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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL**Fortieth Ordinary Session
Geneva, October 19, 2006****REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS
ON 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 members and observers 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 carry out its tasks effectively.

2. Written reports have been requested by the Office of the Union in the invitation circular relating to this session and a model format has been proposed for the purpose. The following reports were submitted (in the alphabetical order of the names in French):

Members: Annexes I to XV: South Africa, Germany, Argentina, Belgium, European Community, Spain, Estonia, Israel, Lithuania, Nicaragua, Poland, Republic of Moldova, Slovakia, Switzerland and Ukraine.

Observers: Annexes XVI and XVII: Serbia and Turkey.

[Annexes follow]

ANNEX I

SOUTH AFRICA

PLANT VARIETY PROTECTION1. Situation in the Legislative Field

1.1 Amendments of the law and the implementing regulations

- As part of an overall departmental legislative review process, the Plant Breeders' Rights Act has been reviewed and the draft amendment bill is in the process of being developed.
- The annual increase of Plant Breeders' Rights fees on April 1, 2006 was published in Government Gazette Notice R. 128 of February 17, 2006.

1.2 Case law

- The complaint received with regard to the grant of a plant breeder's right to a *Capsicum* variety was heard by the Registrar and the decision will be announced to the parties during September 2006.

1.3 Extension of protection to further genera and species

- On June 15, 2006 extension of protection was made to a further 35 genera and species, published in Government Gazette Notice R.545.

2. Cooperation in Examination

Conclusion of a new agreement with the CPVO is in process.

3. Situation in the Administrative Field

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

During the period September 1, 2005 to August 31, 2006, 205 applications for plant breeders' rights have been received and 149 rights were granted, bringing the total number of valid plant breeders' rights to 1,908.

	Agricultural Crops	Vegetable Crops	Ornamental Crops	Fruit Crops	Total
Applications received	61	17	91	36	205
PBR granted	66	10	47	26	149
Valid PBR	602	211	814	281	1,908

4. Situation in the Technical Field (see under 3)

Nothing to report.

5. Activities for the Promotion of Plant Variety Protection

- Visits to and from non-member States and organizations
Participated in workshops in the Southern Africa Development Community (SADC) Region to draft a Protocol for Plant Variety Protection in order to assist member countries to develop legislation for plant variety protection.
- Publications
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 (<http://www.nda.agric.za>)

RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

Rules and regulations in the field of genetic engineering (release of genetically modified organisms, etc.): Nothing to report.

[Annex II follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Nothing to report

1.2 Nothing to report

1.3. Nothing to report

2. Cooperation in Examination

Nothing to report

3. Situation in the Administrative Field

Nothing to report

4. Situation in the technical field

Nothing to report

5. Activities for the Promotion of Plant Variety Protection

During the reporting period, the Federal Plant Varieties Office received delegations from the member States of Bulgaria, China and Uruguay.

RELATED FIELDS OF ACTIVITY

Nothing to report.

[Annex III follows]

ANNEX III

ARGENTINA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Amendments to the law and regulations

(a) In 2006, the National Seeds Institute (INASE) implemented Resolution No. 52, dated July 15, 2003, of the Secretariat for Agriculture, Livestock, Fisheries and Food, regulating INASE Resolution No. 35/1996, on the farmer's privilege, stating that "farmers cultivating soya bean, wheat or cotton must, at the request of the official body, declare the quantities of seed per variety used or to be used for sowing in the year concerned, and must provide the relevant documentary proof (invoices, receipts etc.) of the purchase or origin of that seed". The regulations provide for a penalty in the form of a fine imposed by INASE for failure to comply with its orders.

(b) On June 20, 2006, Resolution No. 338 of the Secretariat for Agriculture, Livestock, Fisheries and Food was enacted, specifying the scope of the farmer's privilege to save his own seed, as provided for under Article 27 of Law No. 20.247, on Seeds and Phytogenetic Creations, regulated by Article 44 of the Implementing Decree, stating that "the authorization of the breeder of a protected plant variety shall not be required where a farmer saves and uses as seed on his holding, regardless of the type of tenure of that holding, the product of the harvest, provided that the resowing does not exceed the number of hectares sowed in the previous season, and does not require a greater quantity of seed than that originally acquired by legal means". INASE is entrusted with the task of enacting the interpretative rules and establishing the periods for implementing the Resolution.

The complete text of the regulations can be consulted on the INASE website: www.inase.gov.ar.

1.2 Case law

The administrative and judicial case law relating to breeders' rights and the farmer's privilege is available to States, and may be requested from the Directorate of Legal Affairs by e-mail, at cgiann@mecon.gov.ar or rcasca@mecon.gov.ar.

1.3 National legislation provides for the protection of varieties of all genera and species. Between the end of 2005 and the start of 2006, INASE granted plant breeder's rights for varieties of the species of Tea (*Camellia sinensis* (L.) O. Kuntze) and Yerba Mate (*Ilex paraguariensis* S.H. var. *paraguariensis*).

2. Cooperation in Examination

The Republic of Argentina continues to use the cooperation in examination system for applications for protection of foreign varieties of ornamental species.

Decision No. 1/99 of the Mercosur Common Market Council (CMC), entitled "Cooperation and Facilitation Agreement on the Protection of Plant Varieties in the Mercosur States" has come into force, and the final procedures to implement it are being carried out. The aim of the Decision is to facilitate application procedures in the four Mercosur countries, as well as technical and legal cooperation, the exchange of information on various aspects of plant variety intellectual property, and the creation of a Mercosur catalogue of varieties.

In the meetings held by UPOV and FAO in Santa Cruz de la Sierra, Bolivia, from August 8 to 12, 2005, and by Subgroup 8, from July 10 to 14, 2006, the Mercosur member countries agreed on actions to implement the Agreement.

In October 2005, an agreement for collaboration and cooperation was signed between the Community Plant Variety Office and the National Seeds Institute (INASE) of the Republic of Argentina.

In 2006, there were no changes in this area.

3. Situation in the Administrative Field

There have been no changes in this area. INASE is the body responsible for implementing the Law on Seeds and Phytogenetic Creations in the Republic of Argentina, as well as the regulations thereunder.

4. Situation in the Technical Field

There have been no changes in this area. Within INASE, the Varieties Registry Directorate is responsible for carrying out the technical examination of the applications for entry in both the National Register of Varieties and in the National Register of Ownership of Varieties.

In 2005, a Technical Cooperation Agreement was signed with the National Institute of Agricultural Technology (INTA), under which INTA makes available to INASE a certain area of land for INASE to conduct tests on the distinctness, uniformity and stability of certain species.

5. Activities for the Promotion of Plant Variety Protection

INASE has participated in various national and international fora on the protection of plant varieties, where it has shared its experience in the area and the results achieved to date. These include:

- Meetings with all the associations of agricultural producers in Buenos Aires and in various places around the country, in 2004 and 2005, to explain the scope of

plant variety intellectual property, the 1978 Act of the UPOV Convention and the amendments to the 1991 Act, and to explain the system implemented in Argentina with regard to the farmer's privilege.

- Participation in various events and seminars during 2005, as a speaker on the subject of plant breeder's rights. (Provinces of Chaco, Formosa, Misiones, Entre Ríos and Buenos Aires.)
- Participation as a speaker and regional coordinator for the "Fourth Training Course for Ibero-American Countries on the Protection of Plant Varieties and Access to Phytogenetic Resources for Food and Agriculture", held in Santa Cruz, Bolivia, August 8-12, 2005.
- In May 2005, INASE started to organize special days to disseminate information and raise awareness of intellectual property, access to genetic resources and alternatives for their protection, organized jointly with the National Institute of Agricultural Technology (INTA), and aimed at indigenous communities in Argentina.
- On July 1 and 2, 2005, the first "Forum on Intellectual Property for the Protection of Agricultural Biotechnology" was held in Buenos Aires, Argentina, organized jointly by the National Seeds Institute (INASE) and the Institute for Industrial Property (INPI), to consider the current situation with regard to national legislation and its application to living material, and in particular to agricultural biotechnology. On another day, national and foreign representatives were invited to talk on the international situation with regard to intellectual property rights, in particular breeder's rights around the world and the progress of international negotiations.

