



C/32/11 Add. 2

ORIGINAL: English

DATE: October 20, 1998

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Thirty-Second Ordinary Session
Geneva, October 28, 1998

SECOND 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 Argentina, Austria, Bolivia, Bulgaria, Denmark, Hungary, Japan, Slovakia and Sweden.

[Nine annexes follow]

ANNEX I

ARGENTINA

Situation in the Legislative Field

The possibility of making amendments to adapt the national legislation to the 1991 Act of the UPOV Convention is still under consideration.

Cooperation in Examination

The National Seed Institute (INASE) accepts the results of DUS tests for roses from France, Germany and the Netherlands for the purposes of both the National Register of Cultivars and the National Register of Cultivar Ownership.

Situation in the Administrative Field

An agreement on cooperation has been concluded this year with the National Institute of Industrial Property (INPI) in view of the importance of the granting of intellectual property rights in biotechnological inventions that are closely related to both INASE and INPI. It covers the following: provision of information, except where the information must remain secret; technical assistance; mutual information on activities; cooperation in national, provincial and international organisations, when in the common interest; periodical meetings; exchange of information and documents that are of interest to the other party, e.g. data on patents granted, and trademarks and variety denominations registered.

The table below summarizes the volume of activity of INASE with respect to entries in the National Register of Cultivars and grants of titles of ownership.

	1997		1998 (until October 13)	
	Register	Ownership	Register	Ownership
Cereals	96	37	69	27
Oil Crops	79	41	51	28
Industrial Plants	2	1	8	3
Fodder Crops	84	59	39	23
Fruit Crops	51	8	18	9
Vegetables	349	18	168	2
Ornamental Plants	7	7	18	18
Total	668	171	371	110

Recently, objections have been raised to applications, based upon lack of entitlement. The suspension of the registration procedure has been requested pending resolution of the dispute in court.

Situation in the Technical Field

An agreement has been concluded with the University of Morón for the growing-out of the reference collections of wheat, barley, oats, soybean, fodder crops and vegetables, to continue work started in 1993. DUS tests have been sown out for soybean.

Activities for the Promotion of Plant Variety Protection

Technical experts from INASE participated as speakers in the intellectual property seminar organized by the Andes Nursery Association in Santiago de Chile in January 1998.

The INASE participated in the First Central-American Seminar on Intellectual Property and its Relations with Biotechnology and Biodiversity held in San José (Costa Rica) in February.

In June, the Directorate provided a speaker to the training course on plant variety protection for Latin-American countries held in Spain.

Technical experts from the Molecular Markers Laboratory of the Directorate participated as speakers in the International Workshop on Genetic Identification of Vegetatively Propagated Species held in Santiago de Chile on October 14 and 15.

Technical experts from the Directorate lectured on plant variety protection in Argentina and on the release of genetically modified organisms at the XVIth Pan-American Seed Seminar held in Buenos Aires from October 19 to 21.

Developments in Related Field of Activity

Authorizations to import or export seed are a matter within INASE's competence. INASE has been requested to ensure that export is made subject to the express authorization of the cultivar owner, even though the seed may have been released for circulation on the internal market.

Staff members of INASE participated in the fifth extraordinary session of the FAO Commission on Genetic Resources for Food and Agriculture, held in Rome from June 8 to 12, 1998.

The National Commission of Agricultural Biotechnology (CONABIA) authorized the release of a total of 78 genetically modified varieties of alfalfa, maize, potato, soybean, sunflower, tomato and wheat, among others, for the 1997/1998 campaign.

The work on the molecular markers of soybean has been concluded; similar work has started on maize and sunflower.

[Annex II follows]

ANNEX II

AUSTRIA

Situation in the Legislative Field

No date has been fixed yet for the adaptation of the Plant Variety Protection Law to the 1991 Act of the Convention.

An extension of protection to 50 taxa is in preparation.

Cooperation in Examination

An agreement has been concluded with France; its extension is in preparation. Another agreement has been concluded with Slovenia. An extension of the agreements with Germany and the United Kingdom has been concluded; it is in preparation for the agreements with Denmark and the Netherlands.

