



ESA NEWSLETTER

December 2009

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ESA Meetings (selected)

- **12.01.2010**
SOF Hybridity WG
Conference Call
- **27.01.2010**
Working Group
Finances Meeting
- **28.01.2010**
Executive
Committee
Meeting
- **28.01.2010**
SVO
Conference Call
- **03.02.2010**
WGPH
Meeting
- **04.02.2010**
WGBR/CRLA
joint Meeting
- **05.02.2010**
STAT
Meeting

Dear Members,

It's amazing how quickly this year 2009 went by, isn't it? Some of you will attribute this statement to (increasing) age and forgetfulness, some to nostalgia, and others will simply dismiss the notion altogether and consider it the typical 'end of year' feeling.

Still, I have the impression that it has been a particularly busy year for us. And one reason for this surely is the fact that we have been quite busy in implementing the numerous suggestions and ideas developed during our internal office evaluation in the previous year. While some of these changes seemed to be simple enough, putting them into practice and doing so consistently still has its challenges, as I am sure any of you will know from practical experience in your own associations and companies. And of course, together with this and partly related, with Sabine Bausch and Szonja Csörgő we welcomed two new colleagues to our ESA team. As their employment has also been linked to a redistribution of tasks and responsibilities in the office, e.g. with Szonja taking over from Bert in the area of intellectual property protection and Bert taking full responsibility for all the Sections in ESA including the vegetables, it also marks a new starting point for both staff and members in the various ESA groups. I'd like to take this opportunity to thank the colleagues as well as the many members that have contributed to the smooth and professional implementation of all these change in the course of the year – and I am convinced that it has made us a better and more effective organisation. We will put the finishing touch to these changes by the formal setting up of our Committees, Working Groups and Sections by the Board at its spring meeting.

Next to these internal changes, we were and are still facing the big task of providing input to the evaluation and potential change of legislation of basically all decisive parts of the EU's legal framework for plants and seed: from seed marketing to plant health and from GMOs to IPRs – everything is up for comment and anything may be up for change. For a rather small industry and a quite small Secretariat, managing this process and assuring the best possible input at all times over a period of several years is a special challenge. But it also means that we have an almost unique opportunity to shape our own future by suggesting improvements for the practical day-to-day business of seed companies and by organising the necessary political majorities to support our ideas through effective lobbying.

Dear Members, still, it is good that the coming days remind us again that there is more to life than work and more to personal satisfaction than business success; in this spirit, I wish you and your families a Merry Christmas and a happy New Year.

With best regards, yours

Garlich v. Essen, Secretary General

Enhanced patent system in Europe

Europe has been looking for a cheaper, more consistent and more predictable patent system for decades. On 4 December 2009, the Council of the European Union reached a political agreement on a package of measures that could finally lead up to the creation of a European Community patent system. The conceived system of two pillars, the EU patent and the European and EU patents court will now be complemented by a third regulation governing translation arrangements that have always been blocking the way forward. However, the December conclusions are still conditional on the opinion of the European Court of Justice (still pending) which has been requested by the Council in June 2009 to give its opinion on the compatibility of the envisaged agreement on a unified patent litigation system with the EC Treaty. (SzCs)

External meetings

(selected)

- 15.01.2010
Sustainability WG
Brussels (BE)
- 15.01.-24.01.2010
Int. Green Week,
Berlin (D)
- 22.01.2010
CPVO
Audit Advisory
Board,
Brussels (BE)
- 27.1.-29.01.2010
SANCO Mutual
Recognition
Workshop,
Braunschweig (D)
- 01.02.2010
ISF - IPC Meeting
Alexandria (USA)

Conference on IP protection for plant innovation

On 4 December 2009, Szonja Csörgő attended the 4th International Conference on IP protection for Plant Innovation organised by Management Forum in Amsterdam. The one-day conference provided an interesting insight into many aspects of plant innovation protection outside as well as inside Europe. The systems of IP protection for plant innovation in Latin America (Argentina), the United States and China were explained by prominent lawyers from the respective countries. Furthermore, an extensive presentation was given on the protection offered by the European patent system for plant-related inventions. By the end of the day, Mr. Tjeerd Overdijk (Vondst Advocaten) gave an in-depth analysis of and generated discussion about the Dutch case *Monsanto v. Cefetra* dealing with the interpretation of the Biotech Directive (98/44/EC) and recently heard before the European Court of Justice (case C-428/08). (SzCs)

Biodiversity events in Brussels

As a preparation for 2010, the International Year of Biodiversity, a number of conferences and talks dealing with the topic of biodiversity have been held in different European institutions during the month of December. On December 1, the European Landowners' Organisation together with many European biodiversity foundations organised "the European Biodiversity Conference" in the European Parliament which focussed on the explanation of the current situation and policy framework and provided some interesting examples of private sector initiatives for biodiversity conservation. Also the results of a research project on economics of ecosystems and biodiversity, co-financed by the European Commission, were presented at the conference. Another event organised by three European regions and hosted by the Committee of the Regions on December 9 gave a comprehensive overview of regional activities contributing to the European objective of halting the loss of biodiversity by 2010. It appears that in the light of 2010 and the important events it brings forth biodiversity is becoming a priority subject for European Institutions. (SzCs)



CPVO Meetings

DUS Expert meeting – vegetables

On December 1-2 the CPVO DUS experts met in Angers. In total 25 experts participated, representing 12 countries. ESA participated as observer and was represented by Mrs. Schenkeveld (Rijkzwaan) and B. Scholte. In addition, ESA was represented by Mrs. Bonneau (Clause), Mr. Jaunet (Clause) and Mr. Meijerink (Syngenta) regarding the issue of harmonisation of disease resistance.

