



ESA NEWSLETTER

March 2012

ESA_12.0206

ESA Meetings (selected)

- **03.04.2012**
ESA SMA
Meeting (CC)
- **19.-20.04.2012**
ESASPO
Meeting
Edinburgh (UK)
- **24.-25.04.2012**
ESA SOF
Meeting
Cambridge (UK)
- **ESASTAT**
Working Group
Meeting
Brussels (BE)

Dear Members,

The Opinion of the Advocate General of the European Court of Justice (ECJ) on the so-called 'Kokopelli case' has caused quite a stir amongst our membership. In the last Newsletter, we informed you about this opinion - and that despite the fact that it is indeed 'just' an opinion and not yet the final ruling, the European seed industry must prepare for some quite fundamental changes being demanded as regards some of the pillars of our current EU legal framework for variety registration and seed marketing.

At the same time, we should also not forget that most such ideas and requests are not new. They have been part of the various options analysed in the course of the evaluation of the seed marketing Directives in the Better Regulation process and most specifically in the Options and Analysis paper the Commission put forward in 2011. Here, the Commission set out detailed options for the future organisation of the variety registration and seed marketing rules that reached from a simple continuation of the current approach to an almost complete deletion of any conditions and high quality standards for seed.

During the discussion of these options, interestingly, farmers, breeders and national (Member States) as well as European (Commission and Council) bodies almost unanimously underlined the importance to maintain the principle requirements of identity, performance and quality of seed to support a highly competitive seed sector and productive agriculture in Europe. While it is of course surprising and disappointing that this strong and uniform message did not suffice to convince the Advocate General, it is still a strong political signal as such for the upcoming discussion with Member States and European Parliament!

Another issue that is keeping us on our toes is the debate on the "European Patent", or more precisely the 'patent with unitary effect'. While the seed sector clearly supported the idea of a uniform single patent protection for EU companies, we also made it very clear that without a limited breeders' exemption, this new instrument will not promote and strengthen but rather hinder innovation in the breeding sector. Over the past months, we found a lot of support from numerous countries as well as other stakeholders for ESA's idea of a respective amendment to the proposal. Just recently, ESA has started to once again approach members as well as Brussels based Permanent Representatives with a respective proposal. Together with you, our members on national and regional level, we still hope to be able to move first the Council of Ministers and then the EP to take account of the specifics of our sector.

We count on your continued support over the coming months which will be decisive not only as regards the final ECJ ruling and its impact on the new seed marketing legislation; but also as regards preserving our core position on plant breeders rights and patents for biotechnological inventions, namely the freedom to breed!

I wish you interesting reading with this latest edition of our Newsletter, yours

Garlich v. Essen, Secretary General

SFG Meeting – 5/6 March; Lippstadt (DE)



External Meetings (selected)

- **04.04.2012**
Plant ETP Steering Council Meeting
Brussels (BE)

- **04.04.2012**
How Does Social Media Connect the European Union and Its Citizens?
Brussels (BE)

- **11.04.2012**
JRC-IPTS Plant Breeding Workshop
Brussels (BE)

- **27.04.2012**
Conference on IP Enforcement
Brussels (BE)

The Board of the Section Forage crops and Grasses (SFG) had its spring meeting on March 5/6 in Lippstadt (DE) on the invitation of DSV / Eurograss. The meeting was attended by 16 participants and addressed items in relation to seed marketing, production statistics, monitoring of illegal activities and the promotion of natural turf. The group also discussed endophytes in grasses and approved in principle on a research project to study the possible effect of endophytes on the variety DUS description. The meeting was followed by a visit to the old centre of Lippstadt and a dinner offered by Eurograss. The following day the group visited the processing plant of DSV / Eurograss. The meeting and visit took place in a positive and constructive atmosphere and was well appreciate by all participants. (KB/BS)

EC Conference: Enhancing Innovation& Research in Agriculture

On 7 March, the European Commission and the Danish Presidency organised a high-level conference on “Enhancing Innovation & Research in Agriculture”. Against the backdrop of the recent European Commission proposals for Horizon 2020 and the specific Communication on a “European Innovation Partnership for Agricultural Productivity and Sustainability”, this event was intended as a broad forum to highlight the importance of agricultural research, and discuss ways in which research results could be better implemented on the ground. A number of key stakeholders were invited to put forward their views, such as Marion Guillou (President of INRA, FR).

The first half of the day very much focused on the political debate around agricultural research and its place in the overall landscape of technological development, scientific excellence and research investment; the second half of the day was much more oriented towards practical examples of bringing innovation to the market. It was widely acknowledged that farmers especially needed to be better included in research & innovation projects, and the region of



Flanders provided an interesting example of how this could be done in practice through a set of specialised “innovation brokers in agriculture”. There was also a strong recognition that research in agriculture as such is not enough, and that research efforts into input industries was just as crucial. This conference was also an opportunity to meet Professor Anne Glover, newly appointed Chief Scientific Advisor of the President of the European Commission, who mentioned in her concluding remarks that Europe had to build on the potential of plant breeding, genetic research, soil science and social sciences in order to enhance the productivity and sustainability of agriculture. (JP)



