

**Meeting of the ESA Board of 17.03.2010
10h30 – 15h30
ESA Office**

MINUTES

Participants: Amberger (Chair); Backx; Brauer; Castaing; Ceccarelli; Chobot; Gohn; Gouache; Marciniak; Mrs Maplestone; Moulin-Wright; Remijnse; Schaefer; Schmitz; Mrs Suelmann; van Elsen; van Straalen

Apologies: Breukink; Goig; Segonds

ESA: v. Essen; Mrs Csorgo; Scholte

NOTES

I. Opening and welcome

President Amberger opens the meeting and welcomes all participants with a specific welcome to C. Schaefer and V. Moulin-Wright who attend their first Board meetings as Secretaries General.

It is agreed to change the order of the agenda to allow all Board members to participate in the votes.

n.b.: The Minutes are in order of the original agenda!

The SG informs that the Secretariat had prepared a number of short introductory documents to the different items on the agenda to facilitate the preparation. In these, a list of available background documents are mentioned which are available to Board members for more in-depth information. The Secretariat currently prepares the adding of a search function to the Members Area of the website to allow for a simple access to these background documents in the future. Board Members express their appreciation of this new approach.

II. Minutes from the last meeting and actions resulting – report from the Secretary General

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Board Members are informed that all actions decided upon have been taken accordingly. The presentation of the work of the European Technology Platform shall be organized for the September Board meeting in view of the heavy agenda of this Board meeting. The SG informs that the ETP is currently working for high level conference in winter 2010 which would provide a good opportunity for such a presentation in September (v. also PoA VI).

- III. Evaluation of the regulatory framework for seed - information on current state of affairs and discussion of ESA approach
 - i. Better Regulation

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The President invites F. Schmitz as Chair of WGBR to give an introduction to the current state of affairs of the Better Regulation exercise.

F. Schmitz informs that the Commission is currently in the phase of further elaborating its Action Plan and supplementing the information received during the evaluation process where required. Here, it had been announced that stakeholders such as ESA would be approached again to provide input on specific aspects of the legislation and/or its administration (e.g. on VCU).

The Action Plan of the European Commission (v. esa_09.0935) outlines the main areas of work of DG SANCO in relation to the seed marketing legislation over the coming year(s).

The WGBR had discussed a first draft of a new seed Regulation elaborated by the Secretariat on the basis of the earlier discussion in the WGBR as well as in line with the principle findings of the evaluator's report that calls for an overarching Regulation (instead of Directives) that established the main principles for seed marketing and to be supplemented with crop specific annexes with more detailed technical specifications.

In view of the scale of the work associate with this approach, it had been decided that concrete proposals should be developed on the principles rather than on the totality of the legislation. At the same time it had been acknowledged that some of the technical specifications (for future annexes) may still require feedback from ESA's sections. However, it was felt that the consultation process of Sections did already result in a good understanding of the WGBR on the principle concerns and positions of companies for the relevant crops.

It is agreed to continue the work on the draft ESA proposal while concentrating on those provisions that would establish the main principles of a new seed marketing Regulation plus crop specific annexes outlining the details.

Board members inquire in how far the legal instrument (Regulation / Directive) has already been determined. In this context, it is brought to the Board's attention that some technical provisions on Member State level do deviate from the EU conditions and that SMA had recently discussed if and in how far such national specifications could/should be maintained. On this point, F. Schmitz and the SG point out that the principle ESA Position favours a Regulation that applies directly in all MS and without any possible derogations. This position seems to be shared by the evaluator and the Commission. However, the Commission will further consult with Member States on their acceptance of such an approach before presenting a legislative proposal.

The SG informs that a new questionnaire has just been sent to national stakeholders and individual companies. As with the earlier questionnaire, the ESA WGBR will provide guidance to ESA Members to assure a coordinated response from the seed industry.

ii. Plant Health

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The SG informs the Board about the position taken in the qualitative questionnaire to the evaluation of the Community Plant Health Regime. This position had also been made available to all ESA Members while specifically asking national associations for inclusion in their relevant national discussions and (in some cases) meetings with the evaluators.

On 23.-24. February, the EU Commission had invited stakeholders together with representatives of Member States' plant health authorities for a mid-term conference on the plant health evaluation where the preliminary findings were presented and the next steps of the evaluation process were discussed.

