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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Twenty-Ninth Ordinary Session
Geneva, October 17, 1995

REPORT

adopted by the Council

Introduction

1. The Council of the International Union for the Protection of New Varieties of Plants (UPOV) held its twenty-ninth ordinary session in Geneva on October 17, 1995, under the chairmanship of Mr. Bill Whitmore (New Zealand).
2. The list of participants is given in Annex I to this report.
3. The indented paragraphs are taken from the record of the decisions adopted in the session, which the Council adopted at the end of its meeting (document C/29/14). This draft report on the session will be submitted to the thirtieth ordinary session of the Council for adoption.

Opening of the Session

4. The session was opened by the President, who welcomed the participants.
5. The President expressed particular satisfaction at the presence of the delegation of Portugal, a State which became a member of UPOV on October 14, 1995, and of the

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delegation of Ukraine, a State whose accession to UPOV would take effect on November 3, 1995.

6. The President also drew attention to the presence of eight persons involved in the area of varieties and seeds in India, who were on a study visit to Europe under the auspices of FAO, and welcomed them to the meeting.

7. The delegations of Portugal and Ukraine thanked the President for his words of welcome, as well as the other member States and the Office of UPOV for the assistance provided during the preparations for accession. They welcomed the opportunity to contribute towards the development of UPOV.

8. The Secretary-General informed the meeting that Mr. André Heitz had completed 20 years of service with UPOV. The Council, by applause, expressed its gratitude for the services rendered. In thanking the Council, Mr. Heitz wished to pay tribute to all his collaborators whose role, though not always visible, was nonetheless essential, and also to the Secretary-General for his enlightened guidance.

Adoption of the Agenda

9. The Council adopted the agenda as given in document C/29/1 after having noted that, under agenda item 4, it would have to examine the legislation of Belarus and Bolivia.

Adoption of the Report on the Twenty-Eighth Ordinary Session

10. The Council adopted the report as given in document C/28/13 Prov.

Examination of the Conformity of the Laws of Belarus with the UPOV Convention

11. The discussions were based on document C/29/13.

12. The Council noted that the request for advice had been made in respect of the 1978 Act, whereas the legislation of Belarus essentially conformed, in the opinion of the Office of the Union (paragraph 33 of document C/29/13), with the provisions of the 1991 Act. It further noted that Belarus had not made a request in respect of the 1991 Act because of a perceived difficulty in examining 15 plant genera and species at the date on which it would become bound by the Convention, whereas this difficulty might be overcome by resorting to cooperation in examination. On this basis, the Council:

- (a) decided to take a positive decision on the conformity of the Plant Variety Patent Law of Belarus with the provisions of the 1978 Act and noted that the law of Belarus also conformed with the provisions of the 1991 Act;

(b) decided to authorize the Secretary-General to inform the Government of Belarus of the above decision and inform it that Belarus would also be in a position to deposit an instrument of accession to the 1991 Act as soon as the number of protected genera and species had reached 15.

Examination of the Conformity of the Laws of Bolivia with the UPOV Convention

13. Discussions were based on document C/29/12.

14. The Council, on the basis of the conclusions drawn by the Office of the Union in paragraphs 51 to 53 of document C/29/12 and the declaration by the delegation of Bolivia that it accepted the said conclusions, decided:

(a) to advise the Government of Bolivia that the General Rules provided a framework for legislation that, upon incorporation of suitable amendments, would conform to the 1978 Act;

(b) to request the Office of the Union to offer its assistance to the Government of Bolivia in respect of the amendments that were necessary to achieve conformity, or were otherwise advisable;

(c) to further advise the Government of Bolivia that, upon incorporation of the amendments proposed by the Office of the Union, it would be in a position to deposit an instrument of accession to the 1978 Act;

(d) to authorize the Secretary-General to inform the Government of Bolivia of the above decision.

Report by the President on the Work of the Forty-Ninth and Fiftieth Sessions of the Consultative Committee; Adoption of Recommendations, if any, Prepared by that Committee

15. The President referred to paragraph 10 of document C/29/3 with regard to the work of the forty-ninth session of the Consultative Committee, held on April 28, 1995. With regard to the fiftieth session, held on the previous day, he stated that the Committee had given preliminary consideration to certain items on the Council's agenda; the remaining items on its own agenda led to the following conclusions:

(a) The Committee decided upon the methods for future work on the central database—on a CD-ROM disc—on plant variety protection and related matters and decided that the production of monthly updates should start as soon as possible.

(b) The Committee considered the possible effects of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") on UPOV, particularly whether or not the time limit for accession to the 1978 Act by developing countries, as provided in Article 37(3) of the 1991 Act, should be extended and whether measures should

be taken to reduce contributions by certain States. It had been unable to decide on the first issue; discussion on the second issue would continue at its next session.

(c) The Committee approved the holding of an information meeting in Rome in Spring 1996 in connection with the session of the FAO Commission on Plant Genetic Resources; it also considered briefly a draft position paper on UPOV and the revision of the International Undertaking on Plant Genetic Resources.

(d) It was decided to add the Committee of Nordic Industrial Property Agents (CONOPA) to the list of international non-governmental organizations invited to ordinary sessions of the Council and to meetings with international organizations.

Report by the Secretary-General on the Activities of the Union in 1994; Supplementary Report on Activities During the First Nine Months of 1995

16. The Council approved the report by the Secretary-General on the activities of the Union in 1994, given in document C/29/2, and noted the report on activities during the first nine months of 1995, given in document C/29/3.

17. The delegation of Germany stated that Switzerland had proposed extending the scope of the (draft) WIPO treaty on the settlement of intellectual property disputes among States to disputes arising out of the UPOV Convention. It requested that a report be prepared for discussion in one of the UPOV bodies. The Secretary-General replied that the subject would be included in the agenda of the next session of the Consultative Committee; moreover, an important meeting would be held at the beginning of 1996 when it would be decided whether a Diplomatic Conference should be held on this (draft) treaty.

18. In response to the delegation of the Netherlands, which had noted that few activities had been carried out in Africa in 1994, the Vice Secretary-General drew attention to the seminar that had been organized in Pretoria (South Africa) in May 1995 (see paragraph 15 of document C/29/3). He informed the meeting that he would personally be going to Egypt and Tunisia in the near future. He added that he had been to China at the beginning of October and that the Chinese authorities hoped to complete their legislative work by the end of 1995.

19. The representative of ASSINSEL recalled that ASSINSEL had established an arbitration procedure. Furthermore, he expressed the view that the increase in the number of members of UPOV should not alone be a source of satisfaction, but that it was important to ensure that these members possessed legislation that was not only in conformity with the Convention but also formed part of a satisfactory legislative framework, favorable to activities in the area of varieties and seeds.

Progress of the Work of the Administrative and Legal Committee

20. The Council noted the work of the Administrative and Legal Committee as described in document C/29/9.

Progress of the Work of the Technical Committee, the Technical Working Parties and the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular

21. The Council noted and approved the programs of work of the Technical Committee and the Technical Working Parties as given in document C/29/10 and its addenda. It had an exchange of views on the mandate of the Working Group on Biochemical and Molecular Techniques, and DNA-profiling in Particular, and expressed the wish that the program of work should concentrate on the methods that were relevant or potentially relevant to DUS testing in particular and plant variety protection in general.

22. During the exchange of views mentioned in the preceding paragraph, the delegation of Germany noted that the Working Group seemed to be focusing on scientific discussions whereas it should be concentrating on defining characteristics and methods to be included in the Test Guidelines, bearing in mind that the electrophoretic characteristics had only been accepted as an additional measure. In particular, the Working Group should not focus on the utilization of biochemical and molecular characteristics in the context of essentially derived varieties.

23. The delegations of Australia, Denmark, France, the Netherlands, and the United Kingdom, together with the representative of ASSINSEL, then took the floor to call for a large degree of flexibility. Their main arguments were the following:
 - (a) The Working Group had been created to draw up a catalogue of available methods and make proposals and recommendations regarding their applicability in DUS testing; because it was not called upon to take any final decisions, its terms of reference should not be too restricted at the outset;

 - (b) The Working Group was doing useful work in the area of essentially derived varieties because officials from national offices could be called upon by the courts to provide an expert opinion; the 1991 Diplomatic Conference had also adopted a resolution regarding the establishment of guidelines for essentially derived varieties;

 - (c) There was a need to harmonize methods, even if they were only utilized as an additional measure; more generally, it was important to avoid the chaotic situation that might result from practices which differed from one State to another or one species to another;

 - (d) The correlation between biochemical and molecular data and the results of growing tests—and between markers and characteristics—should be examined in order to provide a solid basis for protection;

 - (e) In view of the state of the art, it was inevitable that the Group would have to deal with fundamental principles; the exchange of information on these principles would save time in the future; the Working Group could be the source of very useful specialized publications.

