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GENEVA

COUNCIL

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ADDENDUM TO DOCUMENT C/43/12

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

Document prepared by the Office of the Union

The following reports were received after the deadline of September 30, 2009 (in the alphabetical order of the names in French):

Members: Annexes I to III: South Africa, Brazil and Turkey.

[Annexes follow]

ANNEX I

SOUTH AFRICA

PLANT VARIETY PROTECTION

1. Situation in the legislative field1.1 Amendments of the law and the implementing regulations

The annual increase of Plant Breeders' Rights fees on April 1, 2009 was published in Government Gazette Vol. 525 of March 31, 2009.

1.2 Case law

Nothing to report.

1.3 Extension of protection to further genera and species

Protection was extended to the following taxa:

1	
Kind of plant Soort Plant	
Botanical Name Botaniese Naam	Common Name Gewone Naam
<i>Abelmoschus</i> Medik. (All/Alle spp.)	Gumbo, Lady's fingers
<i>Acorus</i> L. (All/Alle spp.)	Sweet flag
<i>Ageratina</i> Spach (All/Alle spp.)	Ageratina
<i>Allium sativum</i> L.	Garlic
<i>Artemisia</i> L. (All/Alle spp.)	Artemisia
<i>Bauhinia</i> L. (excluding <i>B. purpurea</i> and <i>B. variegata</i>)	Bauhinia; Orchid tree
<i>Carex brunnea</i> Thunb.	Greater brown sedge
<i>Coleostephus</i> Cass. (All/Alle spp.)	Coleostephus
<i>Crambe abyssinica</i> Hochst. Ex R.E. Fr.	Abyssinian-kale; Crambe
<i>Crinum</i> L. (All/Alle spp.)	Cape Lily
<i>Cyperus</i> L. (All/Alle spp.)	Sedge
<i>Delosperma</i> N.E.Br. (All/Alle spp.)	Delosperma
<i>Dierama</i> C.Koch. (All/Alle spp.)	Wandflower
<i>Dietes</i> Salisb. ex Klatt (All/Alle spp.)	Fortnight Lily; African Iris
<i>Draceana</i> L. (All/Alle spp.)	Draceana
<i>Eucomis</i> L'Hér. (All/Alle spp.)	Pineapple lily
<i>Ferraria</i> Burm. ex Mill. (All/Alle spp.)	Ferraria
<i>Gaillardia x grandiflora</i> hort. ex Van Houtte	Blanket Flower
<i>Glandularia</i> J.F. Gmel. (All/Alle spp.)	Glandularia
<i>Goniolimon</i> Boiss. (All/Alle spp.)	Goniolimon
<i>Hermannia</i> L. (All/Alle spp.)	Doll's roses
<i>Heteranthemis</i> Schott (All/Alle spp.)	Heteranthemis
<i>Heuchera</i> L. (All/Alle spp.)	Coral bells
<i>Hypoxis</i> L. (All/Alle spp.)	Yellow star; Star lily; African potato
<i>Ilex dimorphophylla</i> Koidz	Holly
<i>Kniphofia</i> Moench (All/Alle spp.)	Poker plant
<i>Kunzea</i> Reichb. (All/Alle spp.)	Burgan, White tea tree
<i>Ledebouria</i> Roth. [including <i>Drimiopsis</i> Lindl. & Paxton and <i>Resnova</i> Van der Merwe] (All/Alle spp.)	Ledebouria
<i>Leucanthemum</i> Mill.	Leucanthemum

1	
Kind of plant Soort Plant	
Botanical Name Botaniese Naam	Common Name Gewone Naam
<i>Moraea</i> Mill. (All/Alle spp.)	Butterfly iris
<i>Polygala</i> L. (All/Alle spp.)	Milkwort; snakeroot
<i>Psylliostachys</i> (Jaub. & Spach) Nevsk (All/Alle spp.)	Psylliostachys
<i>Rhodohypoxis</i> Nel (All/Alle spp.)	Rose grass
<i>Scadoxus</i> Raf. (All/Alle spp.)	Blood lily
<i>Schizocarpus</i> Van der Merwe (All/Alle spp.)	Schizorcaphus
<i>Selago</i> L. (All/Alle spp.)	Selago
<i>Sideroxylon inerme</i> L.	Milkwood
<i>Stachytarpheta</i> Vahl. (All/Alle spp.)	Stachytarpheta
<i>Tanacetum</i> L. (All/Alle spp.)	Tanacetum
<i>Veltheimia</i> Gled. (All/Alle spp.)	Veltheimia
<i>Verbascum</i> L. (All/Alle spp.)	Mullein

2. Cooperation in examination

A decision was made to purchase DUS results for all Lucerne varieties from the relevant UPOV member countries.