Following a request from the SG, the Commission had agreed to provide for a presentation from the plant breeding sector during the conference together with presentations from the farming and agricultural trade organisations (CECLAA and COPA-COGECA). On the base of a draft working document of the Commission, the WGPH had elaborated the ESA presentation for the conference which included reference to the links between the better regulation exercise and the plant health evaluation, specifically as regards the extension of taking over of tasks / testing under official supervision and as regards the principle request of the industry for a new style of governance for the seed sector (cooperation).

iii. GMOs

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The SG gives a short overview on the recent developments which are mainly marked by the policy guideline of Commission President Barroso to re-adjust the balance between EU and Member State decision making on GM cultivation without giving any specific details how this is supposed to be achieved.

While the shift of responsibility for the GM legislation away from ENVI and towards SANCO had created some stir in political circles, no large scale GM debate took place during the hearings where designated Commissioners in principle stuck to general policy statements and commitments that were acceptable to industry (science based evaluation etc.). Meanwhile, the Secretariat held an informal meeting with SANCO where it was confirmed that services are looking into options for the re-nationalisation of authorisations, the possibility of making use of the ENVI impact assessment on seed thresholds and the issue of a 'technical solution' for LLP of unapproved events.

The other major political activity as regards GMOs was the Dutch conference on the future of GMOs in EU agriculture held in De Hague end of 2009. At the conference, it became obvious that there was a strong group of Member States that wish to see more national sovereignty as regards the application of GM in farming (i.e. plantings) while accepting the need for an EU wide safety assessment for food and feed use in order not to create problems with the internal market. At the same time, it also became evident that the proponents of such a shift of policy did have difficulties in presenting practical and specifically legal options for bringing about the desired outcome without opening up the existing GM legislation, an option that a good part of Member States obviously does not want to pursue in view of potential WTO issues.

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ESA and EuropaBio/GBE share the concern that any opening up of the existing legal framework could automatically lead to another *de facto* moratorium for authorisations as experienced during the run-up to the adoption of Directive 2001/18/EC. At the same time, the SG underlines that despite the adoption of the Directive, no further authorisations have been granted; therefore, the real effect of such a moratorium is difficult to determine.

The SG considers it important to link the subjects of re-nationalization and AP in seed in order to assure that the latter is finally tackled. While the renationalization clearly is a political priority for the Commission, it may otherwise be expected that the question of AP of GMOs in seed may once again be considered a rather technical one that may be postponed to a later stage. The Board agrees to this approach acknowledging that it might be unrealistic to expect a fully fledged solution also for the problem of LLP in one go.

Following the debate within an Expert Group led by DG ENVI, the ESA WGBT had specifically looked at the question in how far new breeding techniques (reverse breeding, cis-genesis etc.) are covered or could be excluded from scope or application of the provisions of Directive 2001/18/EC. While no final opinion has been taken and interpretation on legal options and wording may differ, the WGBT so far took the view that in order to specifically exclude / exempt any of these techniques, an amendment to Annex 1 of the Directive would be required which in turn would require a co-decision procedure, i.e. an opening up of the legislation. As regards the effect of a coverage of these techniques by GM legislation, it has not been possible to exactly determine socio-economic consequences (current and prediction of no. of varieties concerned per crop etc.). Still, WGBT expects the effect to be considerable.

The Board underlines that it is important to distinguish the subject of new breeding techniques (and potential Novel Foods) and the various aspects of GMOs. It is suggested to WGBT to look into the possibility to use transgenesis as the dividing line between the two areas; in addition, WGBT is asked to discuss the issue of tilling (potatoes) as this has come up in recent discussions in some Member States (Germany).

During the De Hague Conference as well as during discussions with Commission and interested third parties, it became obvious that seed marketing legislation (including the legislation for the Common Catalogue) as well as Coexistence measures are considered to provide opportunities for the desired re-nationalisation of authorisations for GM plantings.

So far, seed industry has opposed such ideas in view of the principal position to maintain a common market for all seed products, i.e. for all varieties registered in line with EU requirements and listed on the Common Catalogue.