Situation in the Administrative Field

In 1998, up to September 30, a total of 14 applications were filed and 25 titles of protection issued, bringing the total number of titles in force to 178.

Activities for the Promotion of Plant Variety Protection

A delegation from Hungary visited the Austrian Office.

Developments in Related Field of Activity

Seed Law

The implementing regulations to the Seed Law 1997 entered into force on October 10, 1997. Two further regulations entered into force on July 1, 1998.

Genetic Engineering

The Genetic Engineering Law has been amended, in particular in respect of civil liability.

No authorization for release has been given yet in Austria.

[Annex III follows]

ANNEX III

BOLIVIA

Situation in the Legislative Field

It is hoped that Bolivia will deposit its instrument of accession to the 1978 Act of the UPOV Convention at the beginning of November 1998. The Ministry of Agriculture, Livestock and Rural Development (MAGDR) has made the corresponding request to the Chancellery.

There was a first experience of dispute. A seed producer who refused to recognize the right of the breeder of a protected maize variety could not get his seed certified. He eventually had no choice but to enter into a contract with the breeder; there was no judicial follow-up.

Protection is currently available for cotton, maize, roses and soybean. It is planned to extend protection shortly to wheat and at a later stage to various vegetables.

Situation in the Administrative Field

There has been no change in the administrative structure, but MAGDR has requested that the National Seed Program (PNS) be decentralized in order to guarantee the continuity of its work. It is hoped that the change will be effected by January 1999.

As a result of the promotional activities described below, there has been an increasing interest for plant variety protection from private breeders.

Situation in the Technical Field

The first official DUS tests have been sown out in the Departments of Santa Cruz and Cochabamba (vegetables); further tests will probably be laid out in Chuquisaca.

Activities for the Promotion of Plant Variety Protection

A seminar on plant variety protection was organized in La Paz in April 1998, in cooperation with the Inventors' Association of Bolivia. A course directed at researchers took place at Santa Cruz in September 1998; a similar course is planned to be held in Cochabamba in November.

Two technical experts from the PNS participated in the training course offered by UPOV and the Spanish Government in Spain in June 1998.

Two technical experts from the PNS visited the Agriculture and Livestock Service of Chile to be trained on the spot and get acquainted with its working procedures. They visited Santiago, Temuco, Osorno and Puerto Mont (in January 1998).

The official in charge of plant variety protection has been appointed as a member of the National Biosecurity Committee, which is attached to the Ministry of Sustainable Development and Environment.

[Annex IV follows]

ANNEX IV

BULGARIA

Situation in the Legislative Field

The national Law on the Protection of New Plant Varieties and Animal Breeds was passed by the National Assembly on September 19, 1996, and published in the State Gazette No. 84 of October 4, 1996; it came into force on January 4, 1997.

On February 5, 1998, the National Assembly ratified the UPOV Convention (the corresponding law was published in the State Gazette No. 21 of February 20, 1998). The instrument of accession was deposited on March 24, 1998. On April 24, 1998, Bulgaria became the 36th member of UPOV and contributed to the entry into force of the 1991 Act of the UPOV Convention.

On February 27, 1998, the National Assembly passed a Law on the Amendment of the Law on the Protection of New Plant Varieties and Animal Breeds (published in the State Gazette No. 27 of March 10, 1998). The amendment concerned the granting of licenses by the Ministry of Agriculture, Forestry and Agrarian Reform in respect of plant variety testing.

New fees were introduced by Decree No. 119 of May 27, 1998 (published in the State Gazette No. 64 of June 5, 1998).

Two lawsuits have been instituted.

Protection has been extended to three further species. An extension to four others is in preparation.

Activities for the Promotion of Plant Variety Protection

Meetings are being organized with the breeding institutes of the Academy of Agriculture and individual breeders. The latest was held in the Ministry of Agriculture, Forestry and Agrarian Reform on October 2, 1998.

Experts from Turkey visited Bulgaria.

