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# PLANT VARIETY PROTECTION

**Gazette and Newsletter  
of the  
International Union for the Protection of New Varieties of Plants (UPOV)**

No. 50

April 1986

Geneva

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## GAZETTE

RATIFICATION OF THE REVISED ACT OF 1978  
OF THE UPOV CONVENTION

## Federal Republic of Germany

The Government of the Federal Republic of Germany deposited on March 12, 1986, its instrument of ratification of the Geneva Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972.

The instrument was accompanied by a declaration under Article 36(1) of the Act that the Act is also applicable to Berlin (West) with effect from the date on which it enters into force with respect to the Federal Republic of Germany.

The Act enters into force with respect to the Federal Republic of Germany one month after the date on which its Government deposited its instrument of ratification, i.e. on April 12, 1986.

It is recalled that the Federal Republic of Germany became a member of UPOV on August 10, 1968, by ratifying the International Convention for the Protection of New Varieties of Plants of December 2, 1961.

## AMENDMENT OF LEGAL PROVISIONS

## Federal Republic of Germany

A new Plant Variety Protection Law was passed by Parliament on December 11, 1985, and published in the Bundesgesetzblatt of December 17, 1985 (No. 59, pp. 2170-2180). It entered into force on December 18, 1985.

The main amendments introduced and on which information is to be published by the Secretary General of UPOV pursuant to Article 35(2) of the Geneva Act of October 23, 1978, of the Convention are as follows.

Access of Foreigners to Protection.- Pursuant to Article 15 of the Law, nationals of the following States and natural and legal persons having their domicile or registered office in those States may obtain protection in the Federal Republic of Germany:

- (i) member States of the European Economic Community;
- (ii) member States of the International Union for the Protection of New Varieties of Plants (UPOV) if the State concerned grants protection to varieties of the same species or if the species is one that is mentioned in the Annex to the text of December 2, 1961, of the Convention and if and so long as the State concerned is bound by that text;
- (iii) other States insofar as, according to a notice published by the Federal Minister for Food, Agriculture and Forestry, the State concerned grants equivalent protection to German nationals or to persons having their domicile or registered Office within the territory where the Law is in force.

Novelty.- Article 6(1) of the Law provides that a variety is deemed new if, at the date of the application, propagating material or harvested material of the variety has not been commercially put on the market with the agreement of the person entitled to protection or his predecessor in title for longer than one year in the territory where the Law is in force.

Period of Protection.- Pursuant to Section 13 of the Law, the breeder's right lasts until the end of the twenty-fifth calendar year following that in which the right was granted and, in the case of hop, potato, vine and those trees that are specified by Regulations (see page 9 et seq. below), until the end of the thirtieth calendar year.

## EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

## France

By virtue of the Decree No. 85-1452 of December 26, 1985 (Journal officiel of December 31, 1985, pages 15657), amending Decree No. 71-765 of September 9, 1971, Fixing the List of Plant Species for which New Plant Variety Certificates may be Issued, and the Scope and Duration of the Breeder's Right in the Case of each Plant Species, protection was extended to the following with effect from January 1, 1986:

<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Brome (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioides H.B.K., Catharticus auct.)	Brome (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioides H.B.K., Catharticus auct.)	Trespe (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioides H.B.K., Catharticus auct.)
Dieffenbachia	Dieffenbachia	Dieffenbachia
Lupin blanc	White Lupin	Weisse Lupine

The duration of protection was set at 20 years for dieffenbachia and white lupin and at 25 years for brome.

Foreigners may obtain protection for varieties of those species on the basis of reciprocity.

Pursuant to Article 58 of the Decree Concerning New Plant Variety Certificates and the Issue and Renewal Thereof (see Plant Variety Protection No. 34, page 21), applications that relate to varieties of recent creation and are to benefit from the transitional limitation of the requirement of novelty under Article 36 of the Law on the Protection of New Plant Varieties (see Plant Variety Protection No. 33, page 21) must be filed before December 31, 1986.

The list of genera and species which are covered by plant variety protection legislation is given below, with some details on the duration and scope of protection. The French common names appear in the Decrees, whereas the English and German common names have been added, without guarantee of concordance, by the Office of the Union.