As regards Co-existence, A.van Elsen states that the item should also be taken up, especially if MS start to develop their own rules. The SG mentions that seed and biotech industry so far supported the principle approach of the Commission not to propose EU-wide rules and legislation but to consider this an issue where

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subsidiarity applies. However, with more and more extreme co-ex measures (isolation requirements of several kilometres etc.) being applied and in view of the position of farmers (COPA) asking for uniform rules to avoid distortion of competition, it might be time to re-visit the current industry position(s). The SG has asked the Commission to provide an update on the current situation at the upcoming meeting of the Advisory Groups Seeds on 19.04.2010.

Ph. Castaing as Chair of ESA SMA informs the Board that the Section intends to run a survey amongst its members regarding the company internal results of tests of incoming seed lots to demonstrate (once again) the magnitude of the problem of AP.

The SG calls upon Members to look into possible speakers and experts for the conference on new breeding techniques in Seville in May. He considers it important to assure a participation also from non-biotech companies in order to demonstrate that these techniques are not solely of importance to companies active in GMOs. F. Schmitz proposes Mrs Jorasch from BDP and A. van Elsen states that in NL there is an ongoing debate whether or not Cysgenesis should be considered as a GMO technique and that in this discussion Wageningen University as well as a fruitbreeding company are active and would certainly be willing to consider participation. Other Board members announce that they will communicate possible speakers to the Secretariat within the next days. Such speakers should have a good understanding of the political sensibilities of the issue next to their technical breeding expertise.

G. van Straalen is of the opinion that ESA must become more vocal on the subject and suggests to provide Sections with more background information as many members may not be fully aware of the current discussion and the possible consequences for their breeding programmes and future business. The SG will prepare a respective communication with background documentation and final ESA Position following the next WGBT meeting that shall allow all members to be more vocal on the issue also with their respective national contacts.

- iv. Plant Breeders Rights (incl. report on preparation of ESA IP Conference), CPVO and Farm Saved Seed

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The President invites Mrs Suelmann as Chair of the ESA CIPR to introduce the subject of the ESA Position on IP.

Mrs Suelmann informs that in November a first discussion took place in the CIPR on the revision of the ESA position paper on IP. Before the next meeting in February, new draft papers per topic were developed on the basis of existing positions and on the basis of remarks from the CIPR members. In the meeting in February all these papers have been discussed. The CIPR reached agreement on a wide range of subjects, such as edv's, the role of the CPVO and the use of molecular markers in DUS testing. A few issues - regarding farm saved seed and the use of parent lines - will be presented in the seminar. Further the paper on patent-related topics has not been discussed for the most part) as the conference is supposed to provide more input to the CIPR for its further discussion. In order

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to try to meet the deadline set by the ESA Board (September Board meeting), a number of additional meeting dates / dates for conference calls had been agreed upon.

Ph. Castaing inquires about the state of discussions at national level.

Here, F. Schmitz informs about a recent BDP seminar on IP and specifically on the interface in Germany. In addition, the BDP had set up a new IP Working Group. In BDP, it had been agreed that the industry should work for a position that should aim to maximise the societal benefit (maximise innovation) on the base of a fair and effective balance of exclusivity and access.

J.C.Gouache informs that discussions in France focus on the principles of IP and on the fundamental needs of the seed industry for the future rather than on specific technical aspects.

For the Netherlands, A.van Elsen informs that the report commissioned by the Minister has been finalised but not yet been published. Discussions between the Ministries involved (AGRI / ECON) continue and in view of the current political crisis in the Netherlands (following the fall of the current government, federal elections are scheduled for June) it is unlikely that a parliamentary debate will take place until a new government is in place.

No specific discussions or activities are reported from Italy, Austria, Poland and the Czech Republic.

Ph. Castaing underlines the importance to inform members not only about the further process within ESA (i.e. CIPR) but also to make the new (draft) position available in due course before the General Assembly in October to allow Members to define their proper position. While it is acknowledged that transparency and information of Members is important, it is also underlined that the CIPR (and later on the Board) need a sufficient freedom in their further work and discussions which could be jeopardized if draft papers would be made available at a too early stage. It is therefore agreed to charge the Secretariat to consider the appropriate ways of communicating on the state of affairs by way of the ESA Newsletter and/or specific ESA information and background documents in the coming months to assure that all Members are well informed on the progress.