Examination and Approval of the Program and Budget of the Union for the 1996-1997 Biennium

24. The Council adopted the program and budget of the Union for the 1996-97 biennium as set out in document C/29/4, subject to the following:
- (a) The principal aims of the program (paragraph 2 of the said document) were reformulated as set out in Annex II to this document;
 - (b) The Administrative and Legal Committee might meet for less sessions than foreseen in Chapter II, under UV.05;
 - (c) The activities decided upon by the Consultative Committee—the holding of an information meeting in Rome in the Spring of 1996 and the possible holding of a Symposium in Geneva in 1997—would be financed from the overall available resources;
 - (d) Following the accessions of Portugal and Ukraine, each contributing on the basis of one half of one unit, the contributions income for the 1996-97 biennium would be 5,353,370 Swiss francs and the amount of expenditures to be covered from the Reserve Fund would be 33,000 Swiss francs.
25. The summary of budget and comparisons and the contributions payable in January 1996 and in January 1997 by member States are thus as set out in Annexes III and IV to this document.
26. The delegations of Denmark and the United Kingdom stated that they had approved the budget despite their desire to see a reduction.

Calendar of Meetings in 1996

27. The Council established the calendar of meetings in 1996 as reproduced in Annex V to this document.
28. It was noted that the Administrative and Legal Committee might not hold one of the sessions scheduled and that the information meeting in Rome might be held on April 19 (the session of the Commission on Plant Genetic Resources was scheduled to be held from April 22 to 26, 1996).

Election of the New Chairman and the New Vice-Chairman of the Administrative and Legal Committee

29. The Council elected, in each case for a term of three years ending with the thirty-second ordinary session of the Council in 1998:

- (a) Mr. H. Dieter Hoinkes (United States of America) Chairman of the Committee;
 - (b) Mr. John Carvill (Ireland) Vice-Chairman of the Committee.
30. The Council expressed its appreciation to Mr. Henning Kunhardt (Germany) for the work he had carried out during his term.

Election of the New Chairman and the New Vice-Chairman of the Technical Committee

31. The Council elected, in each case for a term of three years ending with the thirty-second ordinary session of the Council, in 1998:
- (a) Mr. Joël Guiard (France) Chairman of the Committee;
 - (b) Mrs. Elise Buitendag (South Africa) Vice-Chairman of the Committee.
32. The Council expressed its appreciation to Mrs. Jutta Rasmussen (Denmark) for the work she had carried out during her term.

Situation in the Legislative, Administrative and Technical Fields

- a. Reports by Representatives of States (Member States and Observer States) and International Organizations*
33. The Council took note of the reports given in document C/29/11 and its four addenda, and heard the supplementary reports. These reports are given in Annex VI to this document.
- b. Data Assembled by the Office of the Union on the State of Protection in Member States and Cooperation Between Them*
34. The Council took note of the content of documents C/29/5, C/29/6 and C/29/7.
35. Following a statement by the delegation of Denmark underlining the burden of work on the Office of the Union as a result of the ambitious program recently adopted, the Council decided that the need for the "statistical documents" (documents C/29/5 to C/29/7) should be considered by the Consultative Committee at its next session.
36. In this connection, it was noted that the Netherlands had reported that some 4,800 titles of protection were in force on December 31, 1994, representing one of the highest volumes of activity in the world. This figure concerned 230 taxa, which was a much lower figure than the number of taxa specifically protected in certain countries.

Other Business

37. The Council decided that UPOV committees and working groups should only hold their meetings in the territory of UPOV members (Contracting Parties).

Retirement

38. The Council was informed that Mr. John Ardley (United Kingdom) was taking part in a Council session for the last time. On behalf of the Council, Mr. Espenhain (Denmark) thanked him for his contribution to the Union's work and extended his best wishes for a long and happy retirement.

39. The Council unanimously adopted this report at its thirtieth session, on October 23, 1996.

[Six Annexes follow]

ANNEXE I/ANNEX I/ANLAGE I

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS/TEILNEHMERLISTE

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States/
in alphabetischer Reihenfolge der französischen Namen der Staaten)

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ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)/
ORGANISATION FÜR WIRTSCHAFTLICHE ZUSAMMENARBEIT UND ENTWICKLUNG (OECD)

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INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (AIPPI)/

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INTERNATIONAL ASSOCIATION OF PLANT BREEDERS FOR THE PROTECTION OF PLANT VARIETIES (ASSINSEL)/

INTERNATIONALER VERBAND DER PFLANZENZÜCHTER FÜR DEN SCHUTZ VON PFLANZENZÜCHTUNGEN (ASSINSEL)

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INTERNATIONAL COMMUNITY OF BREEDERS OF ASEXUALLY REPRODUCED ORNAMENTAL AND FRUIT-TREE VARIETIES (CIOPORA)/
INTERNATIONALE GEMEINSCHAFT DER ZÜCHTER VEGETATIV VERMEHRBARER ZIER- UND OBSTPFLANZEN (CIOPORA)

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V. BUREAU/OFFICERS/VORSITZ

Bill WHITMORE, President
Ryusuke YOSHIMURA, Vice-President

VI. BUREAU DE L'UPOV/OFFICE OF UPOV/BÜRO DER UPOV

Arpad BOGSCH, Secretary-General
Barry GREENGRASS, Vice Secretary-General
André HEITZ, Director-Counsellor
Max-Heinrich THIELE-WITTIG, Senior Counsellor
Nuria URQUÍA (Ms.), Program Officer
Michiko AMO (Mrs.), Associate Officer

[L'annexe II suit/
Annex II follows/
Anlage II folgt]

AIMS OF THE PROGRAM FOR THE 1996-97 BIENNIUM

Revised Text Adopted by the Council

2. The principal aims of the program for 1996-97 are the following:

(i) to coordinate and facilitate the protection of plant varieties by the member States under the UPOV Convention by providing fora for discussion and decisions;

(ii) to promote harmony between the domestic legislation and administrative practices of member States;

(iii) to further develop legal and technical cooperation among member States, particularly by supporting proposals for cooperation between States in examining applications for protection;

(iv) to take all necessary steps to facilitate the work of the breeders and the tasks of the plant variety protection authorities of member States;

(v) to propagate the concept of plant variety protection, particularly in countries that do not yet afford such protection, by explaining, where appropriate, in cooperation with national governments, with intergovernmental and with non-governmental organizations the need for and the modalities of the protection of plant breeders' rights; to publish information for this purpose;

(vi) to promote the accession of States to the 1991 Act of the UPOV Convention and to assist them in taking measures which will enable them to accede to the 1991 Act of the Convention; until the 1991 Act enters into force, to assist States that so wish, in taking timely measures which will enable them to accede to the 1978 Act of the Convention;

(vii) to provide or promote the provision of programs for education and training in the field of plant variety protection, seeking sources of extra-budgetary funding for such programs;

(viii) to continue the progressive introduction of the Spanish language in the work of the Office through more interpretation into Spanish at meetings and more information and documentation published in that language;

(ix) to observe developments outside UPOV concerning the conservation and making available of genetic resources, and to examine the possible impact of such developments on plant variety protection in general and on UPOV in particular;

(x) to examine various possibilities for the legal protection of innovations in the field of genetic engineering and biotechnology, and to observe developments relating to the legal protection of innovations relating to animals.