A consolidated text of Decree No. 71-765 of September 9, 1971, as last amended by Decree No. 85-1452 of December 26, 1985, is published in the "Legislation" subsection of the "Newsletter" section, starting on page 17.

#### Explanations to the List Starting on Page 5

Column 1 indicates the duration of protection in years.

Column 2 indicates the scope of protection as follows.

- A: Protection relates to seeds, as defined in accordance with Article 1 of Decree No. 81-605 of May 18, 1981, as well as to plants and parts thereof marketed for planting purposes.
- B: Protection relates to the whole plant or parts thereof, as well as to any reproductive or vegetative propagating material.
- C: Fruit-bearing varieties and rootstocks may be protected. Protection relates to any part of the plant to be used as vegetative propagating material, such as plants, grafts, cuttings, layers, or to be used for laying down plantations with a view to the commercial production of fruit. It relates also to seeds as defined in accordance with Article 1 of the above-mentioned Decree, or to the pips and stones of these species in cases where they may be used as seeds for the generative reproduction of the varieties.
- D: Protection relates to the whole plant or parts thereof to be used as vegetative propagating material.

- E: Protection relates to the cuttings and, in general, to any part of the plant to be used as vegetative propagating material.
- F: Protection relates to seeds to be used for the propagation of the species as defined in accordance with Article 1 of the above-mentioned Decree.

Notes explicatives sur la liste commençant à la page 5

La colonne 1 indique la durée de la protection, en années.

La colonne 2 indique l'étendue de la protection comme suit.

- A: La protection porte sur les semences, telles qu'elles sont définies conformément à l'article premier du décret No 81-605 du 18 mai 1981, ainsi que sur les plantes ou parties de plantes commercialisées en vue de la plantation.
- B: La protection porte sur tout ou partie de la plante de même que sur tous éléments de reproduction ou de multiplication végétative.
- C: Les variétés productrices de fruits et les porte-greffes peuvent être protégés. La protection porte sur toute partie de la plante destinée à être utilisée comme matériel de multiplication telle que plants, greffons, boutures, marcottes, ou destinée à l'établissement de cultures en vue de la production commerciale du fruit. Elle porte également sur les semences, telles que définies conformément à l'article premier du décret susvisé, ou sur les pépins et noyaux de ces espèces dans le cas où ils sont utilisables à titre de semences pour la reproduction des variétés par voie sexuée.
- D: La protection porte sur tout ou partie de la plante destinée à être utilisée comme matériel de multiplication.
- E: La protection porte sur les boutures et, d'une manière générale, sur toute partie de la plante destinée à être utilisée comme matériel de multiplication.
- F: La protection porte sur les plants destinés à la propagation de l'espèce tels qu'ils sont définis conformément à l'article premier du décret susvisé.

Erläuternde Anmerkungen zu der auf den Seiten 5 ff. wiedergegebenen Liste

Spalte 1 gibt die Schutzdauer in Jahren an.

Spalte 2 gibt den Schutzzumfang wie folgt an.

- A: Der Schutz bezieht sich auf Saatgut im Sinne von Artikel 1 der Verordnung Nr. 81-605 vom 18. Mai 1981, sowie auf Pflanzen und deren Teile, die zum Zwecke des Anbaus vertrieben werden.
- B: Der Schutz bezieht sich auf die ganze Pflanze oder Teile davon, sowie auf jede Art von generativem oder vegetativem Vermehrungsmaterial.
- C: Geschützt werden können sowohl Obstsorten als auch Unterlagen. Der Schutz bezieht sich auf alle Teile der Pflanze, die als vegetatives Vermehrungsmaterial verwendet werden sollen, z.B. Pflanzen, Pfropfreiser, Stecklinge, Senkreiser, oder die zur Anpflanzung für die gewerbsmässige Erzeugung von Früchten bestimmt sind. Er bezieht sich ausserdem auf Saatgut im Sinne von Artikel 1 der obengenannten Verordnung oder auf Kerne und Steine dieser Arten, falls sie als Saatgut für die generative Vermehrung der Sorten verwendet werden können.
- D: Der Schutz bezieht sich auf die zur Verwendung als Vermehrungsmaterial bestimmte ganze Pflanze oder Teile davon.
- E: Der Schutz bezieht sich auf die Stecklinge und ganz allgemein auf alle Teile der Pflanze, die als vegetatives Vermehrungsmaterial verwendet werden sollen.
- F: Der Schutz bezieht sich auf Pflanzgut im Sinne von Artikel 1 der obengenannten Verordnung, das zur Vermehrung der Art bestimmt ist.