The SG gives a short report from the recent meeting of the CPVO Working Group on Farm Saved Seed and informs the Board that COPA-COGECA is apparently facing severe internal difficulties in sticking to the position its representatives had voiced at last years' CPVO Conference, specifically as regards the issue of 'small farmers' and their exemption from the remuneration obligation. In order to support the CPVO process and assure a positive commitment from COPA for the future meetings, it had been agreed to schedule a high level meeting between representatives of the COPA 'Presidium' and the ESA Board. This meeting will take place the day following the Board meeting.

IV. Seed Treatment Quality Assurance project

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The SG informs that meanwhile some 85.000 EUR have been committed by ESA Members for the campaign and some further commitments have been

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announced. While this is not yet sufficient, the SG is confident that the necessary overall financial means will become available and that the safeguard commitment from the ESA Budget may thus be limited or not be required.

The ESA STAT has agreed to set up a Steering Group consisting of representatives of the seed, crop protection and seed treatment industry members in STAT. This Steering Group will meet for the first time on 8.4.2010 to assess the proposals for project management that have been received in direct discussion with the applicants. Based on this, a recommendation shall be presented to the ESA STAT the following day and a concrete proposal shall be made to the ESA Executive Committee for final decision. In the following, the Steering Group will act as first contact point for feedback and guidance to the project manager throughout the running of the project. Continuous feedback will be given to STAT as well as the full ESA membership.

The SG underlines that both the Steering Group and STAT will pay specific attention to the need of including all relevant work and experiences from already existing national initiatives like e.g. in France or Germany.

The Board takes note of the information and supports the approach.

V. ESA Annual Meeting 2011: proposal for approach, meeting venue and information on related issues (EESNET)

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The President informs the Board that the Executive Committee had charged the Secretariat with developing ideas for the future organisation of the ESA Annual Meeting in view of both, the concrete wishes expressed by some ESA Members to rotate the venue between Brussels and other European locations, and the continued request for support from ESA to the organisation and programme of EESNET meetings.

Here, the Executive Committee had been of the opinion that in view of limited resources and the desire to firmly establish a single voice and platform for exchange for the totality of the European seed industry, the current organisation of two events (ESA Annual Meeting and EESNET meeting) within just a couple of weeks, often with a repetition of subjects, needed to be changed.

At the same time, it had been acknowledged that while full integration of EESNET into ESA is now possible as the ESA Statutes allow for respective membership of non-EU associations, specific attention may be required to subjects of particular importance to Central and Eastern European countries. Here, the organisation of ESA Annual Meetings in these countries was considered one important possibility to provide additional services to members from the area, not least in view of reduced travel expenditure for attending the meetings.

Board Members express their principal support for this approach but consider a convenient location (easy to reach by direct flights) essential for assuring a good participation. It is also underlined that the AM should encompass meetings of all relevant ESA bodies to attract interest of the total industry. Here, the SG and the Chair of SVO, K. Remijnse, confirm that the wish to organise an open meeting of

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the Vegetable Section expressed by a number of members will be taken up in 2010. Some Board Members state their readiness to cooperate with the Secretariat in organizing future Annual Meetings in CEECs.

The Board agrees to the proposal to organize the 2011 AM in Hungary and follows the recommendation to consider this as a trial for possible future meetings.

The Board confirms that ESA will support the EESNET meeting 2010 and charges the SG to explain and discuss the proposed integration with EESNET at the earliest possibility.

VI. ESA spring seminar 2011: discussion and decision on possible topics

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In line with former decisions taken by the Board, the Secretariat has developed a proposal for possible subjects for the 2011 spring seminar.

As in former years, the decision of the Board will only be taken in September but a first indication at this spring meeting is supposed to provide guidance to the Secretariat on possible topics and thus speakers for this event.

In view of the current developments in the area of Better Regulation and (possibly) future GM policy, the Secretariat considered these subjects as of specific interest to the Membership as well as to third parties.

A. van Elsen suggests to consider the subject of R&D and specifically the work of the Technology Platform as a possible subject. On this point, the SG informs that on suggestion of industry and farmers, the Technology Platform is currently elaborating a proposal for a high level conference in fall 2010 but that the date for such a conference would mainly depend on the availability of the Commissioner in charge.

The Board supports the proposed subjects and considers a conference on R&D related matters within the framework of the Technology Platform as a possible alternative or addition to these subjects.

The Secretariat is charged to continue to follow these issues in its preparation of the final proposal for the Board meeting in September.