[Annex III follows]

ANNEX III

SUMMARY OF BUDGET AND COMPARISONS
(expressed in thousands of francs)

1992-93 <u>Actual</u>	1994-95 <u>Budget</u>		1996-97 <u>Budget</u>
4,116	4,855.5	INCOME	
		Contributions	5,353
		Other Income	
17	5	- Publications	12
211	89	- Miscellaneous	118
<u>4,344</u>	<u>4,949.5</u>		<u>5,483</u>
		EXPENDITURE	
2,644	2,975	UV.09 <u>Staff Expenses</u>	3,066
		<u>Travel on Official Business</u>	
		- Missions [Staff]	
		UV.04 - Technical Working Parties	60
		UV.08 - Contacts with Governments and Organizations	150
204	168	- Sub-total	210
		- Third Party Travel [non-staff]	
		UV.01 - Council: Symposium speakers	16
32	15	- Sub-total	16
		<u>Contractual Services</u>	
		- Conferences	
		UV.01 - Council	31
		UV.02 - Consultative Committee	30
		UV.03 - Technical Committee	41
		UV.05 - Administrative and Legal Committee	48
		UV.06 - Meeting with International Organizations	7
105	112	- Sub-total	157
82	128	UV.07 - Printing: Information and Documentation	148
		- Other	
		UV.03 - Technical Committee	27
		UV.05 - Administrative and Legal Committee	13
		UV.07 - Information and Documentation	247
		UV.10 - Program Support Expenses	9
74	71	- Sub-total	296
113	127	UV.10 <u>General Operating Expenses: Rental of Premises</u>	140
7	8	UV.10 <u>Supplies and Materials</u>	9
2	14	UV.10 <u>Acquisition of Furniture and Equipment</u>	15
9	35.5	UV.10 <u>Other Expenses</u>	41
<u>3,272</u>	<u>3,653.5</u>	Sub-total: Expenses proper to UPOV	4,098
1,191	1,296	* UV.11 Common Expenses	1,418
<u>4,463</u>	<u>4,949.5</u>	Total Expenditure	5,516
(119)	0	(DEFICIT) - Transferred from Reserve Fund	(-33)

[Annex IV follows]

* Exclusive of UPOV's share in the WIPO common income which is included under "Other Income - Miscellaneous," above.

ANNEX IV

CONTRIBUTIONS OF MEMBER STATES
(expressed in Swiss francs)

1994 <u>Actual</u>	1995 <u>Actual</u>	<u>Member States</u>	<u>Number of Units</u>	<u>1996-97 Budget</u>	
				<u>Payable in January 1996</u>	<u>Payable in January 1997</u>
-	10,728	Argentina	0.2	10,728	10,728
49,668	53,641	Australia	1.0	53,641	53,641
-	80,462	Austria	1.5	80,462	80,462
74,502	80,462	Belgium	1.5	80,462	80,462
49,668	53,641	Canada	1.0	53,641	53,641
24,834	26,820	Czech Republic	0.5	26,820	26,820
74,502	80,462	Denmark	1.5	80,462	80,462
49,668	53,641	Finland	1.0	53,641	53,641
248,340	268,205	France	5.0	268,205	268,205
248,340	268,205	Germany	5.0	268,205	268,205
24,834	26,820	Hungary	0.5	26,820	26,820
49,668	53,641	Ireland	1.0	53,641	53,641
24,834	26,820	Israel	0.5	26,820	26,820
99,336	107,282	Italy	2.0	107,282	107,282
248,340	268,205	Japan	5.0	268,205	268,205
149,004	160,923	Netherlands	3.0	160,923	160,923
49,668	53,641	New Zealand	1.0	53,641	53,641
49,668	53,641	Norway	1.0	53,641	53,641
24,834	26,820	Poland	0.5	26,820	26,820
-	-	Portugal	0.5	26,820	26,820
24,834	26,820	Slovakia	0.5	26,820	26,820
49,668	53,641	South Africa	1.0	53,641	53,641
74,502	80,462	Spain	1.5	80,462	80,462
74,502	80,462	Sweden	1.5	80,462	80,462
74,502	80,462	Switzerland	1.5	80,462	80,462
-	-	Ukraine	0.5	26,820	26,820
248,340	268,205	United Kingdom	5.0	268,205	268,205
248,340	268,205	United States of America	5.0	268,205	268,205
-	10,728	Uruguay	0.2	10,728	10,728
<u>2,334,396</u>	<u>2,623,045</u>		<u>49.9</u>	<u>2,676,685</u>	<u>2,676,685</u>

ANNEX V

DATES OF MEETINGS IN 1996

presented in the order of the organs

Council

October 24 [later moved to October 23]

Consultative Committee

April 17 [later moved to April 18; Information Meeting held on April 19]

October 23 [later moved to October 22]

Administrative and Legal Committee

April 15 and 16 [not held]

October 21 and 22 [later shortened to October 21]

Technical Committee

October 16 to 18

Technical Working Party for Agricultural Crops

June 11 to 14, Thessaloniki, Greece

Technical Working Party on Automation and Computer Programs

June 4 to 6, Hanover, Germany

Technical Working Party for Fruit Crops

April 22 to 26, Tel Aviv, Israel

Technical Working Party for Ornamental Plants and Forest Trees

April 15 to 19, Tel Aviv, Israel

Technical Working Party for Vegetables

July 8 to 12, Brno, Czech Republic

Working Group on Biochemical and Molecular Techniques and DNA-Profiling in Particular

March 11 to 13, 1997, Cambridge, United Kingdom

[Annex VI follows]

ANNEX VI

REPORTS AND STATEMENTS BY REPRESENTATIVES OF STATES
AND ORGANIZATIONS ON THE SITUATION IN THE LEGISLATIVE,
ADMINISTRATIVE AND TECHNICAL FIELDS

I. MEMBER STATES

AUSTRALIA

Situation in the Legislative Field

The new Australian law—the Plant Breeders' Rights Act 1994—entered into force on November 10, 1994. The Plant Variety Rights Act 1987 has been superseded by the new law, which is in conformity with the 1991 Act of the Convention.

A new schedule of fees entered into force on January 1, 1995. The amount of basic fees decreased slightly. Regulations on “approved examination establishments” (providing centralized examination) will enter into force in October 1995. In order to promote centralized examination, for varieties subject to such examination, the fee was reduced from 1,400 to 800 Australian dollars.

Cooperation in Examination

Australia received 27 examination reports from other member States; 53 were requested.

Situation in the Administrative Field

From July 1994 to June 1995, 273 applications were received (minus 2%) and 113 titles were issued (plus 140%).

The staff of the Plant Breeders' Rights Office increased to eight, including four examiners.

The Office continued to be self-financing as far as direct costs are concerned; it is expected that it will be completely self-financing during the 1995-1996 financial year.

International Cooperation

The Office received official delegations from China and Japan. In September 1995, the Director of the Office visited India to discuss protection of plant varieties, under the auspices of APSA/FAO.

AUSTRIA

Situation in the Legislative Field

The calendar for the adjustment of the law to the 1991 Act has not been fixed yet.

The application and examination fees have been increased.

Protection was extended to 25 further species as from July 1, 1995.

Cooperation in Examination

Administrative agreements have been concluded with Germany and the United Kingdom. An agreement with France is in preparation.

Situation in the Administrative Field

From January 1 to July 31, 1995, 12 applications were received and 12 titles were issued; 170 titles were in force on July 1.

Developments in Related Fields of Activities

The Federal Law published in the Official Journal No. 510/94—Genetic Engineering Law (GenTG) and Amendment of the Law on Product Liability—entered into force on January 1, 1995.

Austria is a member of the “Genetic Resources in Agriculture” Committee of the European Union set up under Regulation (EC) 1467/94 on the conservation, description, collection and utilization of genetic resources in agriculture.

BELGIUM

Situation in the Legislative Field

An intensive activity was deployed at the end of 1991 and the first months of 1992 with regard to the preparation of a new plant variety protection law. The completion of this project should start in 1996.

No change in existing legislation is anticipated in the short term, except for an adjustment to the new organization of the Ministry for Middle Classes and Agriculture and for an extension of protection to further genera and species.

Cooperation in Examination

Two agreements—with Denmark and France—are awaiting confirmation. New agreements or amendments to existing agreements may be concluded on the basis of the requests for extension of protection to further taxa.

Situation in the Administrative Field

The Service for the Protection of New Plant Varieties is now part of the Administration for the Quality of Raw Materials and the Plant Sector (DG4), Directorate for Reproductive Material, of the new Ministry for Middle Classes and Agriculture. It also moved in May 1995 and its new address is: WTC 3, Boulevard Simon Bolívar 30, 6th floor, B-1000 Brussels.

The computerization of the Service for the Protection of New Plant Varieties has been under consideration since the end of 1994. The programs should be available by mid-1996, and it is hoped that the Service will be computerized by the end of 1996 or the beginning of 1997.

From the entry into force of the system for the protection of new plant varieties to August 31, 1995, 2,021 applications for protection have been filed and 1,489 certificates issued, of which 614 are still in force. In 1994, 248 titles of protection were issued.

