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GENEVA

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ADDENDUM TO DOCUMENT C/32/11
(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 South Africa, Estonia, Finland,
the Netherlands and Ukraine.

[Five annexes follow]

ANNEX I

SOUTH AFRICA

Situation in the Legislative Field

The revised Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976) came into operation during April 1996. South Africa's instrument of ratification is still in the process of being finalized and should be deposited with UPOV in the near future.

Discussions are presently being held amongst various groups and the Government to amend the clause in the Act which deals with "farmer's privilege," especially as far as vegetatively propagated varieties are concerned. The strategy of the Department is to remove "farmer's privilege" from the Plant Breeders' Rights Act and include a new section in the Plant Improvement Act which will allow farmers to harvest seed of varieties which are not protected by means of compulsory certification or plant breeders' rights.

Requests for the extension of protection to further genera and species are still received from time to time. During the year under review, protection has been extended to 6 new genera and species and another 5 are in the process of being protected.

Cooperation in Examination

A bilateral agreement with the Netherlands was signed in South Africa on July 20, 1998. There have been no further developments on the request from the Chinese Special Administrative Region of Hong Kong for a bilateral agreement.

Situation in the Administrative Field

From October 1, 1997, to August 31, 1998, 144 applications for plant breeders' rights were received and 138 breeders' rights were granted. As at August 31, 1998, there were 368 applications under consideration and 1359 plant breeders' rights in force. Further details are given below.

| | Agricultural Crops | Vegetable Crops | Ornamental Plants | Fruit Crops | Total |
|----------------------------------|--------------------|-----------------|-------------------|-------------|-------|
| Applications Received | 35 | 33 | 65 | 11 | 144 |
| Plant Breeders' Rights Granted | 41 | 29 | 54 | 14 | 138 |
| Valid Plant Breeders' Rights | 419 | 214 | 523 | 203 | 1,359 |
| Applications Under Consideration | 79 | 44 | 145 | 100 | 368 |

Activities for the Promotion of Plant Variety Protection

Seminars, workshops and courses have been presented during the year to various groups of people having interests in plant breeders' rights. The main topic is still the changes to the new Act and especially "farmer's privilege."

Tremendous pressure is being put on the Directorate to include a section on "farmers' rights" in the Plant Breeders' Rights Act.

Developments in Related Field of Activities

The Genetically Modified Organisms Act (GMO Act) has been approved by Parliament and ratified by the President of South Africa. The Regulations to the Act have nearly been completed.

The South African Committee for Genetic Experimentation (SAGENE) is currently responsible for the provision of control measures and risk analyses in cooperation with the National Department of Agriculture and Health. SAGENE is a national advisory body consisting of private citizens appointed, nominated or invited to serve on a voluntary basis by virtue of their affiliations, skill or experience.

[Annex II follows]

ANNEX II

ESTONIA

Situation in the Legislative Field

The new Plant Variety Rights Act of the Estonian Republic was passed by Parliament on March 25, 1998, and entered into force on July 1, 1998. It is adapted to the 1991 Act of the UPOV Convention.

Implementing regulations have been drafted and submitted to the Government for approval. The variety protection fees were increased when the new Act entered into force.

The Law of the Ratification of the International Convention for the Protection of New Varieties of Plants has been drafted and is waiting for the advice of the Council on the conformity of the Plant Variety Rights Act with the Convention.

Cooperation in Examination

Estonia is looking for possibilities for cooperation in examination and exchange of DUS reports.

Situation in the Administrative Field

The Estonian Plant Production Inspectorate was established at the end of 1997. The Inspectorate is a State body and has seven departments:

- Plant Protection Products Registration Department
- Department for the Monitoring of Use of Plant Protection Products
- Department for the Monitoring of Use of Fertilizers and Feeding Material
- Plant Product Control Department
- Seed Certification Department
- Variety Control Department
- Plant Health and Propagating Material Control Department

The Variety Control Department is responsible for plant variety protection and variety listing. It is setting up a computer system for variety registration and networking with other departments.

A senior officer from the Department followed the Second International Course on Plant Variety Protection organized by the CPRO-DLO of the Netherlands in Wageningen in May 1998.

There are 27 titles of protection issued and 38 applications at different stages of examination.

Developments in Related Fields of Activity

The Seed and Propagating Material Act was passed by Parliament on May 13, 1998, and entered into force on July 1, 1998.

