



# ESA NEWSLETTER

January 2012

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## ESA Meetings (selected)

- **01.02.2012**  
**STAT Steering  
Group Meeting**
- **02.02.2012**  
**STAT  
Meeting**
- **07.02.2012**  
**WG BT  
Meeting**
- **07/08.02.2012**  
**Executive  
Committee  
Meeting**
- **16.02.2012**  
**CIPR  
Meeting**
- **23.02.2012**  
**WG Biotech  
Meeting**
- **29.02.2012**  
**WG Biodiversity  
Meeting**

Dear Members,

With this first Newsletter of 2012, we inform you about the numerous changes in our ESA Secretariat over the past months. As many of you know, Marguerite and Szonja are currently on maternity leave (both meanwhile have given birth to healthy sons!) and will return to their positions in ESA end of April and end of June respectively.

Since November, Gaia Serena Carbone has joined us as Assistant and Receptionist; she currently replaces Marguerite and as of April, the two will share these tasks and support the ESA policy team as well as welcome all visitors to our office. For that, we are installing a proper reception area on our ground floor and I am sure that this will prove beneficial for our office working environment as well as for our guests.

Beginning of 2012, Katharina Bednarz replaced Sabine Bausch who decided to leave us for a year of travelling and new experiences in Australia where she has family. Next to my personal assistance, as Manager Communications Katharina's main task will be to improve ESA's communications both internally, i.e. towards you, our members, as well as externally towards the media, interested third parties, Members of Parliament etc.. One area that we will look at next to our own website is that of social media and in how far these can be used in our quest for more (public) exposure of our industry.

Finally, on February 1<sup>st</sup>, Jean Paul Judson will start as ESA's new Manager Public Affairs. This position is new and was created mainly in view of the numerous parallel legislative procedures that we expect to start some time at the end of this year. Better regulation, Plant Health, Food and Feed Control, Plant Variety Rights and so forth – there is a wide range of policy developments that require our attention and clearly more time to be spent with decision makers, particularly in the European Parliament. Jean Paul will be instrumental in our respective outreach and advocacy and help to get the messages across that have been defined in our internal bodies.

It will be my primary concern in the coming months to build an efficient, responsive and qualified new ESA team that you will be proud of and that will help us to address the manifold challenges ahead of us. As stated before, I count on your help and support in this effort and I will certainly contact the one of the other of you to ask for possibilities of company and association visits as part of the training programme I am setting up specifically for Katharina and Jean Paul.

How important both advocacy and communications already are in our area became once again apparent with the Advocate General's opinion on the Kokopelli case, the BASF decision to quit Europe and the EU patent discussion (you find more in this Newsletter); so more than enough to work on for our new colleagues and all of us in defending the interests of Europe's plant breeding industry!

With best regards, yours

Garlich v. Essen, Secretary General

### External Meetings (selected)

- 03.02.2012  
FUSARIUM TOXIN  
FORUM  
Brussels (BE)
- 08.-09.02.2012  
IPC  
Madrid (ES)
- 22.02.2012  
GEVES – ETTS  
Paris (FR)
- 05.-08.03.2012  
ASTA  
Congress  
Zanzibar (TZ)
- 12.-14.03.2012  
UN-ECE  
Meeting  
Geneva (CH)
- 19.-22.03.2012  
IFS Spring Meeting  
Barcelona (ES)
- 26.-28.03  
UPOV TC  
Geneva (CH)
- 27.03.2012  
ELO: 5<sup>th</sup> Forum for  
the Future of  
Agriculture  
Brussels (BE)

### Moving in and on:

ESA welcomes new colleagues to the team: Jean-Paul Judson from France and the United Kingdom supports ESA as new Manager Public Affairs, Katharina Bednarz from Poland and Germany joined as new Manager Communications and Gaia Carbone from Italy started as Assistant and Receptionist. ESA said goodbye to former colleague Sabine Bausch, who left for Australia at the end of last year. Marguerite Ryan who is currently on maternity leave will join us again as of May. In order to find out more news on Szonja...continue reading!!