Developments in Related Fields of Activities

Community Protection

The new Community protection regime has already an influence on the number of national applications, in particular in the field of ornamental plants.

Seed Certification and Control

The various applicable regulations and the structure of the control system for reproductive material in Belgium have been revised (seed potatoes), are being revised (agricultural and fruit crops) or are in preparation (ornamental plants). The changes aim at simplifying the procedures with a view to achieving a greater efficiency and transferring responsibilities to the profession.

Marketing

A royal decree on the marketing of fruit plants for the production of fruit, ornamental plants, vegetable plants and propagating material of those plants with the exception of vegetable seeds was signed on May 15, 1995, and published on August 1, 1995. Ministerial orders for the implementation of this royal decree are in preparation and should be published by the end of 1995 or the beginning of 1996.

Rules and Regulations in the Field of Genetic Engineering

A royal decree transposing Council Directive 90/220/EEC on the release of genetically modified organisms into the environment and a royal decree instituting a system of scientific determination of biosecurity are in preparation and should be signed and published at the beginning of 1996.

CANADA

Situation in the Legislative Field

On December 28, 1994, regulations entered into force for 16 categories of plants, bringing the total number of protected species to 39. The implementing regulations will be amended in a few years' time to extend the law's scope to all species.

Preliminary discussions on the 1991 Act of the Convention have been initiated with members of the sector concerned.

Cooperation in Examination

At present, Canada does not participate in agreements for international cooperation in DUS testing. Results of tests and trials have been purchased from plant breeders' rights offices in UPOV member States. To date, no general agreements have been concluded. However, it is anticipated that such agreements will be concluded in the future if the Office for the Protection of Plant Varieties continues to receive requests for purchase of results.

Achievements

Canada has been receiving applications for plant breeders' rights since November 6, 1991. As of October 13, 1995, the Office received 647 applications and granted 191 rights.

Applications by crop kind are as follows:

African violet	1	Flax	4	Pea	53	Potentilla	2
Apple	23	Grape	3	Peach	2	Rose	57
Barley	15	Kentucky blue-grass	1	Pear	3	Soybean	39
Bean	1	Mustard	1	Pelargonium	9	Spiraea	5
Canola	79	Nectarine	1	Poinsettia	14	Strawberry	16
Chrysanthemum	164	Oat	7	Potato	119	Wheat	14
Corn	14						

Grants of rights by crop kind are as follows:

Barley	3	Flax	1	Potato	10	Soybean	7
Canola	22	Grape	1	Potentilla	1	Strawberry	1
Chrysanthemum	125	Pea	14	Rose	2	Wheat	4

CZECH REPUBLIC

Situation in the Legislative Field

The Law on the Legal Protection of New Plant Varieties and Animal Breeds (No. 132 of December 15, 1989) remains in force. The Ministry of Agriculture has begun work on its amendment last month. The aim is to align it with the 1991 Act of the Convention and Regulation (EC) No. 2100/94 of the European Union.

It is proposed that protection should be extended to 20 further genera and species.

Cooperation in Examination

An administrative agreement on international cooperation in examination of varieties was concluded between the COBORU (Poland) and the ÚKZÚZ (Czech Republic) and it entered into force on August 1, 1995.

The administrative agreement with Hungary has been extended.

The administrative agreement with Slovakia has been restricted.

Activities for the Promotion of Plant Variety Protection

A Czech delegation participated in the workshop on the protection of plant varieties and related issues organized by the National Interprofessional Seed Group (GNIS), in Paris, in July 1995.

Representatives of the Czech Republic had a meeting with a delegation from the Slovenian Agricultural Institute, led by Mr. Joze Ileršic, Head of the Registration Section.

Representatives of the Czech Republic also met with a delegation from the Russian Federation.

Developments in Related Fields of Activity

A draft law on varieties and seeds will be submitted to Parliament before the end of the year.

Work is being carried out on a draft law on genetically modified organisms, under the supervision of the Ministry of the Environment.

DENMARK

Situation in the Legislative Field

It is still expected that the Danish plant variety protection Act of 1987 will be revised by the end of 1995. A draft of the revised law is expected to be sent out shortly for a final hearing of the relevant circles. The intended revision will enable Denmark to ratify the 1991 Act.

An extension of protection to the whole genus apple—to include rootstocks—is under preparation.

Situation in the Administrative Field

In 1994, 302 applications for plant breeders' rights were received, as follows:

Agricultural crops	87
Fruit	5
Vegetables	3
Ornamentals	205
Landscape	2

In 1994, the number of titles of protection issued was 252:

Agricultural crops	78
Fruit	2
Vegetables	7
Ornamentals	162
Landscape	3

In the period from January 1 to August 10, 1995, 81 applications for protection were received and 154 titles of protection were issued.

Situation in the Technical Field—Genetically Modified Organisms

In 1994, the Plant Directorate, Division of Gene Technology and Variety Testing, was asked by the Ministry of Environment to comment on 151 EU Summary Notification Information Formats (SNIFs) concerning experimental releases of genetically modified plants. In the period from January 1 to August 18, 1995, the Directorate reviewed a further 193 SNIFs.

In addition, applications for marketing approval of genetically modified plants of maize, red chicory, oilseed rape and soybean have been examined.

Activities for the Promotion of Plant Variety Protection

A brochure describing the possibilities of protection for plant material has been issued jointly by the Patent Office and the Plant Directorate.

FINLAND

Situation in the Legislative Field

Protection was extended to five further species as from July 20, 1995.

Cooperation in Examination

An administrative agreement has been concluded with the Netherlands. An agreement with Denmark is in preparation.

Situation in the Administrative Field

From January 1 to October 4, 1995, 44 applications were received and four titles were issued.

Developments in Related Fields of Activities

A new law on genetically modified organisms (377/95) entered into force on June 1, 1995, and a new administrative body, the Board for Gene Technology (*Geenitekniikkalautakunta*), was set up.

GERMANY

Situation in the Legislative Field

A proposal for the amendment of the national plant variety protection law has been established and discussed with the interested circles. A Government draft law on the amendment of the plant variety protection law has not yet been established, however.

The tariff of fees of the Federal Office of Plant Varieties was amended by an order of November 7, 1994, amending the Order on the Procedure Before the Federal Office of Plant Varieties. The fees for the technical examination for distinctness, uniformity and stability were increased by some 50%, and the other fees by some 25%.

Cooperation in Examination

An administrative agreement has been concluded with the Variety Protection Office of Austria; the Federal Office of Plant Varieties will examine, on behalf of the latter, the varieties of four species of agricultural crops, eight species of fruit crops and two species of trees.

The administrative agreement concluded with the Plant Variety Board of Finland has been extended. The results of the technical examinations made by one of the offices for *Triticum aestivum* L. (bread wheat) will be taken over by the other.

An administrative agreement with the Institute for Agricultural Quality Control of Hungary is in preparation.

The conclusion of a bilateral agreement with Japan is being considered.

Activities for the Promotion of Plant Variety Protection

Technical training has been given to staff members of the variety offices of the successor States of the former Soviet Union, of China and of Slovenia.

HUNGARY

Situation in the Legislative Field

The new Patent Law was adopted by Parliament on April 25, 1995 (Law No. 33 of 1995). The chapter on plant varieties remains unchanged and is thus consistent with the 1978 Act of the Convention. The new Law will enter into force on January 1, 1996, and will probably remain in force until the 1991 Act applies.

In Order No. 20/1995 (VI.13) FM, the Minister for Agriculture adjusted the fees for technical examination of distinctness, uniformity and stability. The fees were increased by 20 to 25% according to the group of species. Fees for value tests were raised by around 10%.

Cooperation in Examination

An agreement on international cooperation in examination of varieties was signed with Slovakia; it covers the most important agricultural species (10) and vegetables (6).

Two administrative agreements—one with the German Federal Office of Plant Varieties and the other with the Polish Research Center for Variety Examination—will be concluded in the near future.

The National Institute for Agricultural Quality Control (NIAQC) has contacts with the Slovenian Agricultural Institute with a view to concluding a cooperation agreement on examination.

The list of species covered by the agreement with the Czech Republic's State Institute for Agricultural Control and Examination has been amended.

Situation in the Administrative Field

As of October 10, 1995, 97 new patent applications had been filed and 31 patents had been granted for varieties.