VII. ESA Finances 2009 and report from the WG Finances

- i. DRAFT Auditors report 2009
- ii. Updated budget 2010

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The SG introduces the draft auditors' report and points out that the financial result 2009 had been slightly better than predicted, not least as some expenditure had been postponed to 2010. Generally, expenses as well as income were in line with predictions.

A. van Elsen remarks that he has not had the chance to analyse the report in detail but that at first glance it seems to be correct. As regards the deficit for the AIB, this should in the end be compensated fully by the AIB as it was for services rendered by ESA. K Remijnse confirms that AIB will take care of the deficit.

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SG and Treasurer confirm that in line with regular practice, a meeting between accountant, auditors and Treasurer will be organised to finalise the report in due course before the next Board meeting.

iii. Report from the WG Finances

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The President recalls that the Board had decided to charge a Working Group made up by the former ESA Presidents F. Desprez and A. Keeling, the Treasurer and the SG to elaborate a proposal for the future finances of ESA. He invites the Treasurer to introduce the subject in more detail.

The Treasurer informs that WG first had a look on the needs for ESA and considered that the loss should be covered and that also the necessity has arisen for ESA to have extra means for special projects. In total the group considered that roughly 80.000 EUR were needed. Thereafter, the ESA finances were scrutinized to see if savings would be possible or where extra means could be generated. On the expenditure side, the two most important items are Personnel costs as well as rent. As the staffing has been considered a given fact, the only possibility to save money would be the rent of the actual office. In view of the fact that the tenant had terminated the renting contract with ESA, a deficit is to be expected in comparison to 2009. The WG proposed that the Secretariat looks into possibilities for savings on the current expenses for renting of the ESA Office by possible new sub-letting of part of the office, by discussing the current renting contract with the owner to this effect and by looking for an alternative cheaper office.

As to the income part the WG group sees possibilities for extra income from the Annual Meeting by either cutting cost, raising the fee or increasing the income through sponsoring but considered that not its task.

The Working Group then considered the contribution from the membership. Several options have been studied, e.g. increasing simply the actual scales with a percentage, having a system linked to turnover of National Associations as well as the ISF and ASTA systems.

With that, the WG had developed its proposal based on a number of principal considerations:

- consolidation of the industry
- need for a balanced ESA budget
- need for sufficient financial means to run projects
- increasing importance of companies in ESA

Before this background, the WG had developed a proposal that raises the contribution income to a level of min. 720.000 EUR, which it considers to deliver the necessary financial means for the running of the Secretariat as well as of defined projects. At the same time, the proposal aims at a principle equivalence of financing and votes assigned to associations and companies which is considered to be in line with the factual development of the industry.

Based on this, the WG used the existing contribution tables to rearrange the classification of national associations in line with the actual situation of the seed

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industry and market of the respective country. The classification of companies was also readjusted with classes per 25 mio. EUR turnover for the lower categories and increasing this value for the higher categories.

In the following discussion, some Board Members voice their concern that some of the individual increases may be considered too high by companies which could lead to cancellation of membership. It is also questioned whether associations should remain the leading element in ESA and whether this needed to be resembled in their (higher) financial contribution to the organisation.

The Treasurer explains that the proposal had been developed on the base of these considerations. The WG had therefore considered a 'safety margin' that would allow to still achieve the required financial means under condition of a limited number of membership cancellations. At the same time, it was felt the principle of a stronger financial contribution from companies was in line with the practical work of ESA and its development over the past years.

Following further discussion, the President concludes as follows:

- Board Members accept that a budget of the magnitude outlined by the proposal is required to run the Secretariat and defined projects in the future
- The overall financing of the organisation requires a stronger contribution of companies in relation to national associations
- The Board agrees that increases of contributions should be limited by some mechanism to avoid undue financial burden, specifically of smaller companies
- The proposal seems to strike such a new balance between members, although it will not be possible to exactly determine the final share of contribution of both in view of the further consolidation, future membership applications or cancellations
- Board Members will need to explain and defend the final proposal towards the membership in order to win the necessary support from the overwhelming majority of companies and associations

Taking into account the arguments raised, a final proposal will be put to the Board for formal decision in September and will then be placed before the General Assembly for adoption.