3. Situation in the administrative field

Activities (additions to the statistics already given to the Office of the Union)

Between October 2008 and October 2009 the following were processed:

	Agricultural Crops	Vegetable Crops	Ornamental Crops	Fruit Crops	Total
Applications registered	88	31	108	70	297
PBRs granted	27	18	45	67	157

4. Situation in the technical field (see under 3)

Nothing to report.

5. Activities for the promotion of plant variety protection

Publications

- An advertorial article on the Plant Breeders' Rights System in South Africa was published in South Africa: Alive with possibility.com, a magazine distributed internationally;
- All matters related to Plant Breeders' Rights are published in the quarterly South African Plant Variety Journal which appears on the web-site of the Department of Agriculture, Fisheries and Forestry (<http://www.daff.gov.za>).

[Annex II follows]

ANNEX II

BRAZIL

I. VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

A new Plant Variety Protection Law was drafted in a coordinated work started on 2006 involving the PVP register, experts of the Ministry of Agriculture, breeders and representative associations. The project was later discussed by the President advisers and the experts of ten Ministries. The project is laying down on the President Office ready to be sent to the Congress since December, 2008.

On 2007 two Deputies presented amendments to the current law. The proposals are very similar and basically change the scope of breeders rights by extending the rights until the harvest material for all crops and restrict the privileges of farmers. The expectation is that the projects will be replaced by the Government proposal.

1.2 Extension of protection to further genera and species

By September 30, 2009, 96 national guidelines were published, with the total of 92 genera covered by the Brazilian plant variety protection system. There are about 30 new guidelines being drafted.

1.3 Case law

Regarding some court cases with claims related to misappropriation of protected varieties, the judges have been requested to the National Plant Variety Protection Service (SNPC) to identify the arrested material by comparing it to the living plant material of the protected variety that is held by SNPC.

Recently a legal procedure against the SNPC was placed opposing to the cancelation of PBR due to the lost of uniformity/stability of a protected variety based to the provisions of the National Law of 1997. The breeder arguments that once the UPOV Convention, 1978 Act, had its text fully adopted by Brazil on 1999, and established on its article 10(4) that no other conditions than those mentioned on this article can be used as a reason for cancellation, it has the power of revoke any national provision that goes beyond them. The contested provision of the current law are in accordance to the Article 22 (1) of UPOV 1991 Act.