[Annex V follows]

ANNEX V

DENMARK

Situation in the Administrative Field

In 1997, a total of 34 applications for plant breeders' rights were received (agricultural crops: 26; vegetables: 1; ornamentals: 7); this is some 36% less than in 1996. The number of titles of protection issued was 32 (agricultural crops: 13; fruit: 1; vegetables: 1; ornamentals: 17).

In the period from January 1 to September 1, 1998, 21 applications for protection were received and 36 titles of protection were issued.

Situation in the Technical Field – Variety Testing on Behalf of the Community Plant Variety Office

Thirty varieties of *Euphorbia pulcherrima* and two varieties of *Euphorbia fulgens* were tested on behalf of the Community Plant Variety Office in 1997.

Developments in Related Fields of Activity

Genetically Modified Plants

Agricultural risk assessments were carried out in 1997 for six applications regarding the placing on the market of genetically modified plants in the European Union. The applications concerned fodder beet, carnation, maize, potato and oilseed rape (two). In the period from January 1 to August 31, 1998, risk assessments were carried out on a further seven applications relating to carnation (two), cotton (two), maize, potato and tomato.

In addition, a total of 257 notifications concerning experimental releases of genetically modified plants in the European Union were reviewed in 1997. A further 230 notifications were reviewed in the period from January 1 to August 31, 1998.

Genetic Resources

The Plant Directorate, Division of Gene Technology and Variety Testing, was represented at the fourth and fifth sessions of the FAO Commission on Genetic Resources for Food and Agriculture held in Rome from December 1 to 5, 1997, and June 8 to 12, 1998, respectively.

[Annex VI follows]

ANNEX VI

HUNGARY

Situation in the Legislative Field

The preparations for the accession of Hungary to the 1991 Act of the UPOV Convention are in progress.

Cooperation in Examination

A bilateral agreement with the Netherlands is under discussion.

The testing authorities of the Czech Republic, Hungary and Slovakia have started consultations on cooperation in the field of DUS tests for fruit crops.

Situation in the Administrative Field

From January 1 to October 1, 1998, the Hungarian Patent Office received 110 new applications and granted 69 plant patents.

Activities for the Promotion of Plant Variety Protection

Experts from five countries (the Czech Republic, Germany, Hungary, Poland and Slovakia) participated in a session organized in Budapest on June 9 and 10, 1998, on the ring tests on red clover, poppy and ryegrass. The study of the DUS testing methodology for those species was successfully completed. The activity of the expert group will continue in 1999 in respect of oilseed rape.

Hungarian experts attended the session which was held in Brno (Czech Republic) on July 27 and 28, 1998, on the subject of alfalfa and sunflower DUS tests. The study on sunflower will be continued in 2000. In 1999, the session will be devoted to DUS tests of alfalfa and some vegetables.

Developments in Related Fields of Activity

On March 16, 1998, the Parliament approved the Gene Technology Law (No. XXVII of 1998). The law enters into force on January 1, 1999. Implementing regulations containing detailed rules on the testing of genetically modified varieties are expected to enter into force in the second half of 1999 and the first tests should start in 2000.

[Annex VII follows]

ANNEX VII

JAPAN

Situation in the Legislative Field

A Bill for the amendment of the Seeds and Seedlings Law to adapt it to the 1991 Act of the UPOV Convention was passed by the Diet, and published on May 29, 1998. Japan will deposit its instrument of accession before the end of this year, and the revised Law will enter into force on the date on which Japan becomes bound by the 1991 Act.

Cooperation in Examination

Japan has signed bilateral memoranda with the Netherlands and Israel, which came into force on October 1, 1997, and July 1, 1998, respectively, and under which the authorities have agreed to exchange examination reports.

Japan has also communicated with New Zealand on the conclusion of an agreement on cooperation in examination.