Activities for the Promotion of Plant Variety Protection

The President of the Russian Federation's State Commission for Testing and Protection of Plant Varieties, Mr. V.N. Alexashov, visited Hungary from March 13 to 18, 1995; agreement was reached with the Director General of NIAQC, Mr. Károly Neszmélyi, on technical training of eight Russian experts in DUS examination in Hungary.

Activities in the ring test for maize continued under the guidance of French experts and very good results were achieved.

The ring tests on cabbages and onions, organized by German experts, will continue for a second year in 1996.

Developments in Related Fields of Activity

In 1994, NIAQC started to publish detailed information on the performance characteristics of registered varieties of the most important agricultural species so as to provide producers with better advice. Eight leaflets covering 10 species were published in 1994. Leaflets on three species were published in 1995.

A meeting was held in Martonvásár with a view to elaborating a law on genetically modified organisms and experts from the National Office for Inventions, NIAQC, the Ministry of Agriculture and the Hungarian Breeders' Association took part. The sectors interested decided to hold two further meetings.

IRELAND

Situation in the Legislative Field

Work was completed in early August on the preparation of a Memorandum of Government on the revision of the Plant Varieties (Proprietary Rights) Act, 1980. The Memorandum will be sent to other Government Departments shortly as part of the consultative process. It will then be submitted to the Government.

A Statutory Instrument (SI No. 393 of 1994) came into force on November 29, 1994, extending protection to seven additional species. No further extension of protection has been requested so far.

Situation in the Administrative Field

Changes have been made to allow for the acceptance of applications for Community rights by the National Office, the examination of these applications and their subsequent transmission. The prospects for the National Office are perhaps similar to those for other

national offices of the European Community, that is, a decrease in applications for national rights as applicants opt for the Community regime.

Time is now being spent on the computerization of the national list of varieties in order to make the data available for the UPOV CD-ROM system. Progress to date on this project has been slow.

ITALY

Situation in the Legislative Field

A draft law on ratification of the 1991 Act of the Convention was drawn up; it will allow the Government to enact the relevant implementing provisions within a period of six months from the date of adoption.

Protection was extended to 35 genera and species under a decree dated July 21, 1995 (which entered into force on November 10, 1995).

JAPAN

Situation in the Legislative Field

Preparatory work is being undertaken to make the amendments to the Seeds and Seedlings Law that are necessary for its adaptation to the 1991 Act of the Convention.

Cooperation in Examination

The Government of Japan is communicating with the Governments of Denmark, Germany, the Netherlands and the United Kingdom for the establishment of agreements on cooperation in examination.

Activities for the Promotion of the Protection of Plant Varieties

The Japanese Government actively contributes to the UPOV Regional Seminar on Variety Testing for Tropical and Subtropical Crops to be held in Medan (Indonesia), from December 5 to 7, 1995.

NETHERLANDS

Situation in the Legislative Field

Adaptation of the Law to the 1991 Act

The draft law amending the Seed and Planting Material Act was submitted to Parliament in March 1995. The Permanent Committee on Agriculture, Nature Management and Fisheries, in charge of preparing the plenary debate in Parliament, put forward some questions in its report of July 1995. The questions are due to be answered in October 1995. After that, it will be up to Parliament to put this subject on its agenda.

Case Law

The Board for Plant Breeders' Rights decided that a modification in the DNA structure constitutes a relevant factor in the decision about distinctness only when it provides for a clear expression. The appeal lodged in a case in which the assessment of proof concerning the marketing of the variety was at issue has been rejected. The Board of Appeal confirmed the initial decision that the party concerned had to take all necessary steps to prevent transactions made without his consent, e.g. to take legal action.

Cooperation in Examination

The Netherlands has concluded bilateral administrative agreements for cooperation in the testing of varieties with Finland and Norway.

Situation in the Administrative Field

The discussions with the breeding industry regarding the restructuring of the administrative organization of plant variety protection, on the one hand, and marketing authorization, on the other, were carried on in 1995.

In 1994, the number of applications filed and breeders' rights granted again showed an increase over the previous year, and the "magic" figure of 1,500 applications was exceeded: 1,541 applications were received and 948 rights were granted. The examinations entrusted to foreign authorities showed a decrease from 472 to 405; the number of requests for information made by foreign authorities on tests conducted in the Netherlands showed a considerable decrease, from 503 to 316.

In the period from January 1 to September 1, 1995, 872 applications were received.

The Netherlands actively participated in the discussions on the implementing rules of Council Regulation (EC) No. 2100/94 of July 27, 1994, on Community Plant Variety Rights. As the Regulation provides that the applications for a Community right may also be filed through the national offices and the Dutch breeders filed by far most of the Community applications, the Board was confronted with a substantial rise in workload: in the period from

April 27 to September 30, 1995, some 900 Community applications were received and submitted to the Provisional Office in Brussels. Furthermore, the Board received many requests for information on and clarification of the Community plant variety rights system.

Situation in the Technical Field

The Board discussed questions of common interest with its British counterpart. Furthermore, a visit was paid to Cambridge in order to get acquainted with the British organization for plant breeders' rights and national listing. Consultations were held with Denmark and France concerning the cooperation agreements.

Activities for the Promotion of Plant Variety Protection

Mr. Huib Ghijsen, the expert from the Board, participated in a symposium on plant breeders' rights in Colombia and accompanied the Vice Secretary-General in his visit to various Central American countries. Furthermore, delegations from non-member States were received and given information on the plant breeders' rights system in the Netherlands.

NEW ZEALAND

Situation in the Legislative Field

There has been a further delay in progressing towards amendment of the Plant Variety Rights Act 1987 to achieve conformity with the 1991 Act. Before it agrees to the introduction into Parliament of an amendment Bill, the Government requires that there be adequate consultation on the proposed changes with the Maori. Such consultation is regarded by the Government as obligatory under the terms of the Treaty of Waitangi, a founding treaty signed in 1840 between the British Crown and Maori chiefs. Formal consultation with the Maori commenced in December 1994 and should be concluded early in 1996.

The Plant Variety Rights (Fees) Order 1991, Amendment No. 1, came into force on June 1, 1995. The Order provides that the fees presently payable for varieties of herbage, agricultural crops and vegetables shall apply also to fungi.

Situation in the Administrative Field

Applications for protection have increased in each of the last four years. In the financial year that ended on June 30, 1995, 196 applications were received.

The Commissioner of Plant Variety Rights continues to receive a steady stream of objections to applications or grants of plant variety rights. Most objections are on the ground that the varieties in question were not new at the time of application.

Activities for the Promotion of Plant Variety Protection

In November-December 1994, Mr. Bill Whitmore, Commissioner of Plant Variety Rights, participated in UPOV national seminars in Islamabad, Jakarta, Kuala Lumpur and Manila.

On April 4 and 5, 1995, a group of high officials from the Federal and a State Government of India visited the Plant Variety Rights Office. The group had a particular interest in implementation aspects of plant variety protection legislation.

From June 14 to 30, 1995, Mr. Chris Barnaby, PVR Examiner, worked with experts at the Indonesian Rubber Research Institute, Sungei Putih, on the preparation of a draft test guideline for rubber trees. Travel costs for the project were paid by the New Zealand Ministry of Foreign Affairs and Trade while accommodation was provided by the Indonesian authorities.

POLAND

Situation in the Legislative Field

The new Seed Industry Law is being considered by the Diet. After examination by the special subcommission for the law, it has been transmitted to the Commission for Agriculture and Food Economy of the Diet. It is expected that the Diet will pass it in the last quarter of the year and that the Law will be in force at the beginning of 1996. In its part concerning plant variety protection, the Law is adapted to the 1991 Act.

The amounts of fees for protection are revised twice a year. They are based on the price of rye fixed for farm rents. The currently applicable amounts have been published and forwarded to the offices of the member States and to the Office of the Union together with the Polish Plant Breeders' Rights Gazette.

The number of protected taxa will be increased to some 275 (some 45 more than at present). The list will be published by a decree of the Minister for Agriculture and Food Economy once the new Seed Industry Law has been adopted.

Cooperation in Examination

Poland entered into a bilateral agreement on cooperation in DUS testing with the Czech Republic and Slovakia. An agreement will be entered into with Hungary in the foreseeable future. The ring test described in the report for 1993 is still continuing.

Situation in the Administrative Field

From January 1 to August 7, 1995, 77 applications have been filed and 64 titles of protection were issued whereas 33 titles were canceled.

Activities for the Promotion of Plant Variety Protection

The thirteenth session of the Technical Working Party on Automation and Computer Programs was held in COBORU from June 7 to 9, 1995.

