September 1, 2005, 43 applications for protection were received and 57 titles were issued. At the last date, 605 titles were in force and 255 applications pending.

Testing fees were modified by Decree No. 129/2005 Coll.

4. Situation in the Technical Field

Nothing to report.

[Annex XI follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

- In the legislative field, a draft project was made for new amendments of the Law No. 255/1998 on the protection of new varieties of plants in order to be in conformity with European Regulations 2100/1994.
- The most important amendments relate to the farmer's privilege and the extension of duration of protection to 30 years for potatoes, hop and strawberry.
- The fees for protection of plant varieties were also modified and introduced in a new special law comprising all the fees for the protection of industrial property rights. Both legislative drafts are at the moment in the Parliament.

2. Cooperation in Examination

-

3. Situation in the Administrative Field

- In the administrative field, a draft project regarding the changing of the structure of the State Institute for Variety Testing and Registration was sent to the Ministry of Agriculture, Forests and Rural Development to be approved.
- Progresses were made regarding the variety testing by enlarging the reference collection for DUS testing, due to the permanent assistance received from the European experts.
- Accordingly, the State Institute for Variety Testing and Registration as a public institution, responsible for DUS and VCU variety testing, elaborated a new Order No. 137/2004 on the varieties testing and registration.
- The Order is harmonized with EC/90/2003 and EC/91/2003 on the minimal conditions for examination of agricultural species and vegetables and the EU provisions regarding the rules concerning varieties denominations.
- The Institute cooperates with its homologues from Central and Eastern European countries for the implementation of CPVO protocols and UPOV guidelines.
- The Law No. 161/2004 regulates the production, commercialization and use of forest reproductive material to be in line with the Council Directive No. 105/1999 on regulation of the marketing of forest reproductive material.
- The national authority in charge of the implementation of the Law No. 161/2004 is the Ministry of Agriculture, Forests and Rural Development by means of its specialized territorial units, the Regional Directorates for Forest Regime and Hunting.

4. Related Fields of Activities

- In order to have the seed control and certification implemented in conformity with the Law No. 266/2002 on producing, controlling, quality certifying and commercialization of seeds and seedling material, the national authority designated is the National Inspectorate for Quality of Seeds (INCS). The Inspectorate has an administrative structure composed of a Central Laboratory for Seed Quality and Propagating Material and 30 territorial inspectorates which cover all the country.
- Those are responsible for the implementation of the legislation and the European Union Directives in the field.
- During the last year (2004), the staff of the Inspectorate trained 6,088 people — suppliers— registered for production, processing and/or marketing of seeds and propagating material.
- All 30 territorial units were equipped with laboratory instruments and computers, the money of that was taken from budgetary sources.

5. Activities for the Promotion of Plant Variety Protection

In the field of promotion of plant variety protection, it can be pointed out that experts from the State Office for Inventions and Trademarks permanently cooperate with plant breeding researchers from all over the country, participate at their scientific meetings, give them lectures about the importance of plant variety protection.

At present, there is also a cooperation program with the University of Agriculture Sciences of Bucharest in order to stimulate the creativity of the actual and future specialists in the field of plant breeding.

[Annex XII follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

The intellectual property of plant varieties is protected in accordance with the Variety Protection Law No. 132/1989 of the Collection of Laws.

The amendment No. 22/1996 of the Collection of Laws to the Law No. 132/1989 on the legal protection of new varieties of plants and breeds of animals was adopted in the National Council of the Slovak Republic on December 19, 1995, and came into force on February 1, 1996. This amendment brought the Slovak legislation into conformity with the 1991 Act of the Convention and also into conformity with the EC Council Regulation No. 2100/94. Preparatory work for ratification of the 1991 Act has already started. After adoption of Regulations No. 345/1997 and No. 346/1997 by the National Council of the Slovak Republic on November 10, 1997, which came into force on January 1, 1998, we are in a position to ratify the 1991 Act and to deposit the instrument of accession.

Fees for tests necessary for granting a breeder's certificate and for legal protection are paid according to the Law No. 181/1993 Coll. of Laws on administrative payments. Fees were published as an amendment to the Regulation for application of plant varieties for legal protection according to Law No. 132/89 Coll. of Laws. This regulation is in force from December 1, 1994, and is available in Slovak and English version for all applicants, holders of the breeder's certificate and agents of foreign companies at the ÚKSÚP Variety Testing Department.

2. Cooperation in Examination

On February 19, 1993, Slovakia concluded the cooperation agreement on DUS testing with the Czech Republic. Slovak ÚKSÚP is testing for ÚKZÚZ (Central Institute for Supervising and Testing in Agriculture) cocksfoot, red fescue, sheeps fescue, timothy, small timothy, birdsfoot trefoil, melon, eggplant, popcorn, sugar maize.