In addition to experts from the bodies mentioned, participants also included representatives from UPOV, the Community Plant Variety Office, the Ministry of Foreign Affairs of Argentina, the United States Department of Agriculture, the Plant Variety Protection Offices of Brazil and Bolivia, and the patent offices of Argentina.

The event was a resounding success, attracting more than 400 participants, and allowing dissemination at the national level of intellectual property systems, namely patents and breeder's rights in Argentina.

Towards the end of 2005, INASE took part in three different national seminars on blueberry cultivation, as a lecturer on subjects relating to the protection of plant varieties in the Republic of Argentina and the international framework provided by the UPOV Convention.

Furthermore, INASE was invited by the Faculty of Agronomy of the University of La Plata (Buenos Aires) to deliver a presentation on the intellectual property aspects of plant varieties, aimed at advanced-level students.

RELATED ACTIVITIES OF INTEREST TO UPOV

- National Catalogue of Varieties: since the beginning of 2006, the INASE website has been operational (www.inase.gov.ar) and includes, *inter alia*, information on the procedures for registration and protection of plant varieties, forms and other relevant regulations. The National Catalogue of Varieties is updated periodically and includes protected varieties.
- Genetic resources:
 - ◆ INASE Resolution No. 22, dated January 24, 2006, created the National List of Indigenous Plant Species and the National List of Operators Working with Indigenous Plant Species.

These lists are managed by the Varieties Registry Directorate and the Directorate for Certification and Control respectively.

INASE set as the objective for this year in this area, to disseminate these regulations and other related treaties, through the organization of seminars and workshops at the regional level, which began in June and will run until October, in the six INASE regional liaison offices in Argentina.

The program for these seminars includes the Convention on Biological Diversity, the FAO Treaty on Genetic Resources, the handling of germplasm and networks of germplasm banks in Argentina, and the relevant aspects of the National Law on Seeds and Phytogenetic Creations, as well as the specific aspects of INASE Resolution No. 22, which created the lists mentioned above.

- ◆ Since 2004, INASE has been a member of the National Commission on Genetic Resources, which forms part of the Secretariat for Agriculture, Livestock, Fisheries and Food. Within this framework, active work is underway on a draft national law on access to genetic resources for food and agriculture, and on drawing up another draft for the creation of a *sui generis* system for the protection of indigenous genetic resources and associated traditional knowledge.

Furthermore, since 1996, the National Seeds Institute has been working actively with the Secretariat for Agriculture, Livestock, Fisheries and Food and with the Foreign Ministry, on various issues relating to genetic resources, both at the national and international levels.

Thus, since that date, INASE has been a member of the various delegations that have represented Argentina at the Conference of the Parties to the Convention on Biological Diversity, and in some of its working groups, such as at the most recent meeting of the Ad-Hoc Open-ended Working Group on Access and Benefit-Sharing, held in Bangkok, Thailand, from February 14 to 18, 2005.

Equally important has been the participation of INASE, for more than six years, in the Argentine delegation to the FAO Commission on Genetic Resources for Food and Agriculture, a forum which, in 2004, saw the development and adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture, an international instrument which Argentina has signed but is still in the process of ratifying.

[Annex IV follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

Adaptation to the 1991 Act of the Convention

This project is in progress. The preliminary draft law has been submitted for consultation to the professional sectors concerned. The next stage is to forward it to the Cabinet, to the Council of Ministers, and to seek the opinion of the Council of State.

Access to plant variety protection under the 1991 Act is nevertheless still possible on Belgian territory, through the Community Plant Variety Office, in accordance with the European regulations in force on the subject.

2. Cooperation in Examination

No change.

3. Situation in the Administrative Field

- Changes in the administrative structure

No change.

- Volume of activity - status as at August 31, 2006

Since the entry into force of the legislation on the protection of plant varieties in Belgium, and up to August 31, 2006, 2,241 applications for protection have been registered and 1,798 certificates issued, of which 238 are still in force.

DEVELOPMENTS IN RELATED FIELDS OF ACTIVITY OF INTEREST TO UPOV

National catalogues of varieties

Ministerial Order of March 15, 2006, amending Annexes I and II of the Order of the Walloon Government of May 27, 2004, on testing for the inclusion of varieties of agricultural plant and vegetable species in the national catalogue.

Control of seeds and seedlings - certification

- Ministerial Order of April 24, 2006, amending the Ministerial Order of March 29, 2004, on the characteristics to be covered as a minimum by the examination of certain varieties of agricultural plant species and of vegetable species, and the minimum conditions for that examination.

Order of the Walloon Government of September 29, 2005, amending the Ministerial Order of December 21, 2001, establishing rules on the inspection and certification of potato-seedling production.

Order of the Walloon Government of February 9, 2006, on the production and marketing of fodder crop seed.

Order of the Walloon Government of February 9, 2006, on the production and marketing of the seed of oil-bearing and fibrous plants.

Order of the Walloon Government of February 9, 2006, on the production and marketing of vegetable seed and industrial chicory seed.

Order of the Walloon Government of February 9, 2006, on the production and marketing of cereal seed.

Order of the Walloon Government of February 9, 2006, on the production and marketing of beet seed.

Ministerial Order of April 24, 2006, amending the annexes to the Order of the Walloon Government of July 17, 2003, on the marketing of plant propagation material for vines.

Order of the Walloon Government of June 1, 2006, on the cleaning of the seed of certain species of agricultural plant intended for sowing.

Order of the Flemish Government of December 16, 2005, amending the Order of the Flemish Government of October 3, 2003, regulating the marketing and inspection of the seed of oil-bearing and fibrous plants.

Order of the Flemish Government of December 16, 2005, amending the Order of the Flemish Government of March 25, 2005, regulating the marketing and inspection of fodder crop seed.

Order of the Flemish Government of December 16, 2005, regulating the marketing and inspection of cereal seed.

Order of the Flemish Government of December 16, 2005, regulating the marketing and inspection of agricultural varieties of beet seed.

Order of the Flemish Government of December 16, 2005, regulating the marketing and inspection of vegetable seed and industrial chicory seed.

Ministerial Order of June 29, 2006, amending the annexes to the Order of the Flemish Government of October 24, 2003, on the marketing of plant propagation material for vines.

Ministerial Order of June 29, 2006, on the accompanying document required for the marketing of plant propagation material for vines.

Control of seeds – Seed cleaning

Order of the Flemish Government of May 19, 2006, on the cleaning of the seed of certain species of agricultural plant intended for sowing.

Legislation on GMOs

Preliminary draft decree on the co-existence of genetically modified crops with conventional and organic crops. This preliminary draft was approved by the Walloon Government at its first reading in February 2006, and at its second reading in July 2006. It must still be approved at its third reading, following an opinion from the Council of State and notification to the European Commission, before being submitted to Parliament.

Other

Directive 2004/48/EC of the European Parliament and of the Council, of April 29, 2004, on the enforcement of intellectual property rights. The Directive on the enforcement of intellectual and industrial property rights, like copyright and related rights, trademarks, designs or patents, was adopted in April 2004. Member States have to introduce the legislative, regulatory and administrative provisions necessary to comply with this Directive by April 29, 2006, at the latest. A preliminary draft law is currently being examined in consultation with the stakeholders.

A preliminary draft law on the repression of counterfeiting and piracy of intellectual property rights was approved by the Council of Ministers at the end of June 2006.

[Annex V follows]

ANNEX V

EUROPEAN COMMUNITY

Period: October 2005 - October 2006
(Report prepared by the European Commission in close relation with the
Community Plant Variety Office)

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Amendment of the law and the implementation regulations:
Fees payable to the Community Plant Variety Office (CPVO) by the holder of a
Community plant variety right:

On December 14, 2005, Commission Regulation (EC) N° 2039/2005¹ amended Regulation (EC) N° 1238/95² establishing implementing rules for the application of Council Regulation (EC) N° 2100/94 as regards the annual fees payable to the CPVO. The amendment decreased the level of the annual fees to 200 Euros for the year 2006 and the following years.