### Jean-Paul Judson (FR/UK) joins the ESA team as new Manager Public Affairs



Jean-Paul Judson (FR/UK) graduated in Sociology and Politics and holds an MA in European Affairs. He has over 4 years of EU Public Affairs experience in Brussels, advocating for the regional dimension of European policies and programmes. He joins ESA as of February 2012 as Manager Public Affairs. His main responsibilities will be the outreach and advocacy towards the European Parliament, Permanent Representations and interested stakeholders in the course of the legislative work on Better Regulation, Plant Health and Plant Variety Rights.

### Katharina Bednarz (PL/DE) joins the ESA team as new Manager Communications & Assistant to the Secretary General



Katharina Bednarz (PL/DE) holds a double MA in European Studies/International Relations from the Universities of Göttingen (Germany), Groningen (Netherlands) and Pune (India). After gaining working experience in the European Parliament and at an EU public affairs consultancy working on the Polish Presidency, she joined the ESA team in January 2012. Her main responsibilities are ESA's internal and external communication strategies and tools as well as the organisation of the ESA Annual Meeting. Katharina is fluent in Polish, German and English.



## **Gaia Carbone (IT) joins the ESA team as Assistant/ Receptionist**



Gaia Serena Carbone (IT) holds a Master's Degree in International and Diplomatic Relations and is working at ESA since November 2011 after having gained a wide professional experience as administrative assistant both in the private and in the public sector in Italy, Belgium and Ivory Coast. Her specific tasks are the daily office administrative management, including preparation of meetings and prompt assistance to members' and third parties' requests and inquiries. Her language skills include English, French, Italian, Spanish, Arabic and a little bit of Dutch.

## **Reshuffle of top positions**

MEPs elected Martin Schulz (S&D, DE) to be the new European Parliament president with 387 votes in favour out of 670 cast. The 56-year old German Socialist will lead the European Parliament for two and half years, until the beginning of the next legislature in July 2014. A week later, parliamentary committees convened in Brussels to elect chairpersons and their deputies for the next two and a half years until the end of the legislature. The five committees of main interest for ESA are now chaired as follows: Agriculture and Rural Development (AGRI), Internal Market and Consumer Protection (IMCO) as well as International Trade (INTA) Committees stay chaired by Paolo de Castro (S&D, IT), Malcolm Harbour (ECR, UK) and Vital MOREIRA (S&D, PT). Jo Leinen's (S&D, DE) successor in the Environment, Public Health and Food Safety (ENVI) Committee will be Matthias Groote (S&D, DE) and Herbert Reul's position as chair of the Industry, Research and Energy (ITRE) Committee will be taken by Amalia SARTORI (EPP,IT). (KB)

## **ESA participated in ABS technical workshop**

In the EU's process of ratification and implementation of the "Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (ABS)", the European Commission complemented its current work and offered a platform to exchange expertise by organising a technical workshop on 26 January. ESA was represented by Anke van den Hurk (Plantum NL), accompanied by Katharina Bednarz from the ESA Secretariat. In previous steps, the Commission instructed an impact study and held an internet based public consultation, to which ESA gave its input in the end of last year. (KB)



## **Poland referred to ECJ for breach of seed law**

The European Commission announced on 26 January that Poland will face legal action at the European Court of Justice for breaching EU rules on conserving vegetable seed varieties. Commission officials believe that Warsaw has failed to comply with Directive 2009/145/EC, which lays out a series of requirements for conserving 'old' vegetable seed varieties - increasingly threatened by genetic erosion – such as more simplified marketing rules as well as more flexible testing and registration procedures than for seeds intended for the mass market. As a result of Poland's non-fulfilment, 'old' varieties are no longer sold and traditional regional farming methods could be lost, the Commission objected. After Poland's failure to implement the Directive by the deadline of Dec 31, 2010, the Commission issued a reasonable opinion in June last year urging Warsaw to comply with the rules. (KB)

## **Denmark's "green" Presidency presents new work programme and drafts GMO opt-out list on renationalisation proposal**

The Danish Presidency presented its agriculture and fisheries work programme for the next six months in a public session. Mette Gjerskov, the Danish Agriculture Minister and President in Office of the Council passed it on to the various national Ministers at Tuesday 24 January.

According to Denmark, the EU should promote the transition to a "green" economy and enhance its focus on sustainability. An agricultural sector that embraces environmentally, nature and climate-friendly farming methods is seen as part of the solution. In line with Denmark's desires to promote the transition to a "green" economy, the Presidency will also present its ideas at a Commission conference on research & innovation in the farm sector on March 7, which ESA will closely follow.