The Fifth Working Seminar on Statistical Methods in Variety Testing, organized by COBORU, was held in Zakopane, from June 12 to 16, 1995.

The program of assistance to some East European countries is still continuing.

- The Head of the State Commission of the Russian Federation for Testing and Protection of Selection Achievements, Mr. W.N. Alexashov, visited Poland from September 28 to October 3, 1994. He acquainted himself with the activities of some Polish plant breeding companies. During his stay at COBORU, some aspects of plant variety protection and DUS testing were discussed.
- Mr. N.S. Korako and Mr. A.E. Zuykov, from the State Commission for Variety Testing of Agricultural Crops of Belarus, visited Poland from September 28 to October 30, 1994. They had discussions, *inter alia*, on the situation in the Polish plant breeding industry and on some theoretical and practical aspects of plant breeders' rights.
- Mr. A.A. Kornieychuk, Deputy to the President, and Mr. A.P. Gribko, from the State Commission for Variety Testing of Agricultural Crops of Belarus, visited COBORU from December 4 to 8, 1994. They consulted COBORU specialists on various aspects of plant variety protection.
- Mr. A.A. Sruoga, Director of the Center for Cultivar Testing of Lithuania, and Mr. E. Lisovskis, Director of the Center for Cultivar Testing of Latvia, visited COBORU on June 23, 1995, and consulted COBORU specialists on various aspects of plant variety protection.
- Practical training on DUS testing was organized by COBORU in the period from July 2 to 9, 1995, for 11 participants (eight from Belarus, two from Lithuania and one from Latvia).

The Director of COBORU, Prof. E. Bilski, visited the Russian Federation from July 24 to 30, 1995. Various questions of plant variety protection were discussed at the State Commission for Testing and Protection of Selection Achievements.

PORTUGAL

The plant variety protection system in Portugal is currently applied to 43 species; this number may be increased in the near future, due to a request for protection for Citrus varieties. It is still planned to amend legislation with a view to improving the situation with which the Office has been confronted since the beginning of its activities, in 1990.

Since the last session of the Council, seven applications were received (four for apple and three for vine varieties). The DUS examination has been concluded for six other varieties (four varieties of fruit trees and two varieties of agricultural crops), and a decision can now be made on the grant of protection.

Two fruit varieties are cherimoyas, and it is the first time that DUS tests were made for this species in Portugal. They were carried out in the island of Madeira between 1993 and 1995.

As regards the promotion of the plant variety protection system, communications have been presented at two seminars and a promotion leaflet was published.

SLOVAKIA

Situation in the Legislative Field

On August 21, 1995, the Ministry of Agriculture approved the first draft law amending Law No. 132/1989 on the Legal Protection of New Plant Varieties and Animal Breeds. After incorporating the amendments proposed by the Office of the Union, the draft was submitted to the Government's Legal Council on October 5, 1995, and, following examination, was transmitted to the Office of the Union for comment.

Since December 1, 1994, the schedule of fees has been governed by Law No. 181/1993 on Administrative Costs.

Cooperation in Examination

A new revision of the agreement signed with the Czech Republic is being prepared.

An agreement was signed with Hungary on July 4, 1995.

An agreement was signed with Poland in 1994, without specifying which species were covered. The first cooperative examinations took place in 1995.

An agreement with Slovenia is being elaborated; Slovakia already examines *Dactylis glomerata*, *Phleum pratense* and *Trifolium pratense* on behalf of Slovenia.

Situation in the Administrative Field

In 1994, 28 applications were filed. In 1995 to date, 24 applications have been filed.

Activities for the Promotion of Plant Variety Protection

The promotion of plant variety protection takes the form of open days for experts on various groups of species and cooperation with the Slovakian Breeders' Association.

In June and July 1995, meetings were organized with Hungary in order to share experiences. Slovakia also took part in similar meetings with the Czech Republic, France, Germany, Hungary and Poland.

Biochemical and Molecular Methods

A fellowship was awarded during the period 1992-1994 for the development and standardization of methods for examining varieties focusing on the identification of genotypes by electrophoresis and image analysis. Work at present focuses on the standardization and automation of tests and the identification of specific DNA markers. Examination of image analysis is continuing on *Triticum* and *Phaseolus*.

SOUTH AFRICA

Situation in the Legislative Field

The Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976), which was revised in terms of the 1991 Act, is at present with the Legal Advisors of the Government for final checking. The Legal Advisors will publish the Bill in the Government Gazette for final comments, which will then be incorporated into the Bill. The Bill should be considered by Parliament during 1995 or 1996.

The Department of Agriculture has been inundated with requests for extension of protection to further genera and species, especially for ornamental plants. During the year under review, protection has been extended to 53 genera and species.

Situation in the Administrative Field

From October 1, 1994, to August 31, 1995, 150 applications for plant breeders' rights were received and 201 plant breeders' rights were granted. As at August 31, 1995, there were 333 applications under consideration and 965 plant breeders' rights in force. Further details are given below.

	Agricultural Crops	Vegetable Crops	Ornamental Plants	Fruit Crops	Total
Applications Received	42	27	63	19	151
Plant Breeders' Rights Granted	40	37	114	17	208
Plant Breeders' Rights Valid	298	151	366	156	971
Applications Being Considered	90	29	139	82	340

Situation in the Technical Field

Homogeneity problems are still encountered in evaluation, especially of grasses and lucerne varieties. It is also becoming increasingly difficult to distinguish between varieties as the differences are getting smaller and smaller.

Activities for the Promotion of Plant Variety Protection

South Africa presented a Regional Seminar for the Southern African Development Community (SADC) in Pretoria from May 3 to 5, 1995, under the auspices of UPOV. The seminar was attended by delegates from Angola, Lesotho, Malawi, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. International organizations which attended the seminar were AIPPI, ASSINSEL, the South African Regional Commission for the Conservation and Utilization of the Soil (SARCCUS) and the International Federation of Agricultural Producers (IFAP). Various South African organizations such as the Agricultural Research Council (ARC), the Land and Agricultural Policy Center (LAPC), the South African Agricultural Union (SAAU), the South African Institute for Intellectual Property Law, the South African Nurserymen's Association (SANA) and the South African National Seed Organization (SANSOR) and private seed companies also attended the seminar.

SPAIN

Situation in the Legislative Field

Preparatory work has continued during the last year with a view to revising the Spanish plant variety rights legislation and bring it into line with the 1991 Act.

Further species will be added in a near future to the list of protectable species: chick-pea, *Prunus cerasifera* and *Prunus insititia*. The inclusion of further fruit species is now under consideration. The possibility of obtaining protection for apple varieties used as rootstocks will be also given. An amendment of the implementing rules referring to the

deadlines and to the quantity and quality of plant material required to carry out the technical examination for several crops is under preparation.

An increase of fees (+ 3.5%) was adopted with effect from January 1, 1995, but it is planned to increase the fees substantially in order to achieve a better balance of revenue and expenditure.

Situation in the Administrative Field

During the past year, 167 applications for protection have been filed, bringing the total from the beginning—for the period 1978-1995—to 3,927; 978 titles are currently in force.

The Spanish Office, pursuant to the Regulation of the Council of the European Union on Community Plant Variety Rights, has cooperated with the Community Plant Variety Office in the transfer of several applications into the Community system.

Developments in Related Fields of Activities

In Spain, the various aspects of the use and practical effects of the Community system of plant variety protection and the protection of the living matter continue to be subjects of extreme interest.

Several foreign experts, mainly from Latin American countries, having an interest in plant variety protection and variety registration have followed practical training programs in Spain.

SWEDEN

Situation in the Legislative Field

The work on the draft for a new Plant Variety Protection Law based upon the 1991 Act is in progress. A Bill is expected to be presented to the Parliament in early 1996.

Cooperation in Examination

The bilateral agreement concluded with France will be extended to 10 further species.

Activities for the Promotion of Plant Variety Protection

Mr. Karl Olov Öster, President of the Plant Variety Board, gave a lecture at an UPOV Seminar held in Pretoria (South Africa), from May 4 to 6, 1995.

Developments in Related Fields of Activities

Since January 1, 1995, Sweden is a member of the European Union. This means that the Community Plant Variety Rights system is also applicable in Sweden.

As from January 1, 1996, the Common Catalogues of Varieties of Agricultural Crops and Vegetables will be applied to Sweden.

