



ESA NEWSLETTER

February 2012

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ESA Meetings (selected)

- **01.03.2012**
ESA WGPB Meeting
- **05.-06.03.2012**
ESA SFG Meeting
Lippstadt (DE)
- **08.03.2012**
ESA CRLA Meeting
- **20.03.2012**
ESA SVOwic Meeting
- **22.03.2012**
ESA Board Dinner
- **23.03.2012**
ESA Board Meeting
- **28.03.2012**
ESA WGRI Meeting

Dear Members,

There could hardly have been a better time to finally get the ESA team back to (almost) full strength with the addition of Katharina Bednarz and Jean-Paul Judson in January and early February respectively. So many things are happening at the same time and require activities from EU and sometimes also national or company level! In this Newsletter, you will be updated about a good number of these issues in more detail – but I still would like to highlight some of them and put them into a common perspective:

Mid January, the Advocate General at the European Court of Justice delivered her opinion on the (infamous) Kokopelli case. In this opinion, the AG questions whether our well-established EU variety registration system is actually infringing fundamental rights of conducting business as it is too stringent to allow the marketing of other types and qualities of seed. With that, the opinion is contrary to what Commission, Council and some Member States as well as Graines Baumaux (supported by UFS and ESA) had put forward in support of the current system. Together with our colleagues in France and the law firm, ESA has sent an “Amicus Curiae” (a ‘Friends of the Court’) letter by which we have tried to further explain the reasoning for the set-up of the seed marketing legislation and its positive effects for both seed industry and farmers as well as society as a whole. While we hope that this may help the Court to better grasp the wider picture and potential consequences, we must also prepare for a final ruling that will damage some of the pillars of today’s seed legislation. In any case, the Commission will undoubtedly take the Court’s decision into account in its final preparations of the ‘Better Regulation’ legislative proposal and this could well lead to a widening of the exemptions for variety registration and the establishing of a parallel system of seed marketed under a ‘registered suppliers’ label (as already indicated in one of the Commission’s scenarios of last year). No date is yet known when the ECJ will deliver its final ruling; but it will be an important date for the future of the professional European seed sector for sure.

As of January this year as well, the Danish EU Presidency has given the so-called “re-nationalisation proposal” of the Commission regarding the authorisation of GMOs for planting another (and some say a final) try. This dossier had been stuck in discussions of Member States for almost 18 months due to a large number of quite fundamental objections and doubts as regards its legality, compatibility with the Internal Market provisions and practical implementation problems. Consequently, it was widely expected that the Danes would not stand much of a chance to secure the necessary qualified majority of Member States (translates into an approx. 2/3 majority of votes and countries) in brokering a compromise. But now it seems as if there is some movement and, surprisingly, a realistic chance that the Danish Presidency may manage to win over countries such as the UK, Spain and also France with its compromise proposals. With that, a qualified majority becomes a realistic scenario.



External Meetings (selected)

- **05.-08.03.2012**
ASTA Congress
Zanzibar (TZ)
- **08.03.2012**
DG AGRI Advisory
Group Seed
Brussels (BE)
- **16.03.2012**
Advisory Group on
the Food Chain,
Animal and Plant
Health
Brussels (BE)
- **19.-22.03.2011**
ISF Spring Meeting
Barcelona (ES)
- **26.-28.03.2012**
UPOV Technical
Committee (TC)
Geneva (CH)
- **27.03.2012**
ELO: 5th Forum for
the Future of
Agriculture
Brussels (BE)
- **29.03.2012**
UPOV
Administrative and
Legal committee
(CAJ)
Geneva (CH)

ESA has always underlined that the seed industry does not completely reject the idea of a more Member State based decision making on actual plantings of GM crops. Not because we considered it a good idea as such; but because we agreed that something had to be tried to cut the Gordian knot. But we also made it clear that such a system, even more than before would have to rely on an agreed and EU-wide tolerance of the presence of GMOs in seed in order not to jeopardise the Common Market for seed. We also argued that this tolerance must logically extend to farmers' fields, i.e. a tolerance of low level GM findings in those Member States where planting permissions would have been revoked. With that, situations such as in Hungary (we reported earlier in 2011 on this incident) with massive field destructions and resulting economic damage to operators could be avoided. In view of the recent movement in the political discussions, we have therefore elaborated a reminder to Member States which we have made available to our association members with the request to approach their respective Ministers accordingly. Again, we must be realistic: it is unlikely that we will achieve a sufficiently high threshold in the framework of these discussions. But we must make use of this opportunity to again flag up our need to resolve this issue with both Commission and Member States.

The potential dis-harmonisation and disruption of the movement of seed within the internal market is already becoming more and more obvious. In February, France notified a national measure to regulate the presence the GMOs in seed to the Commission (all Member States are required to file such notifications before a national measure is finally adopted in order to protect the common market). In its notification, France specifically justifies its action with the absence of a legislative provision on EU level, a point ESA and its allies have been stressing since years. Despite the fact that the scope and level of the French proposal are clearly insufficient, it is yet another debate where the need for a practical EU approach to the presence of GMOs in seed is highlighted.

