SUMMARY REPORT
OF THE MEETING OF THE STANDING COMMITTEE ON COMMUNITY PLANT VARIETY RIGHTS
HELD ON 17 MAY 2005 (CCAB, BRUSSELS)

Chairman: M. Gennatas.

All the Member States were present with the exception of Italy (IT), Finland (FI) and Luxembourg (LU).
For the purpose of the vote Luxembourg (LU) mandated Belgium (BE).
None of the Acceding Countries (Bulgaria and Romania) was present.
The Community Plant Variety Office (CPVO) was invited by the services of the Commission as experts, as members of a Community Body involved in Community Plant Variety Rights.

1. APPROVAL OF THE AGENDA

The Chairman asked whether participants requested any change of the agenda or items to be discussed under agenda item 6 (miscellaneous points). These items were information on the followings: last development of accession of the Community to UPOV, fees payable to the Community Plant Variety Office, shallots issue, the 3 new Court cases coming from the German authorities on farm saved seeds, and the new advisory group on the food chain and animal and plant health. The agenda was then adopted.

2. DISCUSSION AND POSSIBLE VOTE ON A DRAFT COMMISSION REGULATION AMENDING REGULATION (EC) N° 1239/95 AS REGARDS THE GRANT OF COMPULSORY LICENCES AND THE RULES ON PUBLIC INSPECTION AND ACCESS TO DOCUMENTS HELD BY THE COMMUNITY PLANT VARIETY OFFICE (CPVO)

Because of the last amendments of the basic Regulation on Community Plant Variety Rights (Council Regulation (EC) N°2100/94) on new rules as regards proceedings before CPVO on public inspection and access to documents (based on Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents) and on Community licences to be granted by CPVO, including compulsory licences, the implementation rules of this basic Regulation need to be amended accordingly. To facilitate the discussion, it was decided to work on the English text as the authentic text.

After a general overview of the changed Articles from the previous draft text presented on 24 November 2004 the chairman asked if there were comments from the Member States. Sweden agreed with the proposed text and withdrew its suggestion from the former Standing Committee to amend Article 41(4). All the delegations agreed with the text.

The Chairman proposed to vote on the draft Regulation amended according to the agreed changes.

Voting: Favourable opinion by qualified majority: 285 for and 36 not represented.

The Services of the Commission and the representative of the CPVO informed the group on the financial reserve of this Office which has reached a level which exceeds the level necessary to safeguard the continuity of its operation. Therefore, the transitory period during which the level of fees has been decreased should be extended.

The Commission has prepared a new draft Commission Regulation amending Regulation (EC) No 1238/95. It was decided to work on the English text as the authentic text.

After a general overview of the new draft, the chairman asked if there were comments from the member states.

The Chairman proposed to vote on the draft Regulation amended according to the agreed changes.

**Voting:** Favourable opinion by qualified majority: 285 for and 36 not represented.

4. **Discussion and Possible Adoption of Rules of Procedures for the Standing Committee on Community Plant Variety Rights**

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community Plant Variety Rights and in particular Article 115 thereof and to Council Decision (EC) No 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, and in particular its Article 7(1) thereof, the Standing Committee on Community Plant Variety Rights needs urgently to adopt its internal rules of procedures, on the basis of standard rules.

To facilitate the discussion, it was decided to work on the English text as the authentic text.

Belgium, on behalf of Luxembourg, expressed some concerns about Articles 6(2) and 13(2) as regards the official contact points between the Member States and the President of the Standing Committee. In its opinion, this should be more flexible and the designated experts of the Member States should be the contact points. The Chairman confirmed that the official contact points need to be the Permanent Representation of each Member State as a general rule.

The Netherlands wanted more precisions about who is supposed to inform the Member States when there are comments on the draft minutes of a meeting (Art 11(1)). The Chairman answered that it is the President of the meeting who will inform the other Member States on the remarks.

The Chairman proposed to vote on the Draft Regulation amended according to the agreed changes.

**Voting:** Favourable opinion by simple majority: 23 for and 2 not represented.
5. INFORMATION ON THE MAIN POINTS DISCUSSED AT THE MEETING OF THE ADMINISTRATIVE COUNCIL OF THE COMMUNITY PLANT VARIETY OFFICE ON 30 AND 31 MARCH 2005

5.1. DUS testing in an enlarged European Community – Elements for a strategic discussion.

The President confirmed that a paper had been distributed on the Administrative Council that expressed the wish, that in parallel with the review of the distribution of DUS testing in an enlarged Community, a “strategic” debate be launched as regards the modalities of DUS testing in the future.

The aim of the strategic discussion is to analyse whether there are ways to modify the present system for DUS testing in a way which would be beneficial to its stakeholders.