Another priority of the Presidency is a discussion on a possible renationalisation of authorisations for plantings of GMOs. A number of Member States including France, Germany, the UK and other show principle opposition towards the initial Commission plans. Now, the Danish Presidency is determined to give it another try and Copenhagen has made it public that it is keen to make this a priority during its 6-month tenure.

According to the latest compromise text worked out by the Presidency, Member States should be able to restrict the cultivation of Genetically Modified (GM) crops on their territory on the basis of "complementary environmental grounds" in decisions independent from the results of assessments carried out at European-level. The 7-page draft, set to be discussed at the *ad hoc* working group on GMOs on January 30<sup>th</sup> stresses that the grounds relating to the environmental impact, which may arise from the deliberate release or the placing on the market of GMOs must be complementary to the EFSA environment impact examined during the scientific assessment.

The working document provides a detailed list of possible reasons for such "opt-outs" which goes beyond the Commission's indicative list and largely mirrors the European Parliament's position from July 2011. The list a.o. includes the prevention of a negative impact on the local environment caused by a change in



agricultural practices due to GM cultivation; the maintenance and development of agricultural practices which reconcile production with ecosystem sustainability; the maintenance of local biodiversity in certain habitats and ecosystems, natural and landscape features; the absence or lack of adequate data concerning the potential negative impact of the release of GMOs on the local or regional environment of a Member State including on biodiversity or the maintenance of ecosystem services (e.g. ground water).

Furthermore, Member States should have recourse to grounds related to negative socio-economic effects which might arise from the cultivation of GM events on its territory. These could include e.g. the impracticality or the high costs of coexistence measures or the impossibility of implementing coexistence rules due to specific geographical conditions; the need to protect the diversity of agricultural production; and the need to ensure seed purity in organics. Besides these two broad opt-out solutions, EU countries should also be allowed to invoke “other legitimate factors” to restrict the cultivation of a GMO on their territory” such as land use, town and country planning & other grounds in conformity with Article 36 of the Lisbon Treaty such as public morality and public policy. Member States should be authorised to adopt these decisions in all or part of their territory - but the moves should not prevent biotechnology research from being carried out provided that all necessary safety measures are observed.

Contrary to the EP request, Article 114 (Internal Market) is set to remain as the legal basis, which the Commission deems best suited to the proposal. Many observers question the possibility to revive the discussion on the renationalization as the opposition to the Commission’s proposal is quite fundamental.

Also the Danish Presidency has hinted that this could be considered as a final effort to find agreement on the part of Member States. (KB/vE)

### **Better Regulation – State of affairs**

On January 10 the Secretariat met DG SANCO in the framework of a kick-off meeting for the New Year. The most important part of the meeting focussed on the Better Regulation process. The Commission is confident to meet the timelines regarding the revision of the seed legislation. The Impact Analysis has been finalized and will be addressed by the Impact Assessment Board (IAB) on January 15. There is some concern regarding the lack of financial data especially on Small and Medium sized Enterprises but normally the IA should be finalised mid-February. After that, the Inter-Service Consultation will start around March/April and a first legal text is expected in the 3rd Quarter of the year. The Commission was not willing to share detailed information, however it was indicated that:

- All costs in relation to seed marketing (Certification, National Listing etc) should be transferred to the stakeholders. There should be no more indirect subsidies as there are today in most of the countries. For that purpose the different elements related to costs will be specified in the legislation.
- Obligatory VCU for agriculture crops. The importance for Small and Medium Size companies of this provision is acknowledged. It is noted that data regarding the number of such companies are missing.



- Conservation varieties. Although the provision for conservation varieties was adopted only a few years ago changes in the legislation are to be expected. Member States have complained regarding the administrative burden but also have challenged the existing quantitative restrictions.
- Closed loop. Member States have questioned the provisions for this derogation. The Commission would welcome input from the industry until mid-February.