Disease resistance harmonisation

This issue was put on the agenda on request of ESA in order to inform the DUS experts of the work within SVOwic to harmonise disease resistance terminology between companies, to have more transparency in the market and to minimize possible liability. The participants appreciated the ESA initiative and agreed that it would be useful to continue the exchange of information in the future and where possible to align the CPVO Technical Protocols in this respect.

Obligatory testing for disease resistance

Following a request of the Slovak Seed Association, ESA has informed the CPVO DUS experts of the problems the Slovak breeders are facing. Information on comparable problems was presented by the expert from the Czech Republic, Germany and Slovakia. It was agreed that ESA would prepare a discussion paper to be addressed in the next meeting.

Different germination standards for parent lines

A proposal was discussed to accept standard samples with a lower germination rate in cases of inbred lines for certain vegetable crops, drafted by the Dutch DUS expert for vegetables. The experts were rather reluctant to address this issue without having more information on the necessity and the species concerned. ESA was requested to consult its members and to provide information regarding the species concerned.

Technical Protocols. (TP)

The experts discussed the revision of the TP's of Pea, Cauliflower, Maize/sweet/popcorn and Spinach and the creation of a new TP for Japanese bunching onion. On the basis of the discussion these TP's will be revised and following a last round of consultation they will be put forward for adoption by the AC in March 2010.

Following the first vegetable DUS open day organised in 2009, it was agreed to organise a 2nd open day in 2010, which will take place in France on the invitation of GEVES. The next meeting of the DUS experts for vegetable crops will be organised back-to-back with his open day in October 2010. (BS)



Annual meeting between the CPVO and its Examination Offices

The meeting took place on December 3-4 in Angers and was attended by some 50 persons, representing 29 countries. ESA was represented by Mrs. Schenkeveld and B. Scholte. Underneath you will find an overview of some of the topics of discussion:

Status of plant material

The CPVO is evaluating the procedure as adopted 3 years ago when it was agreed to inform breeders in case material of inbred lines was exchanged between CPVO entrusted Examination Offices (EO's).

Another important element of the policy is that material of inbred lines should not be forwarded to EO's, outside Europe unless breeders give their explicit consent. Some EO's are of the opinion that although the number of cases in relation to this procedure is very limited, still the administrative burden is too heavy. ESA requested for detailed information regarding the number of cases but also argued that it is too early to amend the policy. The importance of safeguarding the interest of the breeders in particular in relation to inbred lines was underlined once again. The issue will be further discussed in the next meeting of the Administrative Council (AC) in March 2010.

On-line application

The CPVO presented a model for on-line application for CPBR which will be tested in the next few months. Depending on the test results, the system will be implemented afterwards, which is expected still to be in spring 2010. The facility for on-line application has been requested by ESA already for a long time. The possibilities look quite impressive and will facilitate the application process for breeders considerably. To encourage the use of this provision, the CPVO considers lowering the application fees in case. Further details will be communicated later.

Publication of variety descriptions

The CPVO is planning to publish variety descriptions, both the technical questionnaire provided by the breeder as well as the official variety description after PBR has been granted, on the internet. As ESA we have objected strongly to the publication of the technical questionnaire, as this in certain cases contains confidential information related to the pedigree and/or inbred lines. The CPVO will amend its proposal to be discussed by the AC in March 2010.

The next meeting between CPVO and its Examination Offices will take place on December 1-2, 2010. (BS)



Sustainability discussed with colleagues from EuropaBio

Together with the colleagues from EuropaBio's GBE, we have started discussions on the issue of 'Sustainability' in relation to farming, food production and environmental protection in a new Working Group organised by EuropaBio. The issue of sustainability is currently being pushed to the forefront of many debates, but mainly by insinuating that modern (competitive) farming and the products of its related input industries are not in line with the overall policy objective of a more sustainable, more environmentally friendly EU farming policy. Before the background of the start of the evaluation of the Common Agricultural Policy (CAP) and its financing, it is of crucial importance not to leave this field entirely to NGOs or small interest groups within the farming sector. Consequently, we will try to demonstrate that in fact modern technology and increased efficiency and intensity are providing promising solutions in the EU's quest for a greening of its economy and more sustainable farming policy. (vE)

ESA Conference on the future of IP for plants and seeds: 22./23.04.2010

Appropriate intellectual property protection is key for supporting research and innovation in plant breeding. Assuring a fair return of plant breeders' long-term investment fuels its continuous development of ever better varieties for a competitive and sustainable European agri-food chain. Here, the classical variety protection by the Community plant variety rights legislation is a critical instrument for the breeding community; and this instrument has shown some weaknesses, e.g. in the area of fair royalty payments for farm saved seed use - as has again been shown recently by studies carried out by the Community Plant Variety Office.

With the upcoming evaluation of this European legal framework for IP and in view of the increasing role of patents for biotechnological inventions, ESA feels that it is time for an overall view on the role and available instruments for intellectual property protection in the seed sector. Here, the interface of the legal systems for plant breeders' rights and for patents for biotechnological inventions will be one core aspect of the debate.

To assure wide consultation of all members and a presentation and consideration of all important aspects and arguments of this key issue for seed companies, ESA organises a specific conference on "Intellectual Property Protection in Plants and Seed" to be held in Brussels on April 22nd and 23rd 2010.

This is a crucial discussion; for the entire sector and for its future development and its vision where it wants to go. We therefore hope to welcome many Members to this event to get input and recommendations. It will be these arguments and conclusions from the conference that will further drive the debate within the different ESA bodies and specifically our Committee for Intellectual Property and Breeders' Rights and the ESA Board which shall lead to the presentation of a final ESA Position to the General Assembly in fall 2010. (vE)

For more information on the draft conference programme and for registration of your participation, please go to the ESA Website www.euroseeds.org

Next ESA Newsletter to be published on 01.02.2010