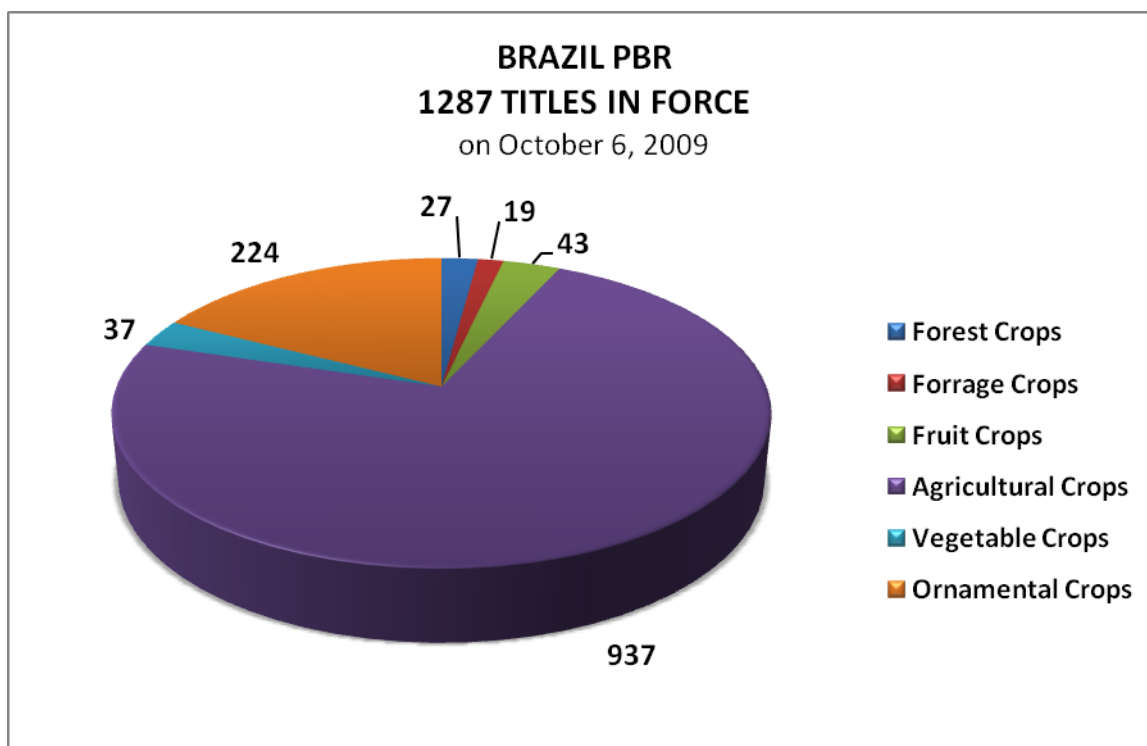
2. Cooperation in examination

For foreign varieties with national authorities from other UPOV members the species Nothing to report.

3. Situation in the administrative field

By October 6, 2009, the total number of valid plant breeders' rights was 1,287.

	Agricultural Crops	Vegetable Crops	Ornamental Crops	Fruit Crops	Forest Crops	Total
PBR Titles in Force	937	37	224	43	27	1287



The developments related to the electronic application system were concluded and implementations are being carried regarding the availability of documents, information and data in the public area of the SNPC website. Also special services to the breeders and their legal representatives are being provided.

The SNPC website is also continually updated with new guidelines, technical publications, links to on line payment and related websites, information about events and activities related to PVP.

4. Situation in the technical field

The National Service of Plant Variety Protection (SNPC) under the Department of Intellectual Property for Agriculture of the Ministry of Agriculture has a total of seven technicians responsible for examination of applications and inspect DUS tests which are made by the breeders.

Activities with breeders:

Trials for identification of example varieties for cotton, soybean, rice, pearl millet and wheat have been conducted since 2007. A new guideline for description of soybean varieties has just been established. The trials also provides the opportunity to improve the method of DUS evaluation in order to harmonize the description of varieties of main species.

The development of 23 national guidelines is in course and the revision of nine existing guidelines as well. Those activities are involving 44 institutions and around 90 experts.

5. Activities for the promotion of plant variety protection

During the last year, the National Plant Variety Protection Service (SNPC) organized the following events:

- Seminar on Plant Variety Protection for The Intellectual Property Network of Amazonas State – November/200 – Manaus/AM (35 participants)
- Workshop on Harmonization of DUS Tests for Examiners of Pearl Millet – May/2009 – Brasília/DF (16 participants)
- Workshop on Harmonization of DUS Tests for Examiners of Soybean – June/2009 – Goiânia/GO (52 participants)
- Seminar on Plant Variety Protection for The Intellectual Property Network of Minas Gerais State – June/2009 – Belo Horizonte (53 participants)
- Workshop on Harmonization of DUS Tests for Examiners of Cotton – October/2008 – Uberlândia/MG (19 participants)

and was invited to make presentations on the following events:

- Public Audience of the Chamber of Deputies: “Amendments to Plant Variety Protection Acts”- Nov/2008 – Brasília/DF (110 participants)
- International Conference on Plant Breeders Rights (Promoted by CIOPORA) – March/2009 – Campinas/SP (100 participants)
- Launch of Working Group on Plant Variety Protection of Brazilian Association of Intellectual Property (ABPI) – March/2009 – São Paulo/SP (50 participants)
- National Congress on Vegetable Crops– April/2009 – Brasilia/DF (600 participants)
- Intellectual Property Course (Promoted by Federal University of Santa Catarina-UFSC and National Institute of Industrial Property-INPI) – May/2009- Florianópolis/SC (150 participants)
- Intellectual Property Seminar of Agronomic Institute of Campinas-IAC –May/2009 - Campinas/SP (60 participants)
- Technical Meeting of the Paraná State Seed Commission – June/2009 – Foz do Iguaçu-PR (300 participants)
- Board of Soybean (Forum of public and private sector) – Presentation of the Draft of Proposed PVP Law – June/2009 – Goiânia/GO (25 participants)