The ESA Working Group Better Regulation met on January 13 to discuss the current derogations, including the provision for closed loop, which currently is outside the scope of the legislation. The WGBR specifically elaborated on the scope of the legislation and the definition of marketing. Regarding closed loop it was decided that in future this provision in future should be covered by the legislation but that varieties marketed under it could be exempted from certain elements like VCU, certification and certain labelling requirements. It is the intention to finalise this discussion by February and to inform the Commission accordingly. (BS)

### **CPVO meeting on variety denominations**

As follow up of the meeting last year the CPVO has reviewed the guidelines and explanatory notes on variety denominations to accommodate problems raised by the breeders. The proposals were presented and discussed in Brussels on January 19. Some 15 experts attended the meeting representing the authorities of France, Germany, Ireland, Italy, Netherlands and Spain as well as breeders organisations. The participants discussed difficulties in relation to trademarks and the interpretation of the CPVO regarding possible confusion regarding recognition or reproduction of a variety by its denomination. Several concrete examples were discussed and the CPVO could be convinced to be more flexible in future regarding proposals for variety denominations. It was agreed that in relation to codes the number of characters used could be increased to 16; however, before this can be implemented, the legislation needs to be revised which could take some time. In addition, the number of groups of characters will be increased from 3 to 5 to facilitate coding of especially parental inbred lines. The participants also discussed the possible use of punctuation marks or other symbols. In this case the Office and several Member States were rather reluctant to allow their use in variety denominations. The CPVO will finalise the revision process as soon as possible and will implement the changes as from now except in those cases where a change of legislation is needed.

Personally I believe that breeders can be satisfied with the result, which is another example of the positive and constructive cooperation between CPVO and the users of the CPVR system. (BS)

### **Legal proposals in relation to EHEC**

Following the Ehec crises last year the Commission is in the process of drafting legislation to reduce health risks in relation to seeds intended for direct consumption and seeds for sprouting and to improve traceability. As basis the EFSA report is used.



On January 24 a meeting was organised by the Commission to discuss the drafts with the stakeholders. B.Scholte participated on half of ESA. The current proposals cover sprouted seeds, sprouts, shoots and cress. There was some concern that the current definition of shoots could cover also baby leaf lettuce. However the Commission explicitly stated that this is not the case and that the text will be revised in this respect. Another important element is that the legislation will not apply to seeds that are used for other purposes and where the label or documentation accompanying the consignment clearly indicates that these seeds may not be used for direct consumption or for the production of sprouted seed.

The drafts will be discussed with the Member States in the next few weeks and could enter into force at the end of 2012 / beginning of 2013. The issue will be addressed by SVOwic in its March meeting. (BS)

### **OECD – Extended Advisory Group – Paris – January 26/27**

The Extended Advisory Group (EAG) of OECD met on January 26/27 in Paris to prepare the Annual meeting in July 2012. Some 50 participants attended the meeting representing 24 countries and observer organisations. ESA was represented by P.Lesigne (Monsanto) and B.Scholte. The EAG discussed the Terms of Reference and future activities of different ad-hoc Working Groups reporting to the OECD Technical Working Group:

- WG Biochemical and Molecular Techniques (chaired by Garry Hall, UK)
  - A survey will be carried out on available BMT regarding not only maize and sunflower as originally envisaged but all crops to determine their possible use in the assessment of varietal identity and purity.
  - The WG will evaluate the tests which have been validated and list authorities who validate these test to be presented in July 2012
  - In a next step guidance will be given to the TWG on the role of BMT techniques in the OECD SWEed Schemes as they are currently not part of the variety description.

- Extension of the Schemes to Basic and Pre-basic Seed

A footnote proposed by the Commission was discussed and presented to EAG as the proposed changed approach in OECD is not possible in the EU under the existing legislation in the framework of equivalence. Seed imported into the EU needs to meet EU Rules and Standards and to be officially field inspected. However, no additional information on the label is needed.

- Identification of seed not yet OECD listed (chaired by Piero Sismondo, ISF)

This Working Group was set up two years ago to address the identification of seed of not yet listed varieties, covering both varieties in the process of official registration and R&D material. Especially the last category will be difficult to handle under the OECD Schemes.

On proposal of the Chairman of the TWG it was decided that analysis of the survey should be finalised and reported in July this year to enable the TWG to find solutions for the different parts of the problems.



- Extension seed lot size for grasses (chaired by Max Soepboer, ISTA)

With these results it was concluded that most production plants are capable to produce sufficiently homogeneous seed lots. A proposal was presented for a permanent regime to be discussed during the ISTA annual meeting this summer.