ESA is in the process to further examine the French proposal and we will react to the Commission in due course. The Commission is unlikely to react fast in view of the upcoming French national elections - but it will surely be interesting to see how and with what (legal) arguments the responsible service will react.

Last, but not least, we have the discussions on the adoption of a common 'EU Patent'. Again, many considered this to be a never ending story of failure of a European harmonisation. But following the coming into force of the Lisbon Treaty and the option of a re-enforced cooperation of Members States, suddenly everything was moving quite quickly. So quickly in fact, that some important discussions were cut short with the justification that speed was more important than content. This way, also the introduction of the Breeders Exemption into the new patent system was omitted. Together with our national associations we are trying very hard to convince Member States that this addition is required to assure the 'freedom to breed', in line with our new ESA Position on IP for plant related inventions.

You all have followed this ESA-internal debate over the past three years. I think we can be proud of *what* has been achieved and *how* it has been achieved, despite the fact that not all aspects of the paper are supported by all members.

All these examples show that giving in (or giving up) is not an option. Policy shaping most of the times is a tough marathon - but sometimes also a final sprint to the line.

With best regards, yours

Garlich v. Essen, Secretary General



Analysing Potential and Use of Social Media

As part of the overall objective to strengthen ESA's outreach and advocacy by targeted communication activities, the ESA Secretariat together with BDP (Kerstin Mönch) discussed the potential of introducing new social media tools. Amongst others areas of discussion such as suitable social networks, implementation and audience were covered. At present, ESA is closely examining which of its associations and relevant industries are already using different social networks to establish a base for deciding on the introduction of such tools in ESA in the coming months. We will keep our members posted and count on their support in case we launch such an initiative. (KB)

Supporting the Natural Turf Initiative

ESA, led by its working group "Natural Turf", strongly supports natural turf for football, sports and playing surfaces. Core-piece of the campaign is ESA's widely published report "Natural Turf: Why it remains the natural choice for football, sports and playing surfaces", a comprehensive leaflet as well as a recent press release by the ESA Secretariat (all material available on the ESA webpage under Positions Papers/Crop-specific issues/Forage Plants and Amenity Grasses). The documents target key decision makers at the municipality level who are responsible for sport facilities. The aim is to inform them about all aspects of both natural turf and artificial turf – and to encourage them to "go green" and opt for the natural choice. According to ESA's report, investing in natural grass is the smart option for everybody involved: It protects the environment, is safer and healthier for the players and cheaper for local sports clubs. (KB)

Annual Report on Commercialized Biotech/GM Crops

According to ISAAA, the International Service for the Acquisition of Agri-Biotech Applications, GM crop cultivation saw another year of strong growth in 2011. With an increase of 8% (or 12 million ha), the total cultivation area reached some 160 million ha worldwide. Still, GM is one of the fastest adopted technologies in agriculture – and experts predict that this trend will continue over the coming years.

While more and more countries use GM crops and while the technology is applied to a growing number of species with a larger variety and combination of traits, Europe's breeders and farmers are left behind. The EU continues to drag its feet on new GM approvals; and after almost two years, the Commission's proposal to re-nationalise decision making on cultivation to end the current stalemate is as blocked as the authorisation process it is supposed to resolve. Being aware of the legal uncertainties for Europe's breeders and farmers, ESA urges for a harmonized testing protocol and a practical tolerance level for this unavoidable presence of GMOs in seed and fields. While the EU's imports of GM crops continues to rise due to the regions shortage of protein, a "zero tolerance" policy on GM presence is applied to seed and fields - which regularly leads to seed discards and field destructions. As the ISAAA annual report highlights the growing need for a realistic policy for Europe, according to ESA the 'zero tolerance' concept must be abandoned and replaced by a practical approach that is fair and economically viable.



Additional information on the ISAAA report are available [here](#) (Executive Summary) and [here](#) (2011 ISAAA Report on Global Status of Biotech/GM Crops) (KB) for local sports clubs. (vE/KB)

Fusarium Toxin Forum – Brussels February 3

On February 3 the Fusarium Toxin Forum took place organised by the European Commission. Over 100 participants attended the event representing many different industries and stakeholders. ESA was represented by Mrs Bednarz and B. Scholte. The event started with a presentation of EFSA on their scientific opinion on the risks for animal and public health related to the presence of T-2 and HT-2 toxin in food and feed. In the course of the day different presentations were given on factors influencing the presence of fusarium toxins and prevention, on-going research projects and occurrence of T-2 / HT-2 toxins in cereals and malt in different countries. It was confirmed that especially in oats toxin levels can be relative high. The Commission informed on the discussions regarding the introduction of possible risk management measures regarding T-2 / HT-2 following the EFSA opinion and indicated that the fusarium toxin forum is part of the consultation process. Formal discussions with the Member States on the introduction of maximum guidance values for T-2 / HT-2 will continue in the Standing Committee in the coming months. Farmers (represented COPA) made it clear that there are many factors involved in occurrence and spread of fusarium in the field which are difficult to control. Most parties were of the opinion that at present there is no urgent need to introduce new regulatory measures. It was acknowledged that plant breeding can be part of the solution in selecting varieties with improved resistance to fusarium. In relation to this I have raised the need to have access to all breeding techniques in order to enable breeders to make progress. Copies of the presentations presented during the forum are available at the Secretariat on request. (BS)

