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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

Twenty-ninth Ordinary Session Geneva, October 17, 1995

REPORTS BY REPRESENTATIVES OF STATES AND ORGANIZATIONS ON THE SITUATION IN THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS

Document prepared by the Office of the Union

1. According to the practice introduced on the occasion of the twenty-sixth ordinary session of the Council, it is recommended that the reports from the representatives of States (member States and observer States) and intergovernmental organizations on the situation in the legislative, administrative and technical fields of plant variety protection and related areas be submitted in writing, in advance, to increase the ability of the Council to effectively carry out its tasks.
2. Written reports have been requested by the Office of the Union in the invitation circulars relating to this session and a model format has been proposed for the purpose. The reports submitted by the following States are reproduced in Annexes I to VII (in the alphabetical order of the names of the States in French): Germany, Austria, Denmark, Japan, Poland, Sweden, China (non-member State).
3. It was indicated from Switzerland that there was nothing new to report on.

[Seven annexes follow]

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ANNEX I

GERMANY

Situation in the Legislative Field

A proposal for the amendment of the national plant variety protection law has been established and discussed with the interested circles. A Government draft law on the amendment of the plant variety protection law has not yet been established, however.

The tariff of fees of the Federal Office of Plant Varieties was amended by an order of November 7, 1994, amending the Order on the Procedure Before the Federal Office of Plant Varieties. The fees for the technical examination for distinctness, uniformity and stability were increased by some 50%, and the other fees by some 25%.

Cooperation in Examination

An administrative agreement has been concluded with the Variety Protection Office of Austria; the Federal Office of Plant Varieties will examine, on behalf of the latter, the varieties of four species of agricultural crops, eight species of fruit crops and two species of trees.

The administrative agreement concluded with the Plant Variety Board of Finland has been extended. The results of the technical examinations made by one of the offices for *Triticum aestivum* L. (bread wheat) will be taken over by the other. An administrative agreement with the Institute for Agricultural Quality Control of Hungary is in preparation.

Activities for the Promotion of Plant Variety Protection

Technical training has been given to staff members of the variety offices of the successor States of the former Soviet Union, of China and of Slovenia.

[Annex II follows]

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ANNEX II

AUSTRIA

Situation in the Legislative Field

The calendar for the adjustment of the law to the 1991 Act has not been fixed yet.

The application and examination fees have been increased.

Protection was extended to 25 further species as from July 1, 1995.

Cooperation in Examination

Administrative agreements have been concluded with Germany and the United Kingdom. An agreement with France is in preparation.

Situation in the Administrative Field

From January 1 to July 31, 1995, 12 applications were received and 12 titles were issued; 170 titles were in force on July 1.

Developments in Related Fields of Activities

The Federal Law published in the Official Journal No. 510/94--Genetic Engineering Law (GenTG) and Amendment of the Law on Product Liability--entered into force on January 1, 1995.

Austria is a member of the "Genetic Resources in Agriculture" Committee of the European Union set up under Regulation (EC) 1467/94 on the conservation, description, collection and utilization of genetic resources in agriculture.

[Annex III follows]

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ANNEX III

DENMARK

Situation in the Legislative Field

It is still expected that the Danish plant variety protection Act of 1987 will be revised by the end of 1995. A draft of the revised law is expected to be sent out shortly for a final hearing of the relevant circles. The intended revision will enable Denmark to ratify the 1991 Act.

An extension of protection to the whole genus apple--to include rootstocks--is under preparation.

Situation in the Administrative Field

In 1994, 302 applications for plant breeders' rights were received, as follows:

Agricultural crops	87
Fruit	5
Vegetables	3
Ornamentals	205
Landscape	2

In 1994, the number of titles of protection issued was 252:

Agricultural crops	78
Fruit	2
Vegetables	7
Ornamentals	162
Landscape	3

In the period from January 1 to August 10, 1995, 81 applications for protection were received and 154 titles of protection were issued.