1.2 Case law:

On June 8, 2006, the European Court of Justice gave its judgment on joined cases C-7/ 05 to C-9/05 as regards the level of equitable remuneration to be paid to the holder of a Community Plant Variety Right by farmers using farm-saved seeds, and the concept of “level of remuneration sensibly lower than the amount charged for the licensed production of propagating material”.

2. Situation in the Administrative Field

Changes in the administrative structure:

Ms. Jaana Husu-Kallio, Deputy Director-General of Directorate General Health and Consumer Protection within the European Commission, who was the official contact point of the European Commission with UPOV, left the European Commission on July 31, 2006, for the post of Director General of the Finnish Food Safety Authority (EVIRA) in Finland, her Country of origin. She is replaced by Ms Paola Testori-Coggi, who is currently acting Deputy Director-General.

Appointment of the President of the Community Plant Variety Office:

On July 24, 2006, the European Council appointed Mr. Bart Kiewiet as President of the Community Plant Variety Office for a period of five years from August 1, 2006. Mr. Kiewiet has occupied this post since August 1996.

¹ OJ L 328, 15.12.2005, p. 33

² OJ L 121, 1.6.1995, p. 13

3. Situation in the Technical Fields (the functioning of the Community Plant Variety Protection):

Applications for Community Plant Variety Protection

In 2005, the Community Plant Variety Office received 2,734 applications for Community Plant Variety Protection. This again represents an increase (+2.98%), compared to the year 2004.

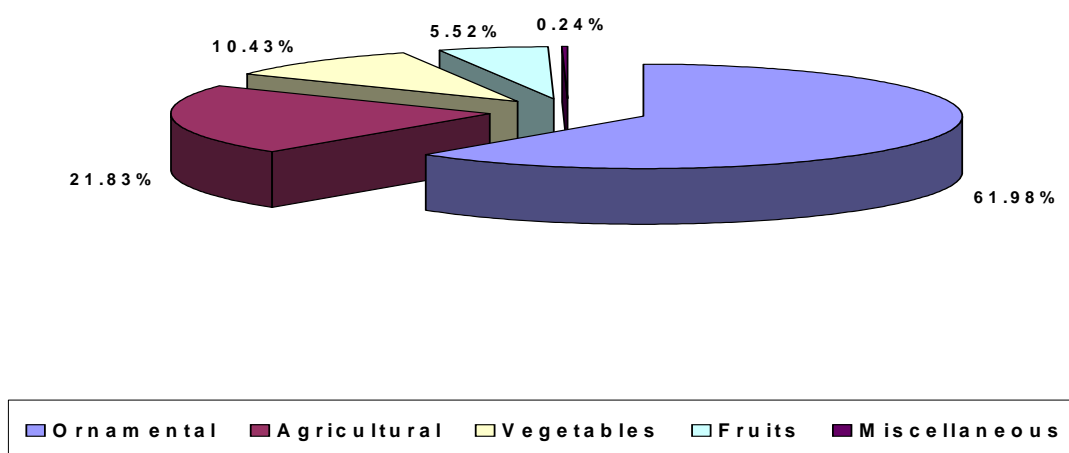
Vegetable species showed the highest increase compared to other species, with +12.6%.

For ornamentals, an increase in application numbers of 5.3% was recorded.

By contrast, there was a decrease in the number of applications for agricultural species (-6.9%) and for fruit species (-4.1%).

The graph below represents the shares of the main crop sectors in terms of the number of applications since the beginning of the activities of the CPVO.

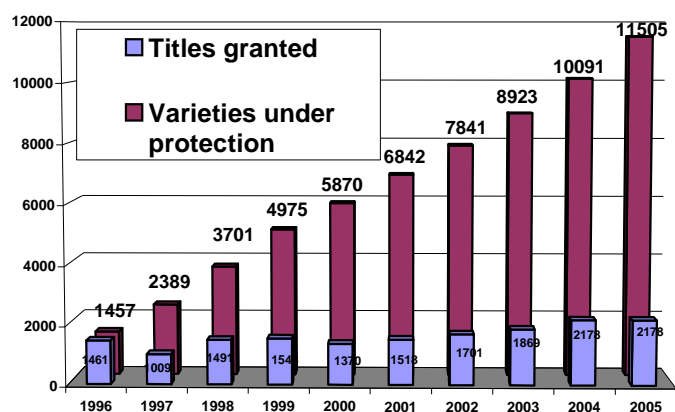
Graph 1: Shares in application numbers per crop sector



Grants of protection:

In 2005, the CPVO granted more than 2,100 titles. By the end of 2005, there were more than 11,500 Community plant variety rights in force. The following table shows the number of titles granted for each year from 1996 to 2005 and demonstrates the continuous increase of varieties under protection within the Community system.

Graph 2: Community plant variety rights granted and rights in force (1996-2005)



Technical Examinations

In 2005, the CPVO initiated 2,129 technical examinations which were carried out by the different examination offices working on behalf of the CPVO.

Relation with examination offices

Ninth annual meeting with examination offices

The 2005 meeting of the CPVO with its examination offices was attended by representatives of 21 EU Member States, Bulgaria, Croatia, Romania, Switzerland, the European Commission, the UPOV Office, as well as the breeders' organisations ESA and CIOPORA.

The main subjects of discussion were:

- Conditions for granting an application date: outcome of an inquiry made between 2002 and 2005
- the conduct of DUS testing
- questions related to test reports
- exchange of information between the Office and the examination offices and the exchange of information and material among examination offices
- technical verifications
- the centralised database on variety denominations
- the website for technical liaison officers
- the objection procedure
- conflict of interests at examination offices

Preparation of CPVO Protocols

Experts meetings for ornamentals, agricultural crops, vegetables and fruit

In 2005, experts from the Member States' examination offices were invited to participate in elaborating technical protocols for DUS testing which were subsequently approved by the Administrative Council. The following meetings were held:

1. agricultural experts: draft protocol was discussed for potato
2. vegetable experts: draft protocols were discussed for eight species
3. ornamental experts: draft protocols were discussed for 14 species

Integration of Examination Offices of the new EU Member States into the CPVO DUS Testing network

Following their accession to the European Union, the new Member States' competence in performing DUS tests in accordance with the CPVO standards was evaluated in 2004. Subsequent to the evaluation procedure, the examination offices of the new EU Member States received the status 'competent' for a number of species.

The CPVO Project for an EU Centralized Database on Variety Denominations

In October 2002, the Administrative Council of the CPVO recommended that the Office developed a centralized database for variety denominations for the purpose of checking similarity in denomination proposals. In 2004, the project was implemented, a co-operation agreement was signed with UPOV ensuring the widest possible data input. The project became operational in July 2005. The database is a compilation including data on plant variety rights and listed varieties of EU and UPOV countries. It is available to official authorities of EU member states, Iceland, Norway and Switzerland on the Internet website of the Office through a restricted access.

By the end of the year, nearly 400,000 denominations had been entered into the database.

Strategic discussion

The CPVO has, on request of its Administrative Council, taken 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.

4. Activities for the Promotion of Plant Variety Protection:

- Seminar on Enforcement of Plant Varieties Rights:

A seminar on enforcement of plant variety rights organised by the Community Plant Variety Office took place on 11 and 12 May 2006 in Warsaw (Poland). This event was an effort from the side of the European Communities to support breeders in the enforcement of their intellectual property rights in respect of plant varieties throughout Europe. The participants such as lawyers, judges, law makers from Member States, officials from the Commission and the CPVO, and of course breeders were informed by a range of experts about various aspects of the enforcement of intellectual property rights .

- Participation in International Fairs

The CPVO considers the participation in international fairs to be an important tool to promote the Community system and also for making direct contact with applicants. The CPVO attended, with the *Bundessortenamt*, the IPM in Germany, with the Dutch *Raad voor Plantenrassen*, CGN and NIAB from the United Kingdom, the Hortifair in the Netherlands and with the French authority GEVES, the *Salon du Végétal* in Angers.

RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

- Catalogues :

Common Catalogues of varieties (agricultural plant species and vegetable species):

The Commission worked on the updating of its Directives adopted in 2003 which set up implementing measures as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining the varieties of agricultural plant species (Directive 2003/90/EC) and of vegetable species (Directive 2003/91/EC).

The two Directives ensure that varieties comply with the guidelines established by CPVO or UPOV.

On 16 December 2005 the Commission adopted a Directive (2005/91/EC) which updated the original Directive concerning agricultural plant varieties.

Work is currently in progress (September/October 2006) in order to update the Directive concerning vegetable varieties.

- Genetic resources:

The ITPGRFA (International Treaty on Plant Genetic Resources for Food and Agriculture) establishes a Multilateral System (MLS) for access and benefit-sharing, with a view to promoting the sustainable utilisation of plant genetic resources. The standard Material Transfer Agreement, as a cornerstone for the implementation of the Treaty, was adopted at the first session of the Governing Body of the International Treaty, hosted by Spain from June 12 to 16, 2006. Benefit-sharing will be triggered by the marketing of new varieties that incorporate material accessed from the MLS. The level for mandatory payments into the Multilateral System has been set at 1.1% of gross sales, minus 30% to reflect certain cost elements.

It should be noted that varieties brought to the market under the UPOV rules, and that therefore remain available for further research and breeding, are not subject to any obligatory benefit-sharing.

As an alternative, recipients of material from the MLS, may opt for a scheme of contributions at the level of 0.5% of gross sales, without deductions. In that case, however, the contribution will be due on all the varieties of the crop to which the material obtained from the MLS belongs, independent of whether or not the new variety is available without restriction.

In 2005/2006, the European Community played a very active role in the whole process. The result of the negotiations is generally very well received by the European seed industry.

[Annex VI follows]

ANNEX VI

SPAIN

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

(a) Law No. 30/2006, of June 26, on nursery seeds and plants and phylogenetic resources (Official State Gazette, November 5).

With the publication of this law, Spain has completely updated its legislation on varieties, their registration, the production, certification and marketing of nursery seeds and plants of the varieties registered, and includes, for the first time, in a regulation with the force of law, provisions on the conservation and sustainable use of phylogenetic resources, thus completing special legal rules dealing principally with plant material, its production, registration and marketing, and the conservation and use of genetic material that will form the basis for the production of new varieties.

(b) Royal Decree 1261/2005, of October 21, adopting the Regulations on the Protection of Plant Varieties (Official State Gazette, July 27).

These Regulations, which implement Law No. 3/2000, of January 7, contain the legal rules governing the protection of plant varieties, and complete the provisions applicable to protected varieties.

They emphasize the development of the breeder's exemption or farmer's privilege, defining clearly what is understood by the term "small farmer", and establishing precisely the method for determining the remuneration that the breeder is entitled to claim for resowing the seed of his protected variety.

Furthermore, the Regulations contain rules on the registration of licenses to exploit protected varieties, and their effectiveness against third parties, which apply to licenses granted for Spanish territory on varieties protected in the European Union, to ensure that the provisions intended to punish infringements of the relevant national property rights are applicable - equally and subject to the same conditions - to infringements of the community plant variety protection, committed on Spanish territory.

2. Cooperation in Examination

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

Similarly, cooperation is undertaken with various countries.

3. Situation in the Administrative Field

In 2005, 73 plant variety titles were granted. As at August 31, 2006, the number of plant variety titles in force was 621, and 4,681 applications had been received since plant variety protection was established in Spain.

4. -

5. Activities for the Promotion of Plant Varieties

Intense activity has continued 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 plant varieties.

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

ACTIVITIES IN OTHER SECTORS OF INTEREST TO UPOV

The first meeting of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture was held in Madrid, from June 12 to 16, 2006, hosted by the Government of Spain. Representatives from some 120 countries were present, plus the European Union, as contracting States or observers, in addition to intergovernmental and non-governmental organizations. Its achievements include in particular the adoption by the Governing Body of the Standard Material Transfer Agreement, regulating access to the germplasm of 64 crops (representing some 80 per cent of the foods consumed in the world) by users who wish to gain such access, and benefit-sharing under the multilateral system.

The agreements reached during this first meeting of the Governing Body will enable the Treaty to be enforced and will contribute to safeguarding the genetic diversity of cultivated plants.

At the same time, the Ministerial Segment – a meeting of representatives with ministerial rank, from more than 70 countries – was held on June 14, 2006. In the Declaration adopted at that meeting unanimously, the Treaty's Contracting Parties undertook to implement the Treaty fully at the national level and to increase appropriately the resources necessary for the conservation and sustainable use of phyto-genetic resources.

[Annex VII follows]

ANNEX VII

ESTONIA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Amendments of the law and implementing regulations

Plant Propagation and Plant Variety Rights Act:

- Passed the Parliament on December 8, 2005 (RT I 2005, 70, 540), entered into force on January 1, 2006.
- There are no major changes in Plant Variety Rights side of the act. The application fee has been increased and replaces the previous three-step fee with a single fee. The application form has been renewed, such that the owner of a variety can send one form for PBR and variety listing.
- The merger of the two previous acts of the Seed and Plant Variety Rights Act will hopefully give better protection for variety owners and connection for plant propagating companies, growers, multipliers, breeders and other persons in this area.

1.2 Regulations:

- Regulation of the Government of the Estonian Republic from February 28, 2006, No. 52: Statute of the State Varieties Registry.
- Regulation of the Minister of Agriculture from February 7, 2006, No. 17: The format for the application for variety registration, the information to be submitted in the application, a list of documents to be annexed to the application and the procedure for application for the registration of a variety.
- Regulation of the Minister of Agriculture from March 24, 2006, No. 38: Procedure of variety listing, list of plant species subject to variety listing, the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and of vegetable species.
- Regulation of the Minister of Agriculture from March 24, 2006, No. 37: List of the plant species specified of protected varieties, subject to be grown in small amounts.
- Regulation of the Minister of Agriculture from April 17, 2006, No. 46: Requirements for the contents and form of the certificate of plant variety listing and of the certificate of the plant variety right.

1.3 Estonia has offered protection to all genera and species since 1998. Up to now we have received applications for 34 species and varieties from 32 species have been granted protection.

2. Cooperation in Examination

An agreement with Latvia is planned for the near future on fruit and berry species and ornamentals.

3. Situation in the Administrative Field

There are no changes in procedures before the office. The office has started to develop a quality management system what will be the part of the Plant Production Inspectorate quality management system. All service standards, application forms and legislation can be found on <http://www.plant.agri.ee> for further consultation:

Address: Vabaduse plats 4, 71020 Viljandi, Estonia
Telephone/Fax: (+372) 43 34650
Head of Variety Control Department Mrs. Pille Ardel,
Phone: (+372) 43 33 946,
Fax: (+372) 43 34 650,
e-mail: sordikontroll@plant.agri.ee.

4. Situation in the Technical Field

No changes.

5. Activities for the Promotion of the Variety Protection

Estonian representatives have taken part in the seminar organized by the CPVO in Brussels in October 2005 and the Regional Seminar on Enforcement of Plant Variety Rights in Warsaw, Poland, on May 11 and 12, 2006. In the spirit of those two seminars, the Estonian Seed Association was founded on April 30, 2006, the main aim of which is to improve protection and to undertake joint royalty collecting action for all members.

RELATED FIELDS OF ACTIVITIES

- Plant Propagation and Plant Variety Rights Act passed the Parliament on December 8, 2005 (RT I 2005, 70, 540), and entered into force on January 1, 2006.
- Seed and propagating material regulations have been renewed, but without major changes.
- Regulation of the Minister of Agriculture from March 24, 2006, No. 38: Procedure of variety listing, list of plant species subject to variety listing, the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and of vegetable species.
- Regulation of the Minister of Agriculture from April 20, 2006, No. 48: The maximum quantities of seed and seed potatoes permitted for production performance trials.
- Regulation of the Minister of Agriculture from January 20, 2006, No. 7: Requirements for compilation of the list of recommended varieties of agricultural plants.

