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(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*

The Annexes to this document contain the reports from the Netherlands and Portugal.

[Two annexes follow]

ANNEX I

NETHERLANDS

Situation in the Legislative Field

*Adaptation of the Law to the 1991 Act*

The draft law amending the Seed and Planting Material Act was submitted to Parliament in March 1995. The Permanent Committee on Agriculture, Nature Management and Fisheries, in charge of preparing the plenary debate in Parliament, put forward some questions in its report of July 1995. The questions are due to be answered in October 1995. After that, it will be up to Parliament to put this subject on its agenda.

*Case Law*

The Board for Plant Breeders' Rights decided that a modification in the DNA structure constitutes a relevant factor in the decision about distinctness only when it provides for a clear expression. The appeal lodged in a case in which the assessment of proof concerning the marketing of the variety was at issue has been rejected. The Board of Appeal confirmed the initial decision that the party concerned had to take all necessary steps to prevent transactions made without his consent, e.g. to take legal action.

Cooperation in Examination

The Netherlands has concluded bilateral Administrative Agreements for Cooperation in the Testing of Varieties with Finland and Norway.

Situation in the Administrative Field

The discussions with the breeding industry regarding the restructuring of the administrative organization of plant variety protection, on the one hand, and marketing authorization, on the other, were carried on in 1995.

In 1994, the number of applications filed and breeders' rights granted again showed an increase over the previous year, and the "magic" figure of 1,500 applications was exceeded: 1,541 applications were received and 948 rights were granted. The examinations entrusted to foreign authorities showed a decrease from 472 to 405; the number of requests for information made by foreign authorities on tests conducted in the Netherlands showed a considerable decrease, from 503 to 316.

In the period from January 1 to September 1, 1995, 872 applications were received.

The Netherlands actively participated in the discussions on the implementing rules of Council Regulation (EC) No. 2100/94 of July 27, 1994, on Community Plant Variety Rights.

As the Regulation provides that the applications for a Community right may also be filed through the national offices and the Dutch breeders filed by far most of the Community applications, the Board was confronted with a substantial rise in workload: in the period from April 27 to September 30, 1995, some 900 Community applications were received and submitted to the Provisional Office in Brussels. Furthermore, the Board received many requests for information on and clarification of the Community plant variety rights system.

#### Situation in the Technical Field

The Board discussed questions of common interest with its British counterpart. Furthermore, a visit was paid to Cambridge in order to get acquainted with the British organization for plant breeders' rights and national listing. Consultations were held with Denmark and France concerning the cooperation agreements.

#### Activities for the Promotion of Plant Variety Protection

Mr. H. Ghijsen, the expert from the Board, participated in a symposium on plant breeders' rights in Colombia and accompanied the Vice Secretary-General in his visit to various Central-American countries. Furthermore, delegations from non-member States were received and given information on the plant breeders' rights system in the Netherlands.

[Annex II follows]

ANNEX II

PORTUGAL

The plant variety protection system in Portugal is currently applied to 43 species; this number may be increased in the near future, due to a request for protection for citrus varieties. It is still planned to amend legislation with a view to improving the situation with which the Office has been confronted since the beginning of its activities, in 1990.

Since the last session of the Council, seven applications were received (four for apple and three for vine varieties). The DUS examination has been concluded for six other varieties (four varieties of fruit trees and two varieties of agricultural crops), and a decision can now be made on the grant of protection.

Two fruit varieties are cherimoyas, and it is the first time that DUS tests were made for this species in Portugal. They were carried out in the island of Madeira between 1993 and 1995.

As regard the promotion of the plant variety protection system, communications have been presented at two seminars and a promotion leaflet was published.

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