Advisory Group Seed – 8 March, Brussels

On March 8 the Advisory Group Seeds (AGS) met in Brussels under the chairmanship of Michael Gohn. The meeting was attended by some 30 participants representing the farmers (COPA/COGECA), seed companies (ESA) and representatives of several NGOs. On proposal of ESA the AGS agreed on a letter to DG Agriculture regarding the importance of maintaining the legal base for the collection of production statistics. The AGS also agreed on a joint letter to TAXUD regarding improvements of the Combined Nomenclature (CN) codes used by custom authorities in order to improve the possibilities for monitoring of imports and exports of seed. In relation to GMO's a representative from DG SANCO confirmed that the Commission would address thresholds for Adventitious Presence of GMOs in conventional seed lots in autumn 2012 subject to sufficient support from Member States. The Commission confirmed the timeline regarding the evaluation of the Seed Marketing Directives, Plant Health and Food and Feed Control by re-stating that a first legal text can be expected in the 3rd quarter of 2012. It was the first occasion in the new set-up of AGS meetings in having a preparatory meeting in December and a formal meeting in spring. Clearly the new set-up has helped to improve the quality of the meeting. (BS)



Visit to ESA Members feat. EC Commission – HZPC



On March 9 Mrs Bednarz and B. Scholte from the ESA Secretariat visited HZPC in the Netherlands together with Mr. Thomas Weber (DG SANCO). Within his unit Mr Weber is handling the evaluation process of the Seed Marketing Directives as well as issues in relation to seed potatoes. Therefore the Secretariat invited Mr Weber to visit one of the ESA members active on breeding, production and marketing of seed potatoes to get better acquainted with seed potatoes. During the day the HZPC breeding station in Metslawier was visited as well as a warehouse in the same area. The event was also used to explain the ESA SPO position paper “Towards a harmonised EU classification scheme for seed potatoes”. (KB/ BS)

ESTA Update

The ESA Board at its meeting of March 23rd took far reaching decisions as regards the start and management of the ESTA European Seed Treatment Assurance Scheme. Over the past 18 months, ESA’s STAT Working Group with the help of R. Scheffer developed a quality assurance standard for seed treatment and treated seed covering specifically maize, oilseed rape and sugar beet and focussing on insecticide treatments. The Standard also includes a defined sampling and testing methodology as well as reference values for dust. What is aimed at is an independent audit and certification of seed treatment facilities and their processes (process certification) instead of a batch by batch approach (product certification) which would cause major problems and costs to companies. The ESA Board approved the final standard which will be published on the ESA website within the coming weeks and which will be followed by a guidance for implementation to certifying bodies (such as e.g. SGS, EKAS etc.); in fact, the guidance is being developed with the specific help of such bodies to assure a harmonised interpretation and help the practical work of auditors as well as companies. In addition, the ESA Board also approved the proposal to hire a dedicated quality assurance manager who will promote and manage the scheme EU-wide and collaborate closely with national schemes already under way in e.g. Germany, France and the UK and work with the ESA STAT on the further development of the scheme for other species and treatment products.



It is important to underline that these decisions must be seen before the background of numerous national activities (including legislative requirements) and the on-going work on an EU Guidance Document on seed treatment authorisations. It is ESA's principal aim to assure that the free movement and use of seed treated with a plant protection product that it authorised in at least one Member State is not being jeopardised by specific national requirements in relation to qualities or processes; this could quickly erode the common market for seed and lead to significant additional costs for seed companies. Members will be continuously updated about the start of the implementation and all further related developments in the weeks and months to come. (vE)

CPVO Administrative Council – Brussels - March 20/21

The meeting of the Administrative Council (AC) of the CPVO took place in Brussels on 20 and 21 March. ESA was represented by Mrs Marian Suelmann (Chair of the CIPR) and B.Scholte who participated as observer. Some information was given on statistics. 2011 was a record year for the CPVO with a number of 3184 applications. The biggest increase in applications was realized in agricultural crops and there was a decrease in fruit crops. It has been decided to set up a working group of legal experts. This working group will discuss legal questions that may come up. This could be topics such as the definition of harvested and propagating material, but also the evaluation of the Community Plant Variety Right (CPVR) system. Also upon request of ESA this working group will be ad hoc and the CPVO will invite a limited number of people to join this working group. ESA also advocated to keep a sufficient link with the (breeding) practice. The working group will report to the AC and has no decisive powers.

Another topic was the registration of edv's in the registers of the CPVO. The CPVO received requests for registration of edv's in cases where one breeder owns both the initial variety and the edv. ESA is not in favor of such a registration as it could be used to only avoid paying the regular cost of CPVR protection as an edv is indirectly protected through the CPVO on the initial variety. According to ESA registration should only be possible when two breeders are involved and when a DUS report is available for the edv. From the legal text it is unclear whether registration of edv's is only possible in case two breeders are involved. This subject will be referred to the working group of legal experts.