- Regulation of the Minister of Agriculture from April 18, 2006, No 47: Procedures of marketing and production of ornamental plant propagating material.
- Regulation of the Minister of Agriculture from April 20, 2006, No. 51: Procedures of marketing and production of vegetable propagating and planting material.
- Regulation of the Minister of Agriculture from April 24, 2006, No. 52: Categories of beet seed, and procedures of marketing and production of beet seed.
- Regulation of the Minister of Agriculture from April 24, 2006, No. 53: Categories of seed of oil and fibre plants, and procedures of marketing and production of seed of oil and fibre plants.
- Regulation of the Minister of Agriculture from April 24, 2006, No. 55: Categories of cereal seed, procedures of marketing and production of cereal seed.
- Regulation of the Minister of Agriculture from April 24, 2006, No. 56: Categories of seed, and procedures of marketing and production of fodder plant seed.
- Regulation of the Minister of Agriculture from May 3, 2006, No. 58: Categories of seed potatoes, and procedures of marketing and production of seed potatoes.
- Regulation of the Minister of Agriculture from May 5, 2006, No. 60: Categories of vegetable seed, and procedures of marketing and production of vegetable seed.
- Regulation of the Minister of Agriculture from May 9, 2006, No. 62: Categories of propagating material of fruit and berry plants, and procedures of marketing and production of propagating material of fruit and berry plants.
- The full set of the regulations will be available at: <http://www.plant.agri.ee>

[Annex VIII follows]

ANNEX VIII

ISRAEL

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Adaptation to the 1991 Act of the Convention in April 1996

1.2 There are several cases in process, *sub judice* (DNA, EDV).

1.3 All genera and species are eligible.

2. Cooperation in Examination

There are no new agreements or any changes in existing agreements.

3. Situation in the Administrative Field

During this period of time, 90 applications were received and 49 registrations were effectuated.

4. -

5. Activities for the Promotion of Plant Variety Protection

Participation in Technical Committee, Administrative and Legal Committee, Consultative Committee and Council.

Participation in Technical Working Parties: Technical Working Party for Fruit Crops and Technical Working Party for Ornamental Plants and Forest Trees.

Official visit of Mr. Kawakami Tsukasa, Senior Staff from the DUS Test Division of the National Center for Seeds and Seedlings, Incorporated Administrative Agency of Japan.

Official Publications in 'Reshumot' and a new Gazette (No. 67, July 2006).

[Annex IX follows]

ANNEX IX

LITHUANIA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1. Amendments of the law and the implementing regulations

- Law on Plant Variety Protection of the Republic of Lithuania (Official Journal, 2001, No. 104-3701);
- Regulation No. 710 of the Government of the Republic of Lithuania of December 15, 2005, regarding Replacement of Regulation of the Republic of Lithuania No. 1458 of December 15, 2000, concerning Fees Rates (Official Journal, 2005, No. 81-2958);
- Regulation No. 1473 of the Government of the Republic of Lithuania of September 19, 2002, regarding Replacement of Regulation of the Republic of Lithuania No. 1458 of December 15, 2000, concerning Fees Rates (Official Journal, 2002, No. 93-3987);
- Order No. 14 of the Director of Lithuanian State Plant Varieties Testing Center of August 5, 2003, on the Approval of Application Forms for Plant Variety Protection and Technical Questionnaires Forms for all Protected Plant Species;
- Order No. 3 D – 371 of the Minister of Agriculture of the Republic of Lithuania of June 23, 2004, regarding remuneration;

1.2. Law on Plant Variety Protection of the Republic of Lithuania;

1.3. Order No. 288 of the Minister of Agriculture of the Republic of Lithuania of August 1, 2002, on the Approval of the List of Plant Genera and Species of the Varieties which are Subject to Legal Protection in the Republic of Lithuania and on the Appointment of the Administrator of the List of Protected Varieties in the Republic of Lithuania (Official Journal, 2002, No. 79-3354).

2. Cooperation in Examination

- bilateral agreement with Polish Research Centre for Cultivar Testing regarding DUS tests of August 11, 2000;
- agreement No. 10 with the *Bundessortenamt* (Federal Office of Plant Varieties), Germany, regarding transmission of results on technical examination for DUS tests on June 30, 2006.

3. Situation in the Administrative Field

- Commission for Evaluation of Applications for Variety Protection has been approved by the Order No. 16 of the Director of the Lithuanian State Plant Varieties Testing Center of September 10, 2003;

- plant variety protection shall be approved by the order of Director of Lithuanian State Plant Varieties Testing Center;
- procedures for plant variety protection are provided in the Law on Plant Variety Protection of the Republic of Lithuania.

4. Situation in the Technical Field

- DUS tests are performed by the Polish Research Centre for Cultivar Testing according to the bilateral agreement of August 11, 2000.

5. Activities for the Promotion of Plant Variety Protection

- From October 25 to 28, 2005, Lithuania participated at the sessions of the Consultative Committee and the Council of the International Union for the Protection of New Varieties of Plants (UPOV) in Geneva, Switzerland;
- On March 14 and 15, 2006, Lithuania participated at the meetings of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France;
- On May 11 and 12, 2006, Lithuania participated at the seminar organized by the Community Plant Variety Office on Enforcement of Plant Variety Rights in Warsaw, Poland;
- On January 13, 2006, a delegation from the Ministry of Agriculture of Moldova visited the Lithuanian State Plant Varieties Testing Center;
- From July 10 to 14, 2006, a delegation from the Polish Research Centre for Cultivar Testing visited the Lithuanian State Plant Varieties Testing Center;
- The Information Bulletin for Plant Breeder's Rights and National List No. 5 of the Lithuanian State Plant Varieties Testing Center was published in January 2006 and No. 6 in July 2006.

RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

- Each year the Lithuanian National List of Varieties is approved by the order of the Director of the Lithuanian State Plant Varieties Testing Center. Propagating material of each variety from each plant species can be certified according to Mandatory Requirements, based on the relevant EU directive;
- Law on Genetically Modified Organisms of the Republic of Lithuania (Official Journal, 2001, No. 56-1976) and Law on the Amendment of the Law on Genetically Modified Organisms of the Republic of Lithuania (Official Journal, 2003, No. 34-1419) provides control of genetically modified organisms and safe supply to the market;
- Law on the National Plant Genetic Resources of the Republic of Lithuania (Official Journal, 2001, No. 90-3144) provides conservation of genetic resources.

[Annex X follows]

ANNEX X

NICARAGUA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Nicaragua's Law No. 318, entitled "Law on the Protection of Plant Varieties" and the Regulations thereunder, contained in Decree 37-2000, are in full force, and Nicaragua is a member of UPOV, having acceded to the 1978 Act of the UPOV Convention on September 6, 2001. Such accession made Nicaragua the first country in the Central American region to implement *sui generis* legislation in this area. Furthermore, Nicaraguan legislation contains extensive provisions from the 1991 Act of the UPOV Convention.

While enjoying the implementation of this *sui generis* system, in view of its recent international commitments, Nicaragua intends to revise, adapt and update its legislation before 2010.

1.2. Case law. As there have been no plant variety disputes in Nicaragua, there is no information on this subject.

1.3 Extension of protection to other genera and species (in place or planned). In Nicaragua, breeders' rights are applicable to the varieties of all plant genera and species, as stipulated under Article 10 of Law No. 318 mentioned above.

2. Cooperation in Examination

Nicaragua maintains the standard UPOV formats for cooperation in this area, and will use those as soon as complex applications are filed in the country; for the moment, examinations are carried out in accordance with the procedure provided for under Law No. 318 mentioned above, with close links between the Ministry of Development, Industry and Commerce (MIFIC), the Ministry of Agriculture and Forestry (MAG-FOR), the Ministry of the Environment (MARENA); the Agrarian University (UNA); the Autonomous University of Nicaragua (UNAN); the Institute of Agricultural Technology (INTA) and their respective technical directorates.

3. Situation in the Administrative Field

Nicaragua strengthened the Plant Variety Directorate and successfully consolidated its Office by hiring an additional staff member, who is a professional in the agricultural engineering field.