- Public Audience of the Chamber of Deputies: “End Point Royalties on Soybean” – August/2009 – Brasília/DF (60 participants)
- 1st and 2nd Teleconference of Intellectual Property on Agribusiness Long Distance Course - July and August/2009 (1,000 participants)
- Board of Agricultural Inputs (Forum of public and private sector) – Presentation of the Draft of Proposed PVP Law – August/2009 – Brasília/DF (40 participants)
- Plant Breeding National Congress – August/2009 – Guarapari/ES (2,000 participants)
- National Meeting on Seed Inspection – October/2009 – João Pessoa/PB (82 participants)

Distance Learning Course on Intellectual Property on Agribusiness: sponsored by the Department of Intellectual Property of the Ministry of Agriculture, the course was offered to 1,000 participants. A book was organized and included a chapter of Plant Variety Protection. Now a specific PVP course is being drafted to be offered in 2010 in cooperation with the Federal University of Viçosa.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex III follows]

ANNEX III

TURKEY

PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Law 5042 “ Protection of Plant Breeder’s Rights of New Plant Varieties”, which was prepared on the basis of the 1991 act of the UPOV Convention and EU Directive 2100/94 on Community Plant Variety Rights was passed by the Turkish Parliament on January 8, 2004; it was published in the Official Gazette numbered 25347 on January 15, 2004 and came into force. The secondary legislations of “Implementation of Farmer’s Exemption” and “Protection of Plant Breeder’s Rights of New Plant Varieties” were published in Official Gazette on August 12, 2004. The UPOV Convention was ratified by the Turkish Parliament on March 17, 2007 through the Law numbered 5601. By the resolution numbered 2007/12433 of the Council of Ministers on July 28, 2007, Turkey’s participation to the UPOV Convention was decided.

Following the enforcement of Law 5042, (between 15 January 2004 and August 2009) applications were made for 348 plant varieties in 61 species. Among these, 261 applications were accepted and published in the Plant Varieties Bulletin, 85 applications were rejected and examinations for the remaining 156 applications are still in progress. Those varieties of which the announcement durations are over would be subjected to DUS tests. For those varieties of which DUS tests were completed and their results delivered to the Ministry will be appraised by the Plant Breeder’s Rights Registration Committee. Until now, protection for 107 varieties in various species were granted. Enlarging activities of the national applicable plant list of PBR are continuing according to the proposal of the relevant establishments.

All the fees of the PBR are updated and published at the beginning of every year on the official web site.

2. Cooperation in examination

DUS tests of those varieties of which applications have been accepted within the context of the Law 5042 “Protection of Plant Breeder’s Rights of New Plant Varieties” are carried out by the Turkish Variety Registration and Seed Certification Center (VRSCC). For those species of which the DUS tests cannot be carried out by VRSCC, the protocol preparation studies were started in cooperation with Germany, France and the Netherlands concerning in which countries the technical examinations will be carried out.

Regarding to the reciprocative provision of official variety description forms and other documents, the technical cooperation with CPVO and some countries such as the Netherlands and France has been implemented according to a protocol.

3. Situation in the administrative field

According to the reorganization of MARA all activities of seed process to registration, certification and PBR were separated from GDPC and given to the General Directorate of Agricultural Production and Development therefore all applications on PBR are done by this new general directorate.

4. Situation in the technical field

The advancement of both staff and material capacity (training, lab substructure, instruments, trialing equipments and so on) is being continued by the VRSCC which is commissioned on behalf of the Ministry for carrying out the technical examinations envisaged by the Law “Protection of Plant Breeder’s Rights of New Plant Varieties”.

Technical capacity is being increased by the construction of a greenhouse in Ankara to set up DUS test in framework of the Seed Project.

5. Activities

Also implementation and the problems of the PBR are examined during the seed Project German and French expertises with our expertises by seminar and training on farm safe seed, denomination etc. in 2009.

A Plant Varieties Bulletin within the context of the protection granted crop varieties by the Ministry is published periodically.

We sent our data on granted varieties name to UPOV for the first time.

[End of Annex III and of document]