Activities for the Promotion of Plant Variety Protection

The Japanese Government has contributed to the UPOV international workshops on plant variety protection for the countries in the Asian region (seven countries) which were held in Australia on September 22, 1997, and in the United Kingdom from June 8 to 19, 1998. The latter had been organized in cooperation with the National Institute of Agricultural Botany (NIAB) of the United Kingdom and the World Intellectual Property Organization (WIPO).

A UPOV regional seminar for the countries in the Asian region will be held in China in April 1999. An international workshop for Asian countries will also be held in the United Kingdom in June 1999 with financial support from the Japanese Government.

The National Center for Seeds and Seedlings has received in October 1998 two officials from the Republic of Korea to assist that country in the development of examination systems for plant varieties.

[Annex VIII follows]

ANNEX VIII

SLOVAKIA

Situation in the Legislative Field

Preparatory work for the accession to the 1991 Act of the UPOV Convention has started after the adoption of Regulations Nos. 345/1997 and 346/1997 by the National Council on November 10, 1997. The Regulations entered into force on January 1, 1998.

Situation in the Administrative Field

During 1998, 9 Slovakian and 41 foreign applications (Austria: 4; Belgium: 3; Canada: 1; Czech Republic: 7; France: 17; Germany: 9).

As a result of the amendment (No. 22/1996 of the Collection of Laws) of the Law No. 132/1989 on the Legal Protection of New Varieties of Plants and Breeds of Animals, which extended protection to all botanical genera and species, applications are now being received for ornamental and special-purpose species which have so far never been tested in Slovakia. The tests will be carried out in cooperation with other UPOV member States.

Cooperation in Examination

An agreement on cooperation with Slovenia is under preparation. The Variety Testing Department of the Central Institute for Inspection and Testing in Agriculture (UKSUP) is already testing dwarf French bean, red clover, cocksfoot, timothy and tomato for the Slovenian Agricultural Institute.

Further cooperation between the Czech Republic, Hungary, Poland, Slovakia and Slovenia in the testing of fruit and vegetables is under discussion.

Activities for the Promotion of Plant Variety Protection

Experts from Slovakia participated in the meetings on the DUS ring tests for grasses, red clover and poppy (Budapest) and alfalfa and sunflower (Czech Republic) in the summer 1998, and also in the "ring electrophoretic tests" for sunflower organized by French experts.

Genetic Resources

The new Genebank has now been set up. The UKSUP and the Genebank have prepared an agreement for the conservation and maintenance of the reference collections of protected varieties, example varieties, etc.

[Annex IX follows]

ANNEX IX

SWEDEN

Situation in the Legislative Field

As reported last year, the provisions under Council Regulation (EC) No. 2100/94 on the use of farm-saved seed have been incorporated into the new Swedish Plant Variety Protection Act. A revised agreement has been concluded between the farmers' organization and the seed industry. It relates to varieties of cereals, field beans, field pea, oilseed rape, turnip rape and linseed; on average, the royalty level is 52% of the normal license fee.

Situation in the Administrative Field

During the last years, a strong decrease has been noted in applications and grants. The reduction, which is especially pronounced in ornamentals, is mainly the result of the introduction of the Community plant variety rights system.

Number of applications received

1997	68	(57 agricultural, 9 fruit, 2 ornamentals)
1998 (up to October 1)	39	(37 agricultural, 1 fruit, 1 ornamental)
July 1992 to June 1995	120	annually on average
July 1995 to June 1998	56	annually on average

Number of titles of protection issued

1995	80	(17 agricultural, 1 vegetable, 2 fruit, 60 ornamentals)
1996	57	(30 agricultural, 4 fruit, 19 ornamental, 4 trees)
1997	39	(21 agricultural, 5 fruit, 13 ornamentals)

Number of grants valid as per July 1

1996	434	(190 agricultural, 3 vegetables, 25 fruit, 203 ornamentals, 13 trees)
1997	326	(201 agricultural, 3 vegetables, 30 fruit, 89 ornamentals, 3 trees)

Developments in Related Fields of Activity

At present, applications are pending for seven genetically modified potato varieties, all with modified starch. The decision on the first application is awaiting an EU decision on market release.

[End of document]