A new Law on genetically modified organisms (SFS 1994:900) entered into force on January 1, 1995, and a new administrative body, the Gene Technology Advisory Board (*Gentekniknämnden*), was created.

UNITED KINGDOM

Situation in the Legislative Field

Following the issuing of a consultation document containing proposals for the amendment of the Plant Varieties and Seeds Act 1964, a number of comments were received from interested parties. No time was allocated, however, for the proposed Bill in the 1994-95 parliamentary session, and it seems unlikely that time will be allocated in 1995-96.

Protection was extended on March 24, 1995, to ten ornamentals and two vegetables species.

It is intended to extend protection to the following genera and species during 1996:

Ornamentals: x *Halimocistus sahucii*, *Helichrysum*, *Lavandula*, *Myosotis palustris*,
Myosotis scorpioides, *Platycodon grandiflorus*, *Tagetes*;

Fruit: Almond, Apricot, Nectarine, Peach, Peach x Almond rootstocks;

Oilseed Crop: Quinoa.

There was no increase in fees for plant breeders' rights. It is proposed to introduce annual renewal fees at approximately half the existing rates for those varieties granted a Community plant variety right for which the breeders wish to leave open the possibility of resuming the operation of the national right once the Community right has been surrendered or terminated.

Cooperation in Examination

The United Kingdom signed a bilateral agreement with Austria in April 1995 and agreed to test clematis, apple and rose varieties on behalf of the Austrian authorities and to supply copies of DUS reports.

Situation in the Administrative Field

During the year ended March 31, 1995, 559 applications were received (1.5% increase over previous year), 376 grants were issued (15% increase), 239 grants were terminated (5% increase) and 1,777 grants were renewed (4% increase).

Community Plant Variety Rights

Prior to the introduction of the Community plant variety right in April 1995, the Plant Variety Rights Office held a number of training sessions on the completion of application forms for members of the trade. A leaflet on "Farm-Saved Seed" was issued to all farmers in August 1995, and the United Kingdom Ministers have received numerous letters on this issue over the past few months.

Following the introduction of the Community plant variety rights system, the United Kingdom received some 190 Community applications.

UNITED STATES OF AMERICA

The revised Law on the Protection of Plant Varieties entered into force on April 4, 1995. On September 5, 1995, President Clinton transmitted the 1991 Act of the Convention to the Senate for its opinion and consent to ratification.

URUGUAY

Situation in the Legislative Field

The Uruguayan system of plant variety protection remains based on the 1978 Act of the Convention and no amendment is envisaged.

Parliament is considering a draft law on the creation of the National Seed Institute (INASE), as a legal non-State entity under public law. INASE will take over all the activities of the Seed Directorate and the General Directorate of Agricultural Services of the Ministry of Livestock, Agriculture and Fisheries.

The Institute's links with the Executive will be through the Ministry of Livestock, Agriculture and Fisheries, and it will be managed by a Board of Directors comprising representatives of the Ministry, one of whom will act as Chairman, and four representatives from the private sector. Its objectives will be the following:

(a) to promote the production and use of improved seeds, whose identity and superior quality will be recognized, through support for development of the national seed industry;

(b) to support the creation and utilization of new national plant genetic material, as well as foreign material adapted to conditions in Uruguay;

(c) to protect plant genetic creation and discovery by granting the corresponding titles of ownership;

(d) to promote the export of seeds;

(e) to monitor respect for legislative and regulatory provisions;

(f) to propose the enactment of provisions on the production, certification, marketing, export and import of seeds, as well as on the protection of plant genetic creation and discovery.

The following will be its principal activities:

(a) to carry out applied research and to verify the description, identity, uniformity and stability of cultivars;

(b) to keep the National Register of Cultivars;

(c) to keep the Register of Ownership of Cultivars and to issue the titles of ownership to breeders of new plant varieties;

(d) to keep the General Register of Seed Producers and Merchants;

(e) to certify seed through field inspections, checks in seed stations, laboratory tests and post-control growing tests;

(f) to issue seed quality certificates recognized at the international level (ISTA) and variety certificates for the international seed trade (OECD);

(g) to monitor trade in national and imported seeds;

(h) to issue import licenses in conformity with the legislation in force.

Cooperation and Agreements

In the various integration fora to which it belongs, Uruguay makes ongoing efforts in the area of plant variety protection. Within the Latin American Integration Association (ALADI), it has promoted a regional agreement that is now in the process of being approved. It has done the same within the Southern Common Market (MERCOSUR).

In August, the Spanish Ministry of Agriculture, Fisheries and Food and the Uruguayan Ministry of Livestock, Agriculture and Fisheries signed an aide-mémoire in which they agreed to adopt the measures required for:

- (a) recognition of reciprocal treatment in the area of plant variety protection;
- (b) the conclusion of a bilateral cooperation agreement on variety examination in the context of plant variety protection; and
- (c) the conclusion of a framework cooperation agreement for the organization and supply of technical training related to plant variety protection.

II. NON-MEMBER STATES

CHINA

New plant varieties are the products of the labor and intelligence of agricultural scientists. They should certainly be protected. As a big agricultural country, China has paid great attention to the research on the production of new plant varieties, and has made impressive achievements in that area. China has a long history in agriculture. Plant breeding work started there around 1910. Since 1949, China has gradually established an integrated system of plant genetic resources, breeding, extension and marketing from central to local levels, with a large professional team involved in it. More than 300,000 plant germplasm samples have been collected, of which more than 200,000 have been put into the National Gene Bank for long-term storage. Nearly 5,000 new varieties and new hybrids for 40 crop species have been bred and released for commercial production. This is an important contribution to the solution of the problem of providing food and clothing to 1.1 billion people, and also to the development of world agriculture.

Plant varieties play a very important role in agricultural production. Breeding good new varieties and promoting their use is a way to increase yields that needs little investment and has low energy requirements. The Chinese Government has always attached importance to the development of the seed industry and given support to it, both through policies and funding. The issuance by the State Council, in 1989, of the Seed Management Regulations of the People's Republic of China has put seed management into a legal framework and protected the legal rights of breeders, producers, sellers and users. The transfer of new plant varieties (parents) and seed production technology against payment is allowed; its implementation should be in accordance with the State laws on technology transfer. The Patent Law of the People's Republic of China was amended in 1992. It allows the protection of the breeding methods of new animal and plant varieties and the products, whereas only the methods were protectable under the old Patent Law.

A Regional UPOV Seminar was held in 1993, in Beijing. The Seminar played a very important role for the work on the protection of new plant varieties in China. That work has come into a new phase and has the support of the Chinese Government. The Government is now preparing the Regulations of the People's Republic of China for the Protection of New

Plant Varieties. They will be issued this year. China will at the same time initiate the procedure for becoming a member of UPOV. This will contribute to exchanges and cooperation between China and the other countries in the field of plant variety protection.

In a word, in order to bring its economy into the world trading system and to meet the standards of a contracting party of the World Trade Organization (WTO), to promote the introduction of good varieties from other countries and to mobilize the efforts of its research and educational organizations, technicians, seed companies and individuals into plant breeding, it is necessary for China to develop a plant variety protection system which will meet the requirements of the relevant international agreements on intellectual property protection.

COLOMBIA

The Colombian Government continued to show keen interest in rapid accession to UPOV. In November 1995, it submitted to the National Congress a draft law approving the 1978 Act of the Convention. The draft was considered and approved by the joint commissions of the Chamber and Senate responsible for international agreements; it is hoped that it will be approved by the Chamber and Senate in Plenary Session in December. The law will then be signed by the President so that the instrument of accession can be deposited as soon as possible.

The delegation of Colombia wishes to seize the opportunity to thank UPOV for its collaboration throughout the accession procedure, as well as the Spanish National Institute of Seeds and Nursery Plants for its assistance in creating the National Register. It also hopes to benefit from cooperation in technical training of officials belonging to the Service for the Protection of Plant Varieties.

MEXICO

A draft law was recently submitted to Congress and it is hoped that it will be adopted in the course of the year. Congress remains in session until the end of the year and the draft is on its main agenda. The Ministry of External Relations will then ratify the 1978 Act as soon as possible.

Mexico is also working on the description of varieties and for this activity it has requested support from several countries with regard to the parameters for descriptions.