Plant Variety Protection in France\* / Protection des obtentions végétales  
en France\* / Sortenschutz in Frankreich\*

<u>Français</u>	<u>English</u>	<u>Deutsch</u>	<u>1</u>	<u>2</u>
Abricotier	Apricot	Aprikose	25	C
Alstroemère	Alstroemeria, Herb Lily	Inkalilie	20	B
Amandier	Almond	Mandel	25	C
Aubergine	Eggplant, Aubergine	Eierfrucht, Aubergine	20	A
Avoine	Oats	Hafer	20	A
Bégonia elatior	Elatior Begonia	Elatior-Begonie	20	B
Berberis	Berberis, Barberry	Berberitze	20	B
Blé dur	Durum Wheat, Macaroni Wheat, Hard Wheat	Durumweizen (Hartweizen)	20	A
Blé tendre	Soft Wheat, Bread Wheat	Weichweizen	20	A
Brome (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioloides H.B.K., Catharticus auct.)	Brome (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioloides H.B.K., Catharticus auct.)	Trespe (Bromus carinatus Hook et Arn., Bromus sitchensis Trin., Bromus stamineus Desv. incl. B. valdivianus Phil., Bromus willdenowii Kunth, B. unioloides H.B.K., Catharticus auct.)	20	A
Buddleia	Buddleia, Butterfly-bush	Buddleie, Schmetterlings- strauch	20	B
Cassis	Black Currant	Schwarze Johannisbeere	25	C
Cerisier	Cherry	Kirsche	25	C
Châtaignier	Chestnut	Kastanie	25	C
Chicorée frisée et Chicorée scarole	Endive	Winterendivie	20	A
Chrysanthème	Chrysanthemum	Chrysantheme	20	B
Cognassier	Quince	Quitte	25	C
Colza	Rapeseed	Raps	20	A
Cyprès (cyprès de Provence cyprès de l'Arizona, cyprès de Duprez, cyprès de Leyland - X Cupresso- cyparis et ses hybrides)	Cypress (Mediterranean cypress, Arizona cypress, Duprez cypress, Leyland cypress - X Cupresso- cyparis and its hybrids)	Zypresse (echte Zypresse, Arizonazypresse, Duprez Zypresse, Leyland Zypresse - X Cupressocyparis und ihre Hybriden)	25	B
Dieffenbachia	Dieffenbachia	Dieffenbachia	20	B
Euphorbia fulgens	Euphorbia fulgens	Korallenranke	20	B
Forsythia	Forsythia, Golden Bell	Forsythie, Goldflieder, Goldglöckchen	20	B

\* See explanations, page 3 / Voir les explications à la page 4 / Siehe Erläuterungen auf Seite 4.