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

Nicaragua has devised a plan for disseminating intellectual property information, including the advantages and importance of protecting new plant varieties; it has produced advertising material, such as calendars, guides, reproductions of laws and UPOV agreements, and bookmarks, has maintained and updated websites and has participated in national fairs, etc.

5. Particular Achievements, Experience gained, Problems encountered, Suggestions (including for the future work of the Union)

- Particular achievements and experience gained:

Nicaragua is the first country in Central America to implement legal provisions of this nature, which benefit, *inter alia*, plant breeding, horticulture and forestry. It has set up, by means of a law, the Classifying Committee for the Protection of Plant Varieties (CCPVV), which has permitted the training of professionals in this field.

In addition, it has managed to demystify the subject of protection offered by UPOV against, for example, the development and application of genetic engineering or the development of transgenic products.

In Nicaragua, breeder titles have been granted for the varieties of watermelon, fodder and rice, and applications have been received for the varieties of rice, maize, bean, tobacco, sugar cane, and others; this helps to ensure that farmers sow improved, high-quality seeds.

Despite its limited financial resources, Nicaragua has succeeded in making the payment of its UPOV contributions a priority.

As a result of its own work, the Plant Variety Directorate of the Intellectual Property Registry, which forms part of the Ministry of Development, Industry and Commerce, managed to train two of its members of the Classifying Committee in Mexico City, to learn, in situ, about the experience and operational effectiveness of Mexican bodies.

- Problems encountered:

Nicaragua has not managed to participate in the Council or technical group meetings, due to limited finances.

All members of the Classifying Committee and staff of the Plant Variety Directorate need to be trained, in order to equip them with relevant technical knowledge.

6. Situation in the Technical Field

Insofar as its resources permit, the Plant Variety Classifying Committee carries out field visits, which allow in-situ observation of the characteristics of the new variety for which protection is sought, thus enabling it to reach a decision on the application.

7. Activities for the Promotion of Plant Variety Protection

- Meetings, seminars etc.

Nicaragua takes advantage of every invitation, meeting, fair, exhibition or seminar to explain the steps to be taken to obtain protection for a plant variety; the following activities are noteworthy:

- (a) meeting with plant breeders at the firm Industrial Arrocera Altamira S.A. (IAASA);
- (b) national seminar on intellectual property rights (including plant varieties) for young entrepreneurs;
- (c) attention paid to university students, users and plant breeders;
- (d) meetings of the Classifying Committee for the Protection of Plant Varieties (CCPVV) to decide on applications for protection and to plan field visits.

- Publications

Nicaragua has successfully maintained the production and distribution of the electronic Intellectual Property magazine which includes important articles about the work of the Plant Variety Directorate. Its publications can be found on the websites *www.rpi.gob.ni* and *www.mific.gob.ni*, which also contain other documents, such as the forms used and legal procedures etc. There is constant communication with interested parties by e-mail, at the following addresses: *gloria.zelaya@mific.gob.ni*, *Mario.Ruiz@mific.gob.ni* and *Ambrosia.Lezama@mific.gob.ni*.

RELATED SECTORS OF ACTIVITIES OF INTEREST TO 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 Marketing (Law No. 280), published in Gazette No. 26, of February 9, 1998, administered by the Ministry of Agriculture and Forestry (MAG-FOR).

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

The regulations under Law No. 291, on Animal Health and Plant Protection contain provisions for the release of genetically modified organisms, administered by the Ministry of Agriculture and Forestry (MAG-FOR).

Law No. 354, with its respective reforms and updates, has been in force in Nicaragua since 2000. With regard to unfair competition, Nicaragua implements the provisions of the Paris Convention for the Protection of Industrial Property (Stockholm Act) of 1968.

Likewise, it is noteworthy that currently, a Draft Law on Biosafety and Genetically Modified Organisms and a Draft Law on Competition are still being examined by the National Assembly (Congress of the Republic).

Research and development (innovations - new types of varieties, new techniques)

The Nicaraguan Institute of Agricultural Technology (INTA) has provided information on the following research, which has permitted the improvement of:

- basic grains (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)
- roots and tubers (yucca, new coco yam, sweet potato, potato)
- oil-bearing crops (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

There is currently a legal basis which applies to access to genetic resources and which is administered by the Ministry of the Environment and Natural Resources (MARENA).

[Annex XI follows]

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

The Law of June 26, 2003, on the Legal Protection of Plant Varieties - published in the Polish Official Journal No. 137/2003, item 1300, which entered into force on the day of the Republic of Poland's accession to the European Union (May 1, 2004), has recently been amended by the Law of June 9, 2006 (P.O.J. No. 126/2006, item 877). It will come into force on September 13, 2006.

The amendments concerned mainly Art. 23 with respect to provisions concerning the farmer's privilege. Moreover, the new law implemented the provisions of Directive 2004/48/EC on the enforcement of intellectual property rights.

The Polish Law is based on the 1991 Act of the UPOV Convention. Poland acceded to the 1991 Act of the UPOV Convention as the twenty-fourth State on August 15, 2003. Since November 1, 2000, all plant genera and species have been eligible for PBR protection in Poland.

The implementing regulations to the Law are:

- The Decree of the Minister of Agriculture and Rural Development of February 17, 2004, on fee rates for the lodging of an application for Plant Breeders' Rights protection, DUS testing and for the granting and maintenance of the exclusive right titles (P.O.J. No. 60/2004, item 567)
- The Decree of the Minister of Agriculture and Rural Development of March 5, 2004, on the application form for the grant of Plant Breeders' Rights (PBR) and the technical questionnaire form (P.O.J. No. 60/2004, item 569)
- The Decree of the Minister of Agriculture and Rural Development of March 1, 2004, concerning the quantity of seed material necessary for conducting the distinctness, uniformity and stability tests and the dates for supplying material (P.O.J. No. 60/2004, item 568).

The above-mentioned decrees will be amended in the near future.

2. Cooperation in Examination

The Research Centre for Cultivar Testing (COBORU) in Słupia Wielka cooperates in the field of DUS examination with different countries.

It has have bilateral agreements on DUS testing with the Czech Republic, Hungary and Slovakia.

Unilateral agreements are in force with Latvia, Lithuania and Estonia. Poland carries out DUS tests for the authorities in Latvia, Lithuania and Estonia. They relate to different species of agricultural, vegetable and fruit plants.

As in the previous reporting year, COBORU still receives requests for the technical examination results from other authorities, mainly from CPVO.

Poland actively participates in ring test programs. This year, Pea varieties were the subject matter of a ring test. On June 26 and 27, 2006, three Polish experts attended a pea ring test meeting in UKZUZ Brno, Czech Republic.

3. Situation in the Administrative and Technical Field

In the reporting period, we observed a further decrease in the number of applications for national PBR, especially in ornamental plant species, which is caused by the availability of the Community PVP system for the Polish territory.

From January 1 to September 4, 2006, 58 new applications for PBR, including 52 domestic and 6 foreign, were submitted for national protection.

One hundred and thirty-five titles of PBR protection have been granted in the same period. In total, 1,622 varieties are protected in Poland (as on September 4, 2006).

Details on statistics are given below (see table).

Table

Crops	Applications for PBR 1.01. – 04.09.2006			Grants of PBR 1.01. – 04.09.2006			Titles having ceased	Titles in force at 04.09.2006
	domestic	foreign	together	domestic	foreign	together		
Agricultural	36	6	42	33	17	50	44	655
Vegetables	-	-	-	27	1	28	38	281
Ornamentals	15	-	15	33	9	42	58	576
Fruit trees and berry plants	1	-	1	12	3	15	1	109
Miscellaneous	-	-	-	-	-	-	-	1
Total	52	6	58	105	30	135	141	1622

4. Activities for the Promotion of Plant Variety Protection

Poland participates in the sessions of the committees of UPOV, e.g. the Council, the Administrative and Legal Committee, the Consultative Committee, the Technical Committee and the Editorial Committee in Geneva.