An update was given on the auditing and accreditation of the Examination Offices on the basis of the Quality Assurance System that was introduced a few years ago. This system is based on the principle that only Examination Offices that meet a set of quality requirements will be accredited to carry out DUS examinations but only for the crops for which the Examination Offices are audited and accredited. The first effects of this system are now becoming apparent. Several Examination offices lost the entrustment for a few crops and Latvia is no longer accredited as no testing station was present there. Revised Technical Protocols have been approved for barley, tomato and spinach. Further the CPVO informed the AC that as from the 23th of April electronic signatures will be used when granting CPVR's. Other decisions, such as refusals, cancellations and annulations will be signed electronically in the future. Applicants will be informed through the official gazette and website and through mailings.



Much time was spent on financial aspects. First topic in this field was the payment of auditing cost. When setting up the Quality Assurance System it was decided that in the first three years the CPVO would bear the auditing cost for the Examination Offices. As the first round of auditing will be finalized at the end of 2012 the question was raised whether this system should be continued. ESA is clearly in favor of having each Examination Office that is audited to pay for the auditing cost. This is in line with the common auditing practice but also with the principles of transparency and no cross-subsidizing as advocated by ESA in discussions on financing of the CPVR system. Many AC members however were in favor of keeping the current system as was also the European Commission. It was therefore decided to retain the current system and to evaluate it again in 2015.

Important news is that the AC decided to reduce the application fee from the current 900 Euro to 650 Euro as from January 1st 2013, which means a cost reduction for applicants of more than 750.000 Euro on annual basis. The AC also addressed possible changes regarding the examination fees. In this respect ESA has always stated to be in favor of transparency and full cost recovery. The discussion on this issue however will continue in October this year. The different options will be addressed in the spring meetings of ESA crop sections. The Commission informed the AC on possible additional tasks for the CPVO in the framework of the revision of the Seed Marketing Directives. Member States and observers have a period of 4 weeks to give their opinion in writing. (MS / BS)

UPOV Technical Committee – Geneva – March 26-28

The UPOV Technical Committee met in Geneva (CH) from March 26-28. Some 100 participants attended the meeting representing 47 countries and 3 observer organizations. ESA was represented by Mrs Duchene (Limagrain) and B.Scholte. The event started with presentations and discussion on experiences of UPOV members on measures to improve the efficiency and effectiveness of DUS testing. The TC addressed matters arising from technical Working parties, TGP documents, molecular techniques, variety denominations and issues in relation to information databases. The TC addressed also the possible webcasting of UPOV sessions in future. An interesting presentation was given of the modernized UPOV website and the electronic variety database called “Pluto” available on-line. This data base is a powerful search tool to authorities, breeders and the wider public which replaces the UPOV CD-rom and which is available free of charge. The TC adopted a great number of Technical Guidelines including the TGs for hemp, buck wheat, durum wheat and radish. In the end the TC decided on the program for the 2013 session which will include a separate part on the use of molecular techniques in other international organizations as OECD and ISTA. (BS)

Horizon 2020 – Parliamentary hearings and ESA Working Group

Discussions are stepping up in the European Parliament regarding the overall structure, budget and definition of Horizon 2020. At the moment, the debate is not addressing the thematic detail of the proposal, as it is rather centred around strategic objectives such as simplification, participation of SMEs, the balance between cohesion and scientific excellence and between fundamental and applied research. The ESA Secretariat is monitoring this debate in order to intervene, when appropriate, with the relevant contribution of plant breeding to major societal challenges such as sustainable agriculture and the bioeconomy.



Therefore, in parallel, ESA is currently working on a position through its Working Group on Research & Innovation to support that future funding for plant breeding research is included in the scope of the programme. The Working Group met for the second time this year and is pleased to announce that three new members have joined the group: Gautier Semences, Boreal and IRTA. (JP)

Visit to ESA Members – Nunhems



On March 21, the ESA Secretariat visited the headquarters of Nunhems, located in a beautiful castle, in the Dutch countryside. Brand manager Uwe Dijkshoorn welcomed the new team members Katharina Bednarz and Jean-Paul Judson and held a presentation on Nunhems' organisation and various activities, after which ESA explained their policy priorities in the different fields. After this detailed insight, the ESA team had the unique opportunity to go on a guided tour through the Quality Assurance Scheme, the Seed Processing Station, the Research and Development Laboratory and Greenhouses of the vegetable seed company. Uwe Dijkshoorn put also big effort in explaining the various steps of processing and packing of treated seeds. This sunny, yet efficient spring day was concluded with a shared lunch together with Managing Director Ko Remijnse in Nunhems' Restaurant. The two ESA members Katharina Bednarz and Jean-Paul Judson would like to send special thanks to Ko Remijnse for making this visit possible and particularly to Uwe Dijkshoorn for taking the time to convey these relevant information. (KB)

Plant Variety Protection Course

On 18th June 2012 the 15th Plant Variety Protection Course will start in the Netherlands, organised by Naktuinbouw in cooperation with the Wageningen University. The course aims at facilitating the introduction and practical implementation of Plant Breeders' Rights (Plant Variety Protection) in countries where legislation on this matter is being developed, has recently been passed, or who are considering to develop a system. Naktuinbouw has informed that there are still some open spots for applicants. For further information please contact the Secretariat

The next ESA Newsletter 2012 is to be published on 26.04.2012