On October 23, 1997, the Council of OECD decided to admit Estonia to the OECD schemes for varietal certification of herbage, oil seed, cereals and vegetable seed moving in the international trade.

The legislation on genetically modified organisms has been drafted and submitted to Parliament for approval.

[Annex III follows]

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ANNEX III

FINLAND

Situation in the Legislative Field

It is anticipated that the draft law conforming with the 1991 Act of the UPOV Convention will be submitted to Parliament soon after the Parliament elections next March.

Situation in the Administrative Field

From September 17, 1997, to October 8, 1998, 9 applications were received and 14 titles issued.

Developments in Related Fields of Activity

The new implementing regulations to the Seed Law have been published.

[Annex IV follows]

ANNEX IV

NETHERLANDS

Situation in the Legislative Field

As a consequence of the entry into force of the 1991 Act of the UPOV Convention, the Dutch law implementing that Act was put into force on the same date, i.e. on April 24, 1998, by a royal decree. Before that, a general administrative order on the rules concerning the “farmer’s privilege” had been published.

Cooperation in Examination

In July 1998, a bilateral administrative agreement between the Netherlands and South Africa was signed in South Africa by the competent authorities of the Netherlands and South Africa. The agreement relates to *Anthurium* Schott, *Gerbera* Cass. and *Lachenalia* Jacq. f. and is based upon the UPOV Model Agreement.

Austria has asked for a bilateral administrative agreement and the Netherlands has responded positively.

Situation in the Administrative Field

In 1997, the number of applications for plant breeders’ rights fell again (to 773) and has not yet stabilized. The number of applications for Community Plant Variety Rights submitted through the Dutch Board was 119.

In 1998, the number of applications was 571 as of September 1 (493 in the same period of last year). The Board received 114 requests from UPOV member States for examination and sent 243 requests to the member States with which a bilateral agreement had been concluded. The total number of reports sent by the Board was 1802. The CPVO asked for 211 examinations.

Situation in the Technical Field

The study on the feasibility of a system of certification regarding DUS examinations, designed to achieve free competition between research institutes, is in progress. Recently, the first results have been discussed with a representative of the European Commission and the CPVO. At European level, there is a policy aiming at specialization in the examination. A system of free competition between research institutes is contrary to that policy. The consequences of this situation are being considered.

Activities for the Promotion of Plant Variety Protection

A Chinese Delegation visited the Dutch Ministry of Agriculture, Nature Management and Fisheries and the CPRO-DLO in Wageningen. The delegation was especially interested in the implementation of the 1991 Act of the UPOV Convention under Dutch law.

A Slovak Delegation also visited the Dutch Ministry of Agriculture, Nature Management and Fisheries, the Board for Plant Breeders' Rights and the CPRO-DLO.

At the CPRO-DLO, a delegation from Cyprus and a delegation from Egypt have been trained in research.

A course on plant variety protection, attended by 10 participants from 9 countries, was organized in May 1998. This course was again very successful. It covered the legal, institutional and technical aspects of plant variety protection and touched upon other intellectual property rights systems for plants.

[Annex V follows]

ANNEX V

UKRAINE

Situation in the Legislative Field

The draft of the Law Amending the Law on the Protection of Plant Variety Rights has been adopted in the first reading by the Supreme Soviet of Ukraine; the preparation of the second reading is in progress.

Situation in the Administrative Field

During 1997, 16 applications for plant variety rights were received. No rights have been issued yet.

Activities for the Promotion of Plant Variety Protection

During 1998, representatives of the State Committee of Ukraine for Plant Variety Testing and Protection participated in the following:

- (a) practical training on the principles and organization of varietal seed certification in France, organized by the *Groupement national interprofessionnel des semences et plants* (GNIS) (France, April-July 1998);
- (b) seminar of the European Patent Office (EPO) on "Examination in the field of plant varieties," held in Munich on April 20 to 24, 1998;
- (c) international conference on "Community Plant Variety Rights, the European Approach," held in Angers on May 18, 1998;
- (d) visit of experts from the Community Plant Variety Office to give legal and technical information about the Community plant variety rights system, October 21 to 23, 1998.

Developments in Other Fields of Activity

The Government of Ukraine has decided to become a member of the International Seed Testing Association (ISTA).

The question of the admission of Ukraine to the OECD Schemes for the Varietal Certification of Seed Moving in International Trade is under the discussion.

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