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ADDENDUM TO DOCUMENT C/30/11

(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 Argentina, Belgium, Canada, Israel, the Netherlands and Uruguay.

[Six annexes follow]

ANNEX I

ARGENTINA

Situation in the Legislative Field

On February 28, 1996, the National Seed Institute (INASE) adopted Resolution No. 35/96 to regulate the procedure to be followed by producers wishing to use their own seed under the "farmer's privilege."

Situation in the Administrative Field

In 1995, 181 applications for protection were filed and 80 titles of protection were issued; 376 applications for entry in the National Register of Cultivars were filed and 92 entries were made, bringing the total of registered varieties to 640.

In 1996, until September 30, 71 applications for protection were filed and 82 titles of protection were issued; 417 applications for entry in the National Register were filed and 251 entries were made.

Situation in the Technical Field

The release of genetically modified organisms into the environment is regulated in Argentina by the National Commission for Agricultural Biotechnology (CONABIA), on which INASE is represented.

In 1996, five titles of protection were issued for genetically modified soybean varieties that are resistant to glyphosate.

Activities for the Promotion of Plant Variety Protection

Technical experts from Bolivia, Brazil, Colombia, Ecuador and Paraguay visited INASE in 1995 to acquaint themselves with the protection and registration procedures of Argentina.

Argentina actively contributes through its delegates from INASE to the drafting of the draft Agreement, between a number of member States of the Latin-American Integration Association (ALADI), on the Harmonization of the Norms and Policies Relating to the Rights of Breeders of Plant Varieties.

The President of INASE, Mrs. Adelaida Harries, holds the presidency of the Seed Committee of ALADI for the July 1995-July 1997 term, and Argentina provides the technical secretariat of the Committee through INASE.

With respect to MERCOSUR, Argentina also contributed actively to the drafting of a draft Agreement on the Harmonization of the Norms and Policies Relating to the Rights of Breeders of Plant Varieties.

At national level, meetings were held with seed producers and traders to inform them on the scope of protection and the exceptions.

Developments in Related Fields of Activities

The 1996 Annual Meeting of the OECD Systems of Varietal Certification of Seed Moving in International Trade took place in Buenos Aires and was organized by INASE.

INASE is not only competent for plant variety protection and national listing matters, but also for seed certification and control. In the framework of its activities in the latter area, it gives effect to the breeder's right by requesting proof of the breeder's authorization in respect of seed from protected varieties put into circulation.

[Annex II follows]

ANNEX II

BELGIUM

Situation in the Legislative Field

The completion of the draft new plant variety protection law should start in 1997.

No change in existing legislation is anticipated in the short term, except for an extension of protection to further genera and species.

Cooperation in Examination

Two agreements—with Denmark and France—are awaiting confirmation. New agreements or amendments to existing agreements may be concluded on the basis of the requests for extension of protection to further taxa.

Situation in the Administrative Field

The computerization of the Service for the Protection of New Plant Varieties has been under way since the end of 1994. The programs are now available, and the data on the files are being loaded. Once this has been completed, Belgium will be able to contribute to the UPOV database on CD-ROM.

From the entry into force of the system for the protection of new plant varieties to August 31, 1996, 2,070 applications for protection have been filed and 1,538 certificates issued, of which 757 are still in force. From September 1, 1995, to August 31, 1996, 292 titles of protection were issued.

Developments in Related Fields of Activities

The revision of the regulation on the production, control and certification of seed of agricultural crops is nearing completion and should be applicable as from 1997. The reorganization of the “Propagating Material” Service, which has this regulation within its attributions, is under study.

The orders for the implementation of the royal decree on the marketing of fruit plants for the production of fruit, ornamental plants, vegetable plants and propagating material of those plants with the exception of vegetable seeds have been all published.

A royal decree transposing Council Directive 90/220/EEC on the release of genetically modified organisms into the environment and a royal decree instituting a system of scientific determination of biosecurity are in preparation.

[Annex III follows]

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ANNEX III

CANADA

Situation in the Legislative Field

Regulations are in place for 39 species. Regulations should be in place for all species by late 1997. Preliminary discussions on the 1991 Act of the Convention have been initiated with members of the industry affected by this legislation.

Situation in the Administrative Field

Canada has been receiving applications for plant breeders' rights since November 6, 1991. As of October 7, 1996, the Office received 962 applications and granted 274 rights.

[Annex IV follows]

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ANNEX IV

ISRAEL

Situation in the Legislative Field

The Law on the Rights of the Breeders of Plant Varieties has been amended and adapted to the 1991 Act of the Convention and on June 3, 1996, Israel deposited its instrument of ratification with the Secretary-General.

Protection now extends to all plant genera and species.

Cooperation in Examination

An agreement on cooperation in examination with Denmark is under way, and an agreement with the European Community is planned.