ÚKZÚZ is testing for ÚKSÚP common vetch, Hungarian vetch, crown vetch, lucerne, alsike clover, creeping bent, common bent, meadow foxtail, tall oatgrass, crested dogs, tall fescue, Westerw grass, flattened grass, wood meadow grass, kentucky blue grass, smooth meadow grass, all interhybrids and intercrops hybrids of grasses, garlic, celery, mangold, savoy cabbage, cauliflower, carrot, lettuce, radish, spinach, and all ornamental plant varieties which ÚKZÚZ is currently testing.

In 1994, the agreement on variety testing was concluded with Poland.

Since 1995, ÚKSÚP has been testing for COBORU (Polish Research Center for Cultivar Testing) timothy, red fescue, birdsfoot trefoil, cocksfoot, leek, melon, eggplant.

COBORU is testing for ÚKSÚP buckwheat, lupin, white mustard, broccoli, Brussels sprout.

In July 1995, the bilateral agreement on DUS testing was concluded with Hungary.

ÚKSÚP is testing for OMMI potato, timothy, red fescue, birdsfoot, leek, melon, eggplant.

OMMI is testing for ÚKSÚP durum wheat, sorghum, pepper, watermelon, squash.

The cooperation agreement with Slovenia is under preparation. ÚKSÚP tested for the Slovenian Agricultural Institute the following species: timothy, cocksfoot trefoil, red clover, dwarf French bean, tomato.

ÚKSÚP also tested tomato varieties for Estonia.

An international meeting with the participation of the Czech Republic, Slovak Republic, Poland and Hungary was organized in the beginning of September in Budapest. The discussion was aimed to reorganize the DUS testing and prepare a new draft of the agreement between the involved countries.

3. Situation in the Administrative Field in the Year 2004

Since January 1 up to December 31, 2004, 33 applications for plant breeders' rights were registered, 48 applications were rejected.

The number of protection titles granted in 2004 was 28 varieties. The number of protection titles cancelled was 10.

In total, there were 398 applications in force up to the end of December 2004 and 302 titles granted.

Whereas, according to the amendment No. 22/1996 of the Collection of Laws to the Law No. 132/1989 on the legal protection of new varieties of plants and breeds of animals which covers the protection of all botanical genera and species, we have applications for some ornamental and other genera not yet tested in Slovakia. We will carry out the tests with the cooperation of the UPOV members.

4. Activities for the Promotion of Plant Variety Protection

The Variety Testing Department of the UKSUP (Central Agricultural Controlling and Testing Institute) periodically publishes descriptions of newly registered varieties in the National List and the results of the VCU tests. It organizes so-called "Open Days" at its own testing stations network. Specialists of the Variety Testing Department maintain close contacts with colleagues from foreign institutions and cooperate in DUS testing.

Our experts participated in the "Ring test for potato" in Poland in the July 2005.

There is an aim to continue in future in organizing the DUS ring tests which are a great contribution in exchanging experience in DUS testing of different crops.

Slovakian experts also take part in the subgroups of experts preparing the drafts of guidelines for different species and work in the Technical Working Parties. Experts from Slovakia are the leading experts in preparing new draft Test Guidelines for Sea Buckthorn.

Slovakia hosted the Technical Working Party for Vegetables in Nitra from June 6 to 10, 2005, and the Preparatory Workshop on June 5, 2005.

5. Application of Biochemical, Molecular and Morphometrical Techniques in Seed and Variety Testing

Application of mentioned techniques in official testing is carried out by ÚKSÚP's laboratory for biochemical and genetic testing. This laboratory is in charge of standardization of testing methods, development of new methods and coordination of testing activities in Slovakia. In the area of DNA markers, it cooperates with the Research Institute of Plant Production in Piešťany and in the area of isoenzyme analysis with the breeding company Zeainvent Trnava.

In official testing of seeds and plant varieties, we mostly apply electrophoretic tests by using storage proteins and isoenzymes according to standard ISTA methods and recommended UPOV methods (mostly PAGE, SDS-PAGE and starch gel electrophoresis). We use morphometric analysis of shape of seeds as the complementary phenotype test.

Tested parameters:

Seeds: authenticity of varieties, varietal homogeneity, determination of admixtures.

Varieties: description of varieties by electrophoretogram, distinguishing of varieties, homogeneity testing, potential stability testing.

Electrophoretically tested species: wheat, barley, maize, oats, triticale, rye, potato, peas, soya bean.

For wheat, barley and potato, there are complete electrophoretogram description of all registered varieties.

Morphometric tests: wheat, bean, potentially triticale and barley.

6. Future Plans

We would like to maintain further cooperation with the UPOV members and to continue in the „ring tests” which are a great contribution for improving the DUS testing.

We would like to become an active member of UPOV and to be helpful in all fields.

[End of Annex XII and of document]