Three specialists from COBORU and one specialist from the experimental station in Stupia Wielka have successfully completed the UPOV Distance Learning Course "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention".

COBORU supported CPVO in organizing a regional seminar on the subject of the "Enforcement of Plant Variety Rights" in Warsaw on May 11 and 12, 2006. Over 140 intellectual property practitioners specialized in plant variety protection from Estonia, Latvia, Lithuania, Hungary, Poland, Czech Republic, Austria, Germany, Slovakia and Slovenia, attended this seminar. The CPVO President thanked the Ministry of Agriculture and Rural Development of Poland and the Polish examination office – COBORU for their support in organizing the seminar. A presentation on *General Background on Technical Aspects* was given at that seminar by a COBORU representative.

Meetings, seminars, etc.

On October 5, 2005, a representative of the CPVO visited COBORU and its experimental stations. The subject of that visit was to become acquainted with the organization of DUS testing of ornamental plant varieties and to discuss the possibility of expanding DUS tests on behalf of CPVO, for varieties of selected species of trees and shrubs.

On September 14, 2005, October 7, 2005, March 2, 2006, and July 5, 2006, more than ten specialists from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus visited COBORU. The main topic of those visits was an organization of variety assessment in Poland.

The visit of four specialists from the State Service on Right Protection for Plant Varieties of the Ministry of Agrarian Policy, Kiev, Ukraine, took place on October 13, 2005. During that visit, the subject of DUS testing of sugar beet varieties was raised.

A training course on the examination of seed material according to OECD schemes was organized for specialists from the State Service on Right Protection for Plant Varieties of the Ministry of Agrarian Policy, Kiev, and Seed Inspection of Ukraine, on November 29, 2005. In total, five Ukrainian specialists were provided with training.

On March 8, 2006, a group of more than twenty Dutch students with their tutors, from the Agriculture School in Lundbek, visited the Research Centre for Cultivar Testing. They were acquainted with COBORU activities as well as with the system and organization of variety testing and variety recommendation in Poland.

Three training courses were organized by COBORU in the growing period 2006, for specialists from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus. The subject matter of those courses was the system of national listing and PBR protection in Poland with a focus on the organization and procedures of DUS testing and VCU assessment in our country. In total, 30 Belorussian specialists received training.

From June 12 to 16, 2006, DUS and VCU experts from Poland had a training meeting concerning official examination of grasses and legumes in the Czech Republic.

On August 8, 2006, four examiners from the Czech Republic visited DUS tests of fruit plants in Poland.

— Publications

COBORU issues, every two months, the Polish Gazette for Plant Breeders' Rights and National List (Diariusz) which contains detailed information concerning PBR protection and national listing.

The list of varieties protected by national Plant Breeders' Rights (including provisional PBR's), valid as of June 30, 2006, was published in the third edition of the Polish Gazette for Plant Breeders' Rights and National List /No. 3(74)2006/.

In addition, the Research Centre for Cultivar Testing maintains and updates every two weeks a homepage *www.coboru.pl* that contains official information on PVP matters in Poland.

RELATED FIELDS OF ACTIVITIES

The *Polish National List of Varieties of Agricultural and Vegetable Plants* as well as the *Polish National List of Varieties of Fruit Plants* were issued in April and June 2006, respectively.

[Annex XII follows]

ANNEX XII

REPUBLIC OF MOLDOVA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1. Amendments to the Law and Regulation on the Application of the Law:

Law No. 915-XIII of July 11, 1996, on the Protection of Plant Varieties of the Republic of Moldova was amended in 2005 by Law No. 205-XVI of July 28, 2005, with regard to Art. 1, 4(1), 10, 12(4), 12(5), 17, 20(3), 20(4). The Regulation on the application of Law No. 915-XIII was amended accordingly on December 28, 2005.

Short term prospects :

In order to fulfill Moldova's commitments under the Partnership and Cooperation Agreement between the Republic of Moldova (RM) and the European Union (EU), work on harmonization of the national *sui generis* system of plant variety protection with the European legislation has been started.

According to the RM – EU Action Plan:

- the elaboration of a new law on the protection of plant varieties in compliance with the UPOV Convention and European Directives in the field is under way; and
- capacity-building of the national bodies responsible for the administration of the plant variety system is foreseen in 2006-2007.

Problems encountered:

Restricted financial resources for extending the list of the protected plant variety species and for purchasing specialized equipment for DUS examination

1.2 Case Law:

No precedents with regard to the protection of breeders' rights.

1.3 Extension of protection to other genera and species (done or planned):

At present, plant variety protection extends to 24 species.

According to the project of the new law on the protection of plant varieties which is under elaboration, protection will be extended to varieties of all botanical genera and species, including hybrids between genera and species.

2. Cooperation in Examination

There are no bilateral agreements of cooperation in the examination of plant varieties.

3. Situation in the Administrative Field

No changes

- Changes in the Procedural and Protection System

No changes.

- Statistics

In the period from September 1, 2005, to September 1, 2006, 18 applications have been received, as follows:

- 16 national applications: Barley: 2; Wheat: 3; Soybean: 2; Sunflower: 5; Sugar beet: 1; Vetch: 1; Lentil: 2;
- 2 foreign applications: Sour cherry: 2 (Germany).

In the period from September 1, 2005, to September 1, 2006, 7 decisions for the grant of patents had been adopted, as follows: Apple: 3 (MD), Sunflower: 4(MD).

In the period from September 1, 2005, to September 1, 2006, 3 patents had been granted, as follows: Apple: 1 (MD), Sunflower: 2 (MD).

At present 21 variety patents are in force.

4. Situation in the Technical Field

No changes.

5. Activities for the Promotion of Plant Varieties Protection

Meetings, seminars

In the period under review, for the purpose of implementing the provisions and requirements of Law No 915-XIII of July 11, 1996, on the protection of Plant Varieties of the Republic of Moldova, the State Agency on Intellectual Property continued to organize seminars and workshops for representatives in industrial property, interested persons, including scientists and breeders, which were held within the AGEPI library, Agriculture University of Moldova as well as in other parts of the Republic of Moldova.

Some information regarding the UPOV Plant Variety Protection system, the 1991 Act of the UPOV Convention and the enforcement of plant breeders' rights was presented at the Scientific Symposium "AGEPI Readings", held in April 2006 in Chisinau, Republic of Moldova.

Publications

A range of articles concerning the granting procedure of a plant variety patent according to the legislation of the Republic of Moldova had been published by the AGEPI examiners in “INTELLECTUS” magazine of the AGEPI.

In 2005, a new interface of the AGEPI web site: *www.agepi.md*, was launched including the national legislation in the field of plant variety protection, the application form for a plant variety patent and useful information for applicants and breeders, the information being available in Romanian, Russian and English languages.

The AGEPI publishing office has published the updated versions (in Russian and Romanian) of the booklets “How to obtain a plant variety patent in the Republic of Moldova”, and “Intellectual Property Protection in the Republic of Moldova”, which contain information on plant variety protection.

[Annex XIII follows]

ANNEX XIII

SLOVAKIA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

The intellectual property rights of breeders of plant varieties are protected in accordance with 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 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 Law No. 181/1993 Coll. of Laws on administrative payments. Fees were published as an amendment to the Regulation for applications for legal protection of plant varieties according to the law No. 132/89 Coll. of Laws. This regulation came into force on 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 UKSÚP Variety Testing Department.

2. Cooperation in Examination

Bilateral agreements with the Czech Republic, Poland and Hungary.

A bilateral agreement of cooperation with Slovenia is under preparation.

3. Situation in the Administrative Field in the year 2005

During the period from January 1, 2005, to December 31, 2005, 24 applications for plant breeder's rights were received and 69 applications were deleted.

Plant Breeder's Rights for 57 varieties were granted (Slovakia: 27, Czech Republic: 11, the Netherlands: 3, Germany: 16) and 8 grants were cancelled. In total, up to December 31, 2005, there were 349 valid grants.

4. Activities for the promotion of plant variety protection

The Variety Testing Department of the UKSUP publishes on a quarterly basis „The Bulletin of Variety Testing Department of Central Controlling and Testing Institute in

Agriculture of the Slovak Republic“. The Department also periodically publishes the descriptions of newly registered varieties in the National List and the results of the VCU tests.