[Annex V follows]

ANNEX V

NETHERLANDS

Situation in the Legislative Field

The law of June 26, 1996, approving the 1991 Act of the Convention and amending the Seeds and Planting Material Act was published on July 23, 1996, in *Staatsblad* No. 398. The approval of the 1991 Act came into force on July 24, 1996, and the instrument of acceptance of the Act was deposited with the Secretary-General on October 14, 1996. The amendments to the Seeds and Planting Material Act will enter into force on a future date specified in a separate order of the Queen. The Ministry of Agriculture, Nature Management and Fisheries is preparing a general administrative order on the “farmer’s privilege.” It is due to be submitted to the Council of State for advice shortly.

The Board for Plant Breeders’ Rights is setting up a system of administrative fees for its services with respect to Community plant variety rights applications.

For transparency reasons, the Board decided to publish important decisions on applications for protection in the Gazette.

Cooperation in Examination

On June 15, 1995, the bilateral administrative agreement with Finland was agreed upon. In May 1995, draft agreements were sent to Norway, Sweden and South Africa. In September 1995, Japan sent in a draft agreement intended to facilitate certain aspects of the administrative procedure between Japan and the Netherlands.

Situation in the Administrative Field

In 1995, the number of applications filed for plant breeders’ rights showed, probably due to the entry into operation of the Community plant variety rights system, a considerable reduction of 23%: 1,183 applications were received as against 1,540 in 1994.

The examination entrusted to foreign authorities showed again a decrease, from 538 to 354; the number of requests for information—coming from abroad—on tests conducted in the Netherlands showed a decrease from 484 to 280.

In the period from January 1 to September 1, 1996, 655 applications were received.

In 1995, the activities of the Board were dominated by the entry into operation of the Community plant variety rights system. The processing of the “conversion” applications (the majority of the 977 applications for Community protection filed through the Board) and the huge number of inquiries by telephone caused a considerable workload for the Secretariat. The Board thought it useful to inform breeders on the Community system through the Gazette, in close cooperation with the United Kingdom authorities. Furthermore, the Chairman and the Secretary participated in various meetings in Brussels. The attribution of the technical

examination to the various research institutes of the Community member States is to be discussed in the near future.

Situation in the Technical Field

Following questions whether there can be free competition between research institutes, a study on a possible system of certification regarding DUS tests (both for protection and marketing purposes) has been initiated by the Minister for Agriculture, Nature Management and Fisheries. The Board is of the opinion that a qualified and permanent structure is still necessary to support the authority in the technical field. A similar discussion about free competition between the research institutes within the European Union might also arise in the near future within the framework of the Community plant variety rights system.

Activities for the Promotion of Plant Variety Protection

The Board received a delegation of Japan twice and informed them about the implementation of the 1991 Act of the Convention at national level. Delegations from China and India were received to be informed about the plant breeders' rights system in the Netherlands. The authorities were further pleased to organize the meetings of three UPOV technical working groups on the adaptation and improvement of examination standards.

Developments in Related Fields of Activities

In June 1996, the Parliament unanimously voted in favor of the opinion that the scope of a patent granted for a biotechnological invention should be limited to the invention itself. This means that the plant or the animal in which the patented invention comes to expression should be "free." The Government was also asked to express this opinion in the discussions in the Council of the European Union on the draft directive on this subject.

[Annex VI follows]

Situation in the Legislative Field

No initiative has been taken so far on the adaptation of national legislation to the 1991 Act of the Convention.

Protection now applies to 22 species belonging to 17 genera, and an extension to six further species is planned. There is a need to, and an interest in, applying the protection system to fruit species. This requires initial and on-the-job training of technical staff and, in turn, the assistance of member States. The necessary financial means are being sought.

Cooperation in Examination

No initiative has been taken so far, but cooperation is necessary, especially for fruit species.

Situation in the Administrative Field

The creation of the National Seed Institute, described in the previous report, has been approved by one Chamber of the Parliament.

Activities for the Promotion of Plant Variety Protection

Drafts have been prepared, within the Latin-American Integration Association (ALADI) and the Southern Common Market (MERCOSUR), to harmonize policies and promote plant variety protection.

A contribution was made to the Fifteenth Pan-American Seed Seminar to be held in Gramado (Brazil) from October 28 to 30, 1996, and it has been suggested to include a panel on plant variety protection, with the participation therein of UPOV.

Delegations from Bolivia and Brazil have been received to inform them on the implementation of the protection system in Uruguay, both at technical and administrative levels, and to enable them to meet with Uruguayan breeders.

The Official Gazette has been set up, and two issues have been issued.

Developments in Related Fields of Activities

Special regulations on the release of genetically modified organisms are being implemented; current work is based on risk analyses and on the national rules governing phytosanitary matters and national listing. Tests and seed multiplication under strict security

measures have been authorized, and also the release of a transgenic soybean variety and material thereof.

The authorities participate actively in all international and regional activities relating to the conservation and the use of, and access to, plant genetic resources.

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