VIII. New ESA Statutes and Internal Rules – decision on ESA Committees, Committee membership and Sections

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Following the adoption of the new ESA Statutes in October 2009, the Board formally has to set-up ESA's Committees and Sections. Following consultations with the membership and Chairs, and with the exception of SBE which had decided to opt for the status of an ad-hoc Working Group, all current Sections and Committees are considered to meet continued interest of its members and it is proposed to formally confirm the remaining six ESA Sections and the two Committees as ESA's main working structure.

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As regards the Working Group STAT, it had been agreed with the Chair of the WG that the current set-up of the group with its large membership and its mix of representatives of Sections, crop protection industry and seed treatment companies could not be upheld if it was to become a formal Committee; it is therefore proposed to maintain STAT as a horizontal Working Group.

In line with the ESA Statutes, the Board formally confirms the establishment of the Sections SCP, SFG, SMA, SOF, SPO and SVO, the establishment of the Committees CIPR and CRLA and the horizontal Board Working Group STAT.

The President informs the Board that in view of a number of changes in the membership of the CRLA as well as the CIPR, the Executive Committee had charged the Chairs of the two ESA Committees to develop a joint proposal that would meet the upcoming challenges of the Committees as regards the further political and legislative work on IPRs, seed marketing, plant health and GMOs. In doing so, the Chairs were asked to consider the need for the appropriate representation of the ESA membership and all areas of ESA's activities in their respective bodies.

Based on these considerations and verifying the availability of individuals for the respective positions, the Chairs had consequently elaborated such a joint proposal for the Board's consideration.

In addition, and in line with the ESA Rules of Procedure, the Secretariat had notified all ESA Members of the open positions and had asked for additional candidatures. By the deadline of 16.03.2010, additional candidatures were received for CRLA (Mrs Meloni, Bayer) and for CIPR (Mr Huyten, Nunhems; Mr van Rompay, Bayer, Mr Villaroel, ANOVE).

The Board discusses in how for the membership of two representatives from the same company (or association) in a Committee should be allowed. While it is acknowledged that such situations may occur due to the acquisition of companies or the change of responsibility of elected members and that also in such cases, different expertise (e.g. vegetables vs. agricultural crops) could be provided and prove useful for the work of Committees, the Board is principally of the opinion that such a situation should not occur and should be changed at the earliest possible moment. The President therefore suggest to charge the SG to elaborate a proposal on how elections for Committee membership should be handled in the future (nominations, eligibility, term of office etc.) for a further discussion by the ESA Board in September. The Board agrees to this proposal.

The President proposes to first decide on whether or not to vote on the package presented by the Chairs of the Committees or one by one on the individual candidatures received. The Board supports to first vote on the proposed package for both Committees.

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In secret ballot, the Board supports the proposal of the Committees and with that confirms the membership of B. Bosc in CIPR, elects Stefanie Franck as new Member of CIPR, elects C. Herrlinger as new Chair of CRLA and elects O. Lucas, N. Moore and S. Ruthner as new Members of CRLA.

IX. Miscellaneous

i. Report from ESA bodies (where required)

- **SVOWic: proposal for strengthening ESA communication activities**

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The President invites K. Remijnse as Chair of the SVOWic to introduce the proposal.

K. Remijnse informs the Board that the SVOWic had held a number of discussions on the question how to best strengthen the impact of ESA's work towards third parties as well as within the industry. It was felt that for the latter, the current ESA Newsletter could be used and further improved with more detailed information and regular overviews on issues of general interest.

For communication to third parties it was however acknowledged that ESA currently does not have the necessary capacity and also only limited experience as regards professional communication activities, be them via the website, brochures or any other form or media.

The SVOWic was of the opinion that this capacity needs to be strengthened generally, not only for vegetable specific subjects. While this would quite likely not merit a full time employee, it should be explored what could be improved, under what conditions and with what financial resources.

During the discussion, it is acknowledged that the current ESA Newsletter had mainly been developed to inform Members of the activities of the Secretariat. With that, its usefulness to third parties in its current format is clearly limited. While communication to third parties is considered an important element of ESA's work that should be further developed, it is also underlined that ESA's main focus still lies with decision makers rather than the general public; however, specifically in view of the European Parliament, it is stated that there are not always clear cut borders between these groups.

The Board agrees to charge the SG to draft a more detailed discussion paper for the next Board meeting focussing on ESA' target groups (officials, politicians, other organisations. Members) and what would be the appropriate measures and communication tools for this.