ESA CIPR adopts ESA Position on IP for plant related inventions

The CIPR met on February 16 and finalised the revision of the ESA position paper on Intellectual Property Protection for plant-related inventions in Europe. In September 2011 the ESA Board had decided already on the principles of this position as indicated in the ESA Newsletter of September 2011. The position was presented during the ESA General Assembly in Budapest. Since then the CIPR has fine-tuned the paper which was finalised and adopted on February 16. The paper is available on the ESA website in the folder: <http://www.euroseeds.org/position-papers/intellectual-property/>

With the adoption of this paper the CIPR has completed a revision process of almost three years, starting in April 2009. Thanks to all ESA members having contributed to the discussion on this important topic but in particular to Mrs Marian Suelmann, CIPR Chairperson, the CIPR members and Mrs Szonja Csörgő in the ESA Secretariat! (BS)



Research & Innovation: what's on the Horizon 2020

On 21 February, ESA attended a COPA-COGECA workshop on “Research and innovation for a sustainable, productive and competitive agricultural sector in Europe”. The main objectives of the workshop were to highlight the importance of continued investment in agricultural research, and the need for better coordination between the whole food supply chain. Representatives of the farming community, of related input and output industries and relevant public bodies all stressed the need to work closer together in order to jointly identify research needs and priorities. However, it was widely acknowledged that investment in research had to be backed by investment in communication for greater societal and consumer acceptance of scientific and technological developments in the agricultural sector.

Discussions on the future of research policy in the European Union are currently taking place, following legislative proposals by the Commission to establish Horizon 2020, the new 80€ billion EU Framework Programme for Research and Innovation for the period 2014-2020. This proposal includes 4.4€ billion for research in food security and sustainable agriculture, and 500€ million for biotechnology. The text is now under scrutiny of the European Parliament and Council in order to agree on the structure, the content and above all, the overall budget allocated to the programme and its breakdown into the various parts and topics. The first important milestone of this process is the first vote on the text in the European Parliament, expected on 10 October 2012.

In view of this, ESA attended the meeting of the European Parliament's Committee for Industry, Research & Energy (ITRE) on 27 February. Although there is a broad consensus among MEPs that the European Commission proposal goes in the right direction, there was a call for greater clarification on the rules of participation and to increase the overall budget from 80€ billion to 100€ billion. At this stage, the discussion was still very broad, but ESA will be monitoring progress in order to ensure there is sufficient funding available for the plant breeding and seed production industry once the programme is finally adopted. Through its Working Group Research & Innovation (ESA WGRI), ESA will be working on an ESA position on Horizon 2020 in order to step up discussions with relevant MEPs. (JP)

Consultation on Invasive Alien Species

On 29 February, the European Commission launched a stakeholder consultation to gather views on setting up a dedicated legislative instrument on invasive alien species. To date, more than 11,000 alien species have been found in the European environment and 10 to 15 % of them have become invasive. The online consultation seeks views on how to make sure that the three-pillar approach proposed by the UN Convention on Biological Diversity (i. prevention, ii. early detection & rapid response, iii. eradication or management) is suited to realities on the ground. The consultation covers issues such as possible trade restrictions, labelling schemes, surveillance mechanisms, eradication measures and restoration of damaged ecosystems. Deadline for input is 12 April 2012. The issue will be discussed by the CIRL's working group Plant Health (WGPH). (JP)



France asks Commission to ban MON 810 for all Europe – or else...

The French government has asked the European Commission to suspend the authorisation of GM event MON 810, the sole event still available for cultivation in (parts of) Europe, on the grounds of new scientific evidence that links the GMO to negative effects on non-target organisms.

The call was accompanied by the statement that the Commission would have 2 weeks to address the request. In case no action would be taken at EU level, the French government already announced that it would introduce a national ban on MON 810 as quickly as possible.

According to a first scrutiny, all the 'new' evidence put forward is in fact rather old. Still, the Commission needs to involve EFSA to properly assess the request. Clearly that can't be done within the specified timeframe and that may then be used by the French authorities to justify a new national ban on MON 810. Conveniently, such a ban would just coincide with the upcoming French elections and allow the current anti-GM government to show its electorate how it shows Brussels 'who is boss'. Before this background, many question the Commission's desire to have an EFSA assessment ready prior to the French national elections in order not to stir the pot even further. (vE)

The next ESA Newsletter 2012 is to be published on 30.03.2012