Situation in the Technical Field--Genetically Modified Organisms

In 1994, the Plant Directorate, Division of Gene Technology and Variety Testing, was asked by the Ministry of Environment to comment on 151 EU Summary Notification Information Formats (SNIFs) concerning experimental releases of genetically modified plants. In the period from January 1 to August 18, 1995, the Directorate reviewed a further 193 SNIFs.

In addition, applications for marketing approval of genetically modified plants of maize, red radish, oilseed rape and soybean have been examined.

Activities for the Promotion of Plant Variety Protection

A brochure describing the possibilities of protection for plant material has been issued jointly by the Patent Office and the Plant Directorate.

[Annex IV follows]

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ANNEX IV

JAPAN

Situation in the Legislative Field

Preparatory work is being undertaken to make the amendments to the Seeds and Seedlings Law that are necessary for its adaptation to the 1991 Act of the Convention.

Cooperation in Examination

The Government of Japan is communicating with the Governments of Denmark, Germany, the Netherlands and the United Kingdom for the establishment of agreements on cooperation in examination.

Activities for the Promotion of the Protection of Plant Varieties

The Japanese Government actively contributes to the UPOV Regional Seminar on Variety Testing for Tropical and Subtropical Crops to be held in Medan (Indonesia), from December 5 to 7, 1995.

[Annex V follows]

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ANNEX V

POLAND

Situation in the Legislative Field

The new Seed Industry Law is being considered by the Diet. After examination by the special subcommission for the law, it has been transmitted to the Commission for Agriculture and Food Economy of the Diet. It is expected that the Diet will pass it in the last quarter of the year and that the Law will be in force at the beginning of 1996. In its part concerning plant variety protection the Law is adapted to the 1991 Act.

The amounts of fees for protection are revised twice a year. They are based on the price of rye fixed for farm rents. The currently applicable amounts have been published and forwarded to the offices of the member States and to the Office of the Union together with the Polish Plant Breeders' Rights Gazette.

The number of protected taxa will be increased to some 275 (some 45 more than at present). The list will be published by a decree of the Minister for Agriculture and Food Economy once the new Seed Industry Law has been adopted.

Cooperation in Examination

Poland entered into a bilateral agreement on cooperation in DUS testing with the Czech Republic and Slovakia. An agreement will be entered into with Hungary in the foreseeable future.

The ring test described in the report for 1993 is still continuing.

Situation in the Administrative Field

From January 1 to August 7, 1995, 77 applications have been filed and 64 titles of protection were issued whereas 33 titles were canceled.

Activities for the Promotion of Plant Variety Protection

The thirteenth session of the Technical Working Party on Automation and Computer Programs was held in COBORU from June 7 to 9, 1995.

The Fifth Working Seminar on Statistical Methods in Variety Testing, organized by COBORU, was held in Zakopane, from June 12 to 16, 1995.

The program of assistance to some East-European countries is still continuing.

- The head of the State Commission of the Russian Federation for Testing and Protection of Selection Achievements, Mr. W.N. Alexashov, visited Poland from September 28 to October 3, 1994. He acquainted himself with the activities of some Polish plant breeding companies. During his stay at COBORU, some aspects of plant variety protection and DUS testing were discussed.
- Mr. N.S. Korako and Mr. A.E. Zuykov, from the State Commission for Variety Testing of Agricultural Crops of Belarus, visited Poland from September 28 to October 30, 1994. They had discussions, *inter alia*, on the situation in the Polish plant breeding industry and on some theoretical and practical aspects of plant breeders' rights.
- Mr. A.A. Kornieychuk, Deputy to the President, and Mr. A.P. Gribko, from the State Commission for Variety Testing of Agricultural Crops of Belarus, visited COBORU from December 4 to 8, 1994. They consulted COBORU specialists on various aspects of plant variety protection.
- Mr. A.A. Sruoga, Director of the Center for Cultivar Testing of Lithuania, and Mr. E. Lisovskis, Director of the Center for Cultivar Testing of Latvia, visited COBORU on June 23, 1995, and consulted COBORU specialists on various aspects of plant variety protection.
- Practical training on DUS testing was organized by COBORU in the period from July 2 to 9, 1995, for 11 participants (eight from Belarus, two from Lithuania and one from Latvia).