- **SFG: obligations of Members in relation to legislation and industry codes and possible sanctions in case of non-compliance**

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The President invites the Chair of ESA SFG, G. van Straalen, to introduce the subject.

G. van Straalen informs the Board that SFG has held a number of meetings specifically addressing ongoing suspected infringements of the seed marketing (and IP) legislation. In this context, a code of conduct had been developed that members shall be asked to sign and by which they confirm their adherence to the existing EU seed marketing and intellectual property legislation. But it had been felt necessary to consider what sanctions could be applied in cases the code of conduct would not be honoured by one of its signatories. Specifically, it had been discussed if such companies could be banned from attending the ESA Congress or if ESA as an organisation should become active towards officials.

Board Members express their principal support for the work done in SFG to limit IP infringements and marketing of unlisted varieties or uncertified seed in the EU. At the same time, it is acknowledged that as an international non-profit organisation under Belgian law, ESA should carefully explore what (legal) options are open to it as regards expulsions, banning from attendance of trade meetings etc. in view of e.g. anti-trust law. Mrs Suelmann informs that possibilities to exclude members are available and that they are also included in the statutes of ESA and the Anti Infringement Bureau (AIB). The statutes of the AIB have been submitted to an external lawyer for an anti-trust check. The Secretariat is charged to further clarify this situation, if required with the assistance of a Belgian lawyer.

The SG informs that similar to ISF, EuropaBio and others, the Secretariat felt it necessary to develop a general anti-trust statement for ESA, not least in view of the regular assembling and sharing of data in various Sections. Here, it is suggested to consider taking over the anti-trust statement of ISF; this and other possibilities will be evaluated by Szonja Csorgo and, as required, additional experts from the membership.

In addition, the Secretariat will focus on the specific points raised by the SFG to determine in how far and under what conditions these may be addressed by the organisation, not least as similar requests have been raised in other ESA bodies. In any case, the Board agrees that it is possible for e.g. the SFG to charge the Secretariat to approach Individual Members with a request for information or clarification regarding the marketing of a specific variety as long as such inquiries are not made public.

ii. Information from the Secretariat on other issues

- Membership application SUET

The SG informs that a membership application from SUET Saat- und Erntetechnik, Germany has been received. The application is for Associate Membership. SUET is currently member of the ESA STAT.

The Board approves the application of SUET for Associate Membership by

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unanimity. The application will be put to the General Assembly in October for final confirmation.

X. Closure and confirmation of date of next meeting (09.09.2010)

The President thanks all participants for their attendance and contributions and closes the meeting.

The next meeting is confirmed for

09.09.2010
ESA Office

ACTION LIST

PoA	Action	Follow-up	Deadline
I	ESA Website: - add search function for doc. Numbers	Secretariat	Asap
II	ETP Plants for the Future: - have a presentation at next Board meeting	Secretariat	9.9.2010
III	GMOs: - work for an inclusion of AP in seed threshold in proposal for renationalisation	Secretariat / CRLA	continuous
III	NBTs: - WGBT to consider 'transgenesis' as dividing line between GM and non-GM techniques - Seville conference: Board members to inform SG about possible speakers - provide information to members on state of affairs and importance for industry	WGBT to discuss at next meeting Board Members to send names to Secretariat Secretariat to draft information document	21.04.2010 19.03.2010 Asap
III	IP Position: - consider possibilities for keeping Members informed about process and state of affairs prior to GA 2010	Secretariat	Continuous
V	ESA AM 2011 / EESNET: - AM 2011 in Hungary as a trial - Discuss full integration of EESNET into ESA	Secretariat / EESNET	13.05.2010
VI	Spring Conference 2011: - BR, GMOs and R&D are possible subjects	Secretariat	09.09.2010
VII	Finances: - Office: inquire about possible savings with owner - final proposal for new fee structure for next Board / GA	Secretariat WGF	Asap 09.09.2010
VIII	ESA bodies: - Election of Committee Members: elaborate proposal for future approach	Secretariat	09.09.2010
IX	ESA communication activities: - elaborate discussion paper for next Board meeting	Secretariat	09.09.2010

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IX	Code of Conduct / obligation of Members: - verify options for ESA before ant-trust and legal background	Secretariat, possibly with experts	Asap
IX	Membership application: - place SUET application to GA 2010	Secretariat	12.10.2010
X	Next meeting: 09.09.2010		