5.2. CPVO Customer Satisfaction Survey

The President of the CPVO gave an overview of the survey awarded to IFOP International, a private company. The objectives of this survey where to reveal the opinion of CPVO customers concerning:

- The quality and cost of the Community System
- The quality and cost of the services provided
- The communication means, in general and specially the e-business solutions provides

The outcome of the survey was quite satisfactory for the office: all breeders were satisfied (the ornamental breeders were less satisfied than the agricultural breeders).

The President mentioned that the intention of the Office to formulate a plan of action as regards the areas where the survey showed room for improvements. There are already two weak points that have to be improved:

- The survey showed that most of the clients like the CPVO to develop online services
- To enforce the PVR protections once they are granted. More than in the past, breeders encounter impediments and problems when trying to secure their rights. Part of the problem is caused by lack of knowledge, at national, regional or local levels, of the responsible authorities, prosecutors and judges as regards Intellectual Property Rights in general and Plant Variety Rights in particular.

Hence, it appears necessary to give more information to those persons with responsibilities in these fields. A suggestion is to organize seminars, this will be done as from October 2005 (see point 5.3).
5.3. Enforcement seminars

The President of the CPVO confirmed that a seminar on the enforcement of PVR will be organized in Brussels on the 4th and 5th of October. The target group of the seminar will be national, regional, local officials with responsibilities in the PVR field (e.g. prosecutors, judges, lawyers, breeders and their representatives).

5.4. Proposal for the adaptation of the fees regulation

Like in the preceding years the Community plant variety rights (PVR) system saw in 2004 an increase of the number of applications as well as of the number of title granted. A further growth of the total number of Community rights in force is to be expected in the coming years.

The financial outturn of the year 2004 and the continued growth of the Community PVR system suggest that the level of financial reserve of the CPVO would continue to remain at a level higher than necessary if no change to the fee regulation is made. The Administrative Council at its meeting on 31 March 2005 confirmed the objective of reducing the level of the reserve to consider a possible diminution of the CPVO fees.

The CPVO was asked to study the implication of all combinations of application fee levels at 900 € and annual fees at 300, 250, and 200 €. In addition to these options it has also studied the impact of a decrease of the application fee to a level of 700 €. A model was developed allowing simulations of the effect of different fee levels on the financial outturn of the period 2005 until 2009 and the resulting of the financial reserve.

Finally, the combination of an applicable fee of 900 € and an annual fee of 200 € was preferred and is suggested to the European Commission.

6. OTHER BUSINESS

6.1. Information about the accession of the Community to the International Union for the Protection of New Varieties of Plants (UPOV)

On the 18th of February 2005, at the Council Working Group, doubts were expressed on the legal basis proposed by the Commission (Art 37 & 300); the Council Legal Service proposed Art 308.

On the 9th of March 2005, at the COREPER meeting, the proposal of the Council to amend the legal basis was maintained.

Then, on the 14th of April 2005, the Committee of Agriculture of the European Parliament gave a favourable opinion to the first proposal, based on Article 37.

On 10 May 2005, the European Parliament, at its plenary session, voted in favour to the text of accession of Community to the UPOV Convention with 517 votes for and 18 against.

The next COREPER meeting is foreseen on the 25th of May to prepare the Council Agriculture of the 30th of May.
The accession of the Community to the UPOV seems now to be a matter of weeks.

6.2. Shallot Issue

A bilateral meeting with experts from Netherlands and France took place the 23rd of March 2005 at the CPVO premises in Angers to finalize the CPVO Shallot Protocol for DUS Tests. NL and FR reached an agreement on CPVO Shallot technical test guidelines for onions and shallots, including a decision tree to separate varieties of shallots with those of onions. These draft guidelines will be normally presented at the meeting of the Administrative Council of the CPVO of 14 June 2005 for its approval.

6.3. Three new German Court cases as regards Farm saved Seeds

The Chairman informed the Member States on 3 new court cases linked on “farm saved seeds” and the “farmer privilege” under regulation 2100/94.

The Chairman asked the Member States to answer to his short survey sent by email on the 3rd of May 2005 as regards updated information on the use of farm seeds in their country. The results of the survey will be necessary to correctly answer the questions raised very often by European Citizens.

6.4. Advisory Group of the food Chain and Animal and plant Health: Adoption of the list of members

The Chairman informed the Member states about the creation of this advisory group and its publication in the Official Journal of the European Union with the list of its members. This advisory group will be regularly consulted on the annual work programme of the Commission in fields of food and feed safety, animal health and welfare, plant health and human nutrition.

Bernard Van Goethem  
Acting Director  
Signed

Annex: List of participants

N.B.: The measures on which the Committee has given an opinion are subject to the appropriate procedure for final approval by the Commission.
List of participants

Standing Committee on Community Plant Variety Rights

(17 May 2005)

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<tr>
<th>Member States</th>
<th>Ministry or Organization</th>
<th>Number of participants</th>
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<td>BE</td>
<td>Ministry of Economic Affairs</td>
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