The Director of COBORU, Prof. E. Bilski, visited the Russian Federation from July 24 to 30, 1995. Various questions of plant variety protection were discussed at the State Commission for Testing and Protection of Selection Achievements.

[Annex VI follows]

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ANNEX VI

SWEDEN

Situation in the Legislative Field

The work on the draft for a new Plant Variety Protection Law based upon the 1991 Act is in progress. A Bill is expected to be presented to the Parliament in early 1996.

Cooperation in Examination

The bilateral agreement concluded with France will be extended to 10 further species.

Activities for the Promotion of Plant Variety Protection

Mr. Karl Olov Öster, President of the Plant Variety Board, gave a lecture at an UPOV Seminar held in Pretoria (South Africa), from May 4 to 6, 1995.

Developments in Related Fields of Activities

Since January 1, 1995, Sweden is a member of the European Union. This means that the Community Plant Variety Rights system is also applicable in Sweden.

As from January 1, 1996, the Common Catalogues of Varieties of Agricultural Crops and Vegetables will be applied to Sweden.

A new Law on genetically modified organisms (SFS 1994:900) entered into force on January 1, 1995, and a new administrative body, the Gene Technology Advisory Board (Gentekniknämnden), was created.

[Annex VII follows]

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ANNEX VII

CHINA

New plant varieties are the products of the labor and intelligence of agricultural scientists. They should certainly be protected. As a big agricultural country, China has paid great attention to the research on the production of new plant varieties, and has made impressive achievements in that area. China has a long history in agriculture. Plant breeding work started there around 1910. Since 1949, China has gradually established an integrated system of plant genetic resources, breeding, extension and marketing from central to local levels, with a large professional team involved in it. More than 300,000 plant germplasm samples have been collected, of which more than 200,000 have been put into the National Gene Bank for long-term storage. Nearly 5,000 new varieties and new hybrids for 40 crop species have been bred and released for commercial production. This is an important contribution to the solution of the problem of providing food and clothing to 1.1 billion people, and also to the development of world agriculture.

Plant varieties play a very important role in agricultural production. Breeding good new varieties and promoting their use is a way to increase yields that needs little investment and has low energy requirements. The Chinese Government has always attached importance to the development of the seed industry and given support to it, both through policies and funding. The issuance by the State Council, in 1989, of the Seed Management Regulations of the People's Republic of China has put seed management into a legal framework and protected the legal rights of breeders, producers, sellers and users. The transfer of new plant varieties (parents) and seed production technology against payment is allowed; its implementation should be in accordance with the State laws on technology transfer. The Patent Law of the People's Republic of China was amended in 1992. It allows the protection of the breeding methods of new animal and plant varieties and the products, whereas only the methods were protectable under the old Patent Law.

A Regional UPOV Seminar was held in 1993, in Beijing. The Seminar played a very important role for the work on the protection of new plant varieties in China. That work has come into a new phase and has the support of the Chinese Government. The Government is now preparing the Regulations of the People's Republic of China for the Protection of New Plant Varieties. They will be issued this year. China will at the same time initiate the procedure for becoming a member of UPOV. This will contribute to exchanges and cooperation between China and the other countries in the field of plant variety protection.

In a word, in order to bring its economy into the world trading system and to meet the standards of a contracting party of the World Trade Organization (WTO), to promote the introduction of good varieties from other countries and to mobilize the efforts of its research and educational organizations, technicians, seed companies and individuals into plant breeding, it is necessary for China to develop a plant variety protection system which will meet the requirements of the relevant international agreements on intellectual property protection.

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