All information is available at the website address: *www.uksup.sk*

ÚKSÚP organizes “Open Days” at its testing stations network. Specialists of the Variety Testing Department maintain close contacts with colleagues from foreign institutions and cooperate in DUS testing.

Our expert participated at the Regional Seminar on Enforcement of Plant Variety Rights in Warsaw, Poland, on May 11 and 12, 2006, organized by the CPVO.

ÚKSÚP experts have taken part in the Ring Test Session in Brno in June 2006.

RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

Under preparation: guidelines for the development of national strategies and best practices to ensure the coexistence of genetically modified crops with conventional and organic farming.

[Annex XIV follows]

ANNEX XIV

SWITZERLAND

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Amendments to the Law and to the implementation provisions

For Switzerland to ratify the 1991 Act of the Convention, the relevant national Law has to be partly revised. The Message to Parliament on the revision of the Plant Variety Protection Law was submitted in June 2004. The Proposal was debated in the Council of States and adopted with minor amendments. The preparatory Committee of the National Council decided to suspend proceedings in August 2005 until the revision of the patent law had also been debated. The proposal is not likely to be discussed further until late this year.

On August 1, 2006, a new fee schedule came into force. There is now no longer a separate fees regulation, but the fees are to be found in the Plant Variety Protection Regulation. The annual fee differing according to year and plant category has been unified and is 240 Swiss francs per year and variety.

1.2 Case law

To our knowledge, no court decisions have been given in the past year in connection with plant variety protection.

1.3 Extension of protection to additional genera and species

There has been no extension to additional genera or species in the past year. The current list is already very comprehensive, and the new Law will extend protection to all genera and species.

2. Cooperation in Examination

No changes. As no trials are conducted in Switzerland, all examination is done abroad under contract or alternatively existing examination reports are adopted.

3. Situation in the Administrative Field

The Internet site now features the present Plant Variety Protection Register and the current requests.

4. Situation in the Technical Field

Nothing to report, as no trials are conducted in Switzerland.

5. Activities for the Promotion of Plant Variety Protection

Representatives of India visited the Swiss Plant Variety Protection Office. They were shown how plant variety protection under the UPOV Convention can be implemented even with minimal resources.

[Annex XV follows]

ANNEX XV

UKRAINE

PLANT VARIETY PROTECTION1. Situation in the Legislative Field

On August 2, 2006, the Parliament of Ukraine approved the Law of Ukraine “On adaptation to the 1991 Act of the International Convention for the Protection of New Varieties of Plants”. Currently, the terms are being considered to deposit with the Secretary-General of UPOV the instrument of accession of Ukraine to the 1991 Act of the UPOV Convention.

2. Situation in the Administrative Field

Since the beginning of the year 2006, plant variety right protection has been available for all plant genera and species. 369 patents were granted this year, of which 188 were for agricultural crops, 85 for vegetable crops, 60 for fruit crops and 36 for ornamental crops.

For documents C/40/5, C/40/6, C/40/7, the State Service on Right Protection for Plant Varieties submits the following information:

In 2005, the State Service on Right Protection for Plant Varieties registered 815 applications for the granting of patents, of which 555 were from residents and 260 from non-residents. 95 patents were granted, including 49 for residents and 46 for non-residents. During the year 2005, five patents were nullified before their expiry. A total of 193 patents were valid at the end of 2005.

Granted titles and received applications by countries, respectively:

Country	Applications	Patents	Country	Applications	Patents
AT	19	6	HR	4	-
CH	3	-	HU	2	3
CZ	4	-	IT	3	-
DE	17	23	NL	64	1
DK	1	1	PL	20	6
FR	55	6	RU	39	-
GB	3	-	YU	26	-

[Annex XVI follows]

ANNEX XVI

SERBIA

PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

After the referendum in the Republic of Montenegro, and the cancellation of the State Union Serbia and Montenegro, the Republic of Serbia as a legal successor of the former State Union continues cooperation with UPOV.

The Ministry of Agriculture, Forestry and Water Management of Republic of Serbia, Department for Plant Variety Registration and Protection has prepared a new draft of the Plant Variety Protection Law which conforms with the 1991 Act of the UPOV Convention. The PVP Law will be adopted in the Parliament of Republic of Serbia.

2. Cooperation in Examination

The Ministry of Agriculture, Forestry and Water Management, Department for Plant Variety Registration and Protection, has planned to establish cooperation with OMMI in Hungary for DUS testing.

3. Situation in the Administrative Field

The Department for Plant Variety Registration and Protection, which is a part of the Ministry of Agriculture, Forestry and Water Management of Republic of Serbia, is responsible for the protection of plant varieties.

4. -

5. Activities for the Promotion of Plant Variety Protection

Representatives from the Department for Plant Variety Registration and Protection, from the Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia and from the Agroinstitute Sombor visited the National Institute for Agricultural Quality Control (OMMI) in Hungary in June 2006.

In May 2006, representatives from the Department for Plant Variety Registration and Protection visited GEVES in France.

The Republic of Serbia Department for Plant Variety Registration and Protection continues to participate in international project "Ring Test for Pea 2006".

RELATED FIELDS OF ACTIVITIES

The catalogue of varieties authorized for sale (registered plant varieties in Republic of Serbia) is available on the website of the Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia (www.minpolj.sr.gov.yu and www.sorte.minpolj.sr.gov.yu).

[Annex XVII follows]

ANNEX XVII

TURKEY

1. Situation in the Legislative Field

Law 5042 on the “Protection of Plant Breeder’s Right of New Plant Varieties” was based on the 1991 Act of the UPOV Convention and EU regulation 2100/94 on Community Plant Variety Rights. The law was approved in the Turkish Parliament on January 08, 2004. It was published in the official Gazette 25347 on January 15, 2004, and entered into force. The secondary legislation on the “Implementation of Farmer’s Exemption” and “Protection of Plant Breeder’s Right of New Plant Varieties” were published in the official Gazette on August 12, 2004.

2. Cooperation for Examination

DUS tests in relation to applications for varieties for Plant Breeder’s Right based on Law 5042, will be conducted by the Turkish Variety Registration and Seed Certification Center. The species for which DUS tests cannot be carried out by that Center will be sent to other countries for DUS testing. The Variety Registration and Seed Certification Center has started to organize the laboratories where the DUS tests will be carried out.

The official variety description forms and other documents are supplied bilaterally from the relevant CPVO Office and some E.U. countries (Netherlands, France etc.) under the framework protocol of technical cooperation.

3. Situation in the Administrative Field

Since the approval of Law 5042, there have been 182 applications in 44 different species. 112 of the applications were accepted and published in the Plant Varieties Bulletin. 39 applications were rejected and the examinations of the other 64 applications are in progress. When the announcement period for the accepted applications is completed, DUS tests for the varieties will be started. Varieties for which DUS tests were done in the past will be discussed by the Registration Committee for Plant Breeder’s Right. Now, 48 varieties under the protection of the PBR in Turkey is the result of the all work.

4. Situation in the Technical Field

Improvements to the infrastructure for technical staff and the equipment (lab equipment, experimental material, computer, training and so on) are in progress in the Variety Registration and Seed Certification Center.

5. Other Matters

The project on the strengthening capacity of the Ministry of Agriculture and Rural Affairs for the development of EU harmonized legislation on seed and seedling and Plant Breeder Rights and its effective implementation has been carried out under the coordination of the Turkish and Netherlands Governments. Under the framework of

this project, PBR matters, such as implementation problems, were discussed in detail during the meeting held on April 3 and 4, 2006, and the final seminar held on June 7 and 8, 2006, between the Turkish and Dutch relevant staff. The Turkish Ministry of Agriculture arranged several seminars and training for people in the seed sector. During the seminars and training, information on basic rules and implementation of Plant Breeder's Right in Turkish was given. The List of varieties approved by the Ministry was published in the "Plant Varieties Bulletin" periodical.

[End of Annex XVII and of document]