- Future testing will only be on purity, other seed count as germination has to be proven not to be problematic.
- Number of samples per lot will be lower in future dependent of the number of containers.
- The level of monitoring will be risk-based in a decreasing scale
- Companies wishing to participate in the Scheme still have the possibility to do so even when the experiment officially will be finalised.

The results of the experiment and the proposals for a permanent regime were discussed in detail. On behalf of ESA several proposals were made to further improve the system. The EAG discussed the possible extension of the experiment which officially expires in 2013 to enable the finalisation of changes in the OECD Seed Schemes. Further details of the state of play will be presented in the up-coming meeting of the SFG Section.

Finally the EAG addressed the future working program including the different additional projects and organisational matters regarding the OECD Annual Meeting scheduled for in Helsinki in July 2012. (BS)

### **Advocate General gives cryptic interpretation of admissibility of current EU seed marketing legislation**

In the Kokopelli case, the Advocate General of the ECJ delivered his opinion on 19.1.2012. While the Advocate General states that generally, the seed marketing legislation is perfectly in line with the principles defined the European Treaties and Charter of fundamental rights, he surprisingly stated that some of the restrictions in the most basic parts of the law (e.g. restriction to marketing of varieties that pass certain quality standards in VCU tests) seem an undue restriction of the freedom to conduct business, specifically as these restrictions are not linked to specific safety concerns. With that, the AG did not follow the line of argumentation put forward unanimously by Commission, Council, some Member States and the seed industry (ESA supported UFS and the seed company Baumont that filed the original case against the Kokopelli organisation). While the Court is still free to go against the opinion of the AG in its final ruling, experience shows that it usually follows the broad line of argumentation of the AG. It is important to note that this ruling will come at a time when the Commission is finalising its drafts for the future seed marketing legislation and that a ruling in line with the AG's opinion would be contrary to the favoured scenarios of both seed industry and farmers by establishing the possibility of parallel markets for 'professional' and 'non-professional' seed. ESA will closely follow the further developments and discuss the potential impact and policy options in the coming weeks and months. We will keep you updated with more detailed information once the final ruling of the ECJ is published which may still well take several weeks. (vE)





## **Congratulations to Szonja Csorgo!**

...the long waiting finally has come to an end. The ESA team is happy to inform all members that our colleague Szonja Csorgo, gave birth to Daniel (3330 grams and 52 cm) on January 19. Mother, son and proud father are all fine! Focusing on her new role as mother for the coming months, Szonja will return to the team as of July 2012 (KB)

## **BASF quits Europe**

On 18. January, BASF Plant Science (Germany) announced that it is moving its plant biotechnology activities from Europe (in particular Germany) to the main markets in North and South America. Moreover, development and commercialization of all products targeted at cultivation in the European market will be halted with the exception of those where the regulatory approval processes have already started. Overall, BASF is reducing 140 positions in Europe.

Stefan Marcinowski, member of the board of executive directors of BASF and responsible for plant biotechnology explained that the company is still convinced that plant biotechnology is key for the further development of competitive agriculture. However, pointing to the lack of acceptance for the technology in many parts of Europe and the political uncertainties of product authorisations, he explained that BASF will now concentrate on the attractive markets for plant biotechnology in North and South America and Asia.

This is a great loss for the company and individual scientists and product developers concerned; it is foremost a sad day for Europe as a research and development base and yet another wake-up call for the EU to finally tackle the issue of use of plant biotechnology and show political leadership in this debate. This shows again the lack of practical political support for the plant science and related farming sector.

While EU leaders continuously confirm the need for a sustainable intensification of farming to feed the more than 9 billion people in 2050, want to preserve forests and natural resources and announce more R&D funding under the new EU Horizon 2020 programme, nothing is done to finally stop the brain and capital drain Europe has seen in this area over the past 20 years. At the same time, Europe is continuously increasing its imports of more and more products derived from exactly those technologies that the EU drives out of its own territory.

It is important for all seed industry representatives to address this subject, irrespective in what crops and what technologies they are active in. Today it has been BASF and it has been GMOs; tomorrow, it may well be other New Breeding Techniques and other EU companies that may be concerned. (vE)

**The next ESA Newsletter is to be published on 29 February 2012**