REPUBLIC OF KOREA

Since 1990, the Republic of Korea has made considerable efforts to introduce a system for the protection of the intellectual property of breeders of new varieties of plants. A draft law on the seed industry has been drawn up and submitted to Parliament; it will provide the legal basis for the protection of plant varieties and will establish the new system for the registration of varieties and guarantee of the quality of seeds. Once the legal and administrative procedure has been concluded, the Government will take the necessary measures with a view to acceding to UPOV when appropriate. It hopes to benefit from the technical assistance and legal advice of UPOV during this final stage.

REPUBLIC OF MOLDOVA

A draft law on the protection of plant varieties has been drawn up in close collaboration with the Office of the Union. The draft has been put before several governmental and parliamentary bodies.

ROMANIA

Situation in the Legislative Field

A new seed law (No. 75/1995) has been enacted and the Ministry of Agriculture is putting it into force.

A draft law on the protection of plant varieties, based on the 1991 Act of the Convention, has been drawn up and sent to interested sectors for their comments. It is expected that it will be put before Parliament at the end of 1995.

Situation in the Administrative Field

In 1995, 39 patent applications for new varieties were filed with the State Office for Inventions and Trademarks; 11 patents were granted, which brings the total of patents for varieties in force to 155.

Situation in the Technical Field

Following the enactment of the seed law, the State Committee for Approval and Examination of Varieties became the Institute for Technical Tests and Registration. It is responsible for examining varieties prior to registration in the official catalogue of varieties grown in Romania, as well as for the preparation of DUS examinations.

Experts took part in courses on seed tests, seed certification and variety examination organized by Germany, Poland and the United Kingdom (two experts at each course).

Activities for the Promotion of the Protection of Plant Varieties

Cooperation between the various sectors responsible for the protection of plant varieties and the Office of the Union was enhanced. The Vice Secretary-General visited Romania from June 28 to 30, 1995, at the invitation of the State Office for Inventions and Trademarks, for the purpose of establishing a framework for plant protection activities. Following discussions with representatives of the Seed Department of the Ministry of Agriculture, the Institute for Technical Tests and Registration and the State Office for Inventions and Trademarks, a program was drawn up on the further measures to be taken.

SLOVENIA

Slovenia is currently preparing a law on seeds and plants dealing with the production of and trade in seeds, as well as the catalogue of varieties. Work has already begun on a new law on the protection of plant varieties based on the 1991 Act of the Convention. In the meantime, the 1989 Law will continue to apply.

Ten applications for protection have been received this year.

As far as variety examination is concerned, Slovenia cooperates with the Czech Republic, Hungary and Slovakia. Bilateral agreements have been reached.

III. INTERNATIONAL ORGANIZATIONS

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

FAO has prepared a report on its assistance to developing countries in the area of protection of plant varieties. This report will be submitted officially to UPOV.

The Seed and Plant Genetic Resources Service helps member States to define criteria for the formulation and application of regional and national policies and programs on varieties and seeds, including cooperation between developed and developing countries. Its activities relate to both technical and legal aspects of testing and certifying seeds and extend to the protection of plant varieties. Assistance is provided in cooperation with the Law and Development Service, which is attached to the Legal Office, and provides developing

countries with different forms of legal assistance related to agriculture and the management of renewable resources, including the drafting of legislation.

In the area of seeds, especially the creation and dissemination of new varieties of food plants, many activities formerly undertaken by government institutes and agencies are now entrusted to the private sector, which is better equipped to carry them out successfully. In many cases, political and economic decisions preceded the establishment of the corresponding legal framework.

In addition, member States of the World Trade Organization will have to implement legislation on variety protection in order to be in conformity with Article 27.3(b) of the TRIPS Agreement. FAO's work in this connection focuses on the assistance given to authorities in defining their needs and identifying options, as well as in elaborating or revising legislation; FAO also provides advice on the structure and the functions of the institutions concerned.

Such assistance is provided to a number of countries. For example, FAO has prepared a project, financed by the World Bank, for China on the creation of provincial seed enterprises and the establishment of a favorable political and economic environment, including the setting up of a plant variety protection system in conformity with the TRIPS Agreement. Similar assistance has been provided to Lithuania, Malaysia, Mauritania, Pakistan, Tanzania, Viet Nam and Zaire.

EUROPEAN UNION

Situation in the Legislative Field

During the period under review, Austria, Finland and Sweden acceded to the European Union. These States have therefore automatically become party to the Community system for the protection of plant varieties.

Regulation No. 2100/94 of the Council of the European Union, of July 27, 1994, establishing a Community regime for plant varieties, has been fully in force since April 27, 1995. Since then, it has been possible to file applications for Community protection.

The most important implementing texts entered into force after that date. These are:

(a) Commission Regulation (EC) No. 1238/95 (of May 31, 1995) establishing the implementing regulations for Council Regulation (EC) No. 2100/94 in relation to the fees due to the Community Plant Varieties Office (OJEC No. L 121/31, of June 1, 1995);

(b) Regulation (EC) No. 1239/95 of the Commission (of May 31, 1995) establishing the implementing regulations for Council Regulation (EC) No. 2100/94 in relation to the procedure at the Community Plant Varieties Office (OJEC No. L 121/37, of June 1, 1995);

(c) Commission Regulation (EC) No. 1768/95 (of July 24, 1995) establishing the implementing regulations for the derogation provided for in Article 14, paragraph 3, of Council Regulation (EC) No. 2100/94 establishing a regime of Community protection for plant varieties.

The latter concerns the “agricultural exception” and specifies in particular the parameters for establishing the fee which farmers—with the exception of “small-scale farmers”—must pay breeders in order to use farm-saved seed.

Situation in the Administrative Field

Despite the difficulties of setting up a new office, exacerbated by the lack of any final decision on a headquarters (a decision that must be taken by an intergovernmental conference) and on a President (a list of candidates has been before the Council of Ministers since April 1995), the Community Plant Varieties Office opened on June 16 at a provisional address in Brussels.

Since then, it has received around 3,000 applications, of which at least half are under the transitional regime. A first bulletin has been published. The first certificates should be granted at the beginning of 1996.

Developments in Related Fields of Activity

The Directive on the Protection of Biotechnological Inventions under Patent Law has encountered resistance in the European Parliament on points of ethics. The Commission is studying the possibility of drawing up a new proposal.

The proposal referred to in the report for 1993 concerning amendment of the entire Community law on seeds has not yet been adopted by the Council. The problems are mainly at the level of the European Parliament. Discussions are currently taking place with the Parliament to find a solution to the last remaining question, which concerns genetically modified varieties and varieties producing “novel foods.”

The European Community takes an active part in the work of revising the International Undertaking on Plant Genetic Resources (FAO).

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

The OECD Council has taken two important decisions: one on temporary exemption from the rules of the seed systems in order to authorize a limited experiment on the accreditation of non-official bodies for crop inspection, and the other on a new label for international trade in seeds that have not been definitively certified.

In December 1994, Croatia and Slovenia were admitted to the systems. The admission of South Africa to the systems for maize and sorghum seeds and of Iran to the system for beet seeds will shortly be concluded. An application has been made by Bolivia, while Colombia and Estonia have taken the first steps.

The next meeting of designated authorities will be held in Buenos Aires in March 1996 and will be preceded by a meeting on genetically modified seeds and a meeting on accreditation for crop inspection. On December 11 and 12, 1995, the first meeting of OECD experts on questions raised by "novel foods" will be held.

Finally, OECD will be happy to cooperate with UPOV on the CD-ROM disc and hopes to contribute by making available the list of OECD cultivars.

INTERNATIONAL COMMUNITY OF BREEDERS OF ASEXUALLY REPRODUCED ORNAMENTAL AND FRUIT-TREE VARIETIES (CIOPORA)

CIOPORA welcomes the growth of UPOV, but strongly supports the statement made by ASSINSEL during the Council's session on the need for a link between the geographical extension of the Union and an increase in the level of protection offered.

Breeders note with great concern that States are acceding to UPOV on the basis of the 1978 Act rather than the 1991 Act and it is necessary to ask why this should be so. The alleged difficulties regarding the extension of protection to all genera and species are not a real problem in view of the possibilities afforded by cooperation in examination. On the other hand, if States do not want to grant the scope of protection provided by the 1991 Act, it must be asked how cooperation will be able to function at the international level, especially in the ornamental plants sector where markets have become global. Some States should expect to encounter difficulties in exporting variety products.

Despite the adoption of a growing number of laws on the protection of plant varieties, breeders have to face many infringements of their rights. In 1997, CIOPORA will organize its fifth international colloquium, this time on the international piracy of varieties.

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