<u>Français</u>	<u>English</u>	<u>Deutsch</u>	1	2
Fraisier	Strawberry	Erdbeere	20	D
Framboisier	Raspberry	Himbeere	25	C
Freesia	Freesia	Freese	20	B
Gerbera	Gerbera	Gerbera	20	B
Glaïeul	Gladiolus	Gladiole	20	B
Groseillier	Red and White Currants	Rote und Weisse Johannisbeeren	25	C
Groseillier à maquereau	Gooseberry	Stachelbeere	25	C
Haricot	Bean	Bohne	20	A
Hortensia	Hydrangea	Hortensie	20	B
Houblon	Hop	Hopfen	25	C
Houx (hybrides d'Ilex aquifolium)	Holly (hybrids of Ilex aquifolium)	Stechpalme (Hybriden von Ilex aquifolium)	25	B
Iris bulbeux et rhizomateux	Bulbous and rhizomatous Iris	Zwiebel- und wurzelstockbildende Iris	20	B
Juniperus	Juniper	Wacholder	25	B
Kalanchoë	Kalanchoë	Kalanchoë	20	B
Lagerstroemia	Crape Myrtle	Lagerstroemia	20	B
Laitue	Lettuce	Salat	20	A
Lavande et Lavandins	Lavender	Lavendel	20	B
Lin	Flax, Linseed	Lein	20	A
Lis	Lily	Lilie	20	B
Lupin blanc	White Lupin	Weisse Lupine	20	A
Luzerne	Lucerne	Luzerne	25	A
Mâche	Cornsalad, Lamb's Lettuce	Feldsalat	20	A
Maïs	Maize	Mais		
- lignées endogames	- inbred lines	- Inzuchtlinien	25	A
- autres variétés	- other varieties	- andere Sorten	20	A
Malus ornamental	Ornamental Crab	Zierapfel	25	B
Nerium oleander	Oleander, Rose Bay	Oleander	20	B
Noisetier	Hazelnut, Filbert	Haselnuss	25	C
Oeillet	Carnation	Nelke	20	B
Orchidées	Orchids	Orchideen	20	B
Orge	Barley	Gerste	20	A
Pâturin des prés	Kentucky Bluegrass, Smooth Stalked Meadow-grass	Wiesenrispengras	20	A
Pêcher	Peach	Pfirsich	25	C

<u>Français</u>	<u>English</u>	<u>Deutsch</u>	1	2
Pélargonium (pélargonium zonale, géranium-lierre et hybride)	Pelargonium (zonal, ivy-leaved and hybrid Pelargonium)	Pelargonie (Zonal-, Efeupelargonie und Halbpeltaten)	20	B
Peuplier	Poplar	Pappel	25	E
Piment	Sweet Pepper, Capsicum, Chili	Paprika	20	A
Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern	20	B
Poirier	Pear	Birne	25	C
Pois	Pea	Erbse	20	A
Pomme de terre	Potato	Kartoffel	25	F
Pommier	Apple	Apfel	25	C
Prunier	Plum	Pflaume	25	C
Pyracantha	Firethorn	Feuerdorn	20	B
Ray-grass	Ryegrass	Weidelgras	25	A
Rhododendron	Rhododendron	Rhododendron	25	B
Riz	Rice	Reis	20	A
Rosier	Rose	Rose	20	B
Ronces fruitières	Fruiting Blackberries	Obstbrombeeren	25	C
Saintpaulia	Saintpaulia, African Violet	Usambaraveilchen	20	B
Soja	Soya Bean, Soybean	Sojabohne	20	A
Sorgho (lignées endogames de Sorghum bicolor (L.) Moench)	Sorghum (inbred lines of Sorghum bicolor (L.) Moench)	Mohrenhirse (Inzuchtlinien von Sorghum bicolor (L.) Moench)	25	A
Streptocarpus	Streptocarpus, Cape Primrose	Drehfrucht	20	B
Thym	Thyme	Thymian	25	B
Thuja	Thuja	Lebensbaum	25	B
Tomate	Tomato	Tomate	20	A
Trèfle violet	Red Clover	Rotklee	25	A
Triticale	Triticale	Triticale	20	A
Tournesol	Common Sunflower	Sonnenblume	20	A
Tulipe	Tulip	Tulpe	20	B
Vigne	Vine	Rebe	25	C
Weigela	Diervilla	Weigelia	20	B



## Federal Republic of Germany

By virtue of the Order of December 18, 1985 (Bundesgesetzblatt, Part I, of December 20, 1985, pp. 2325-2330), Concerning the List of Species under the Plant Variety Protection Law, protection was extended to the following with effect from December 21, 1985 (the Latin and German names appear in the Order, whereas the English and French common names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Brassica pekinensis (Lour.) Rupr.	Chinese Cabbage	Chou de Chine, Pé-tsai	Chinakohl
Iris L.	Iris	Iris	Iris
Leptospermum scoparium J.R. et G. Forst.	Tea Tree, Manuka	-	Südseemyrte
Orchidaceae	Orchids	Orchidées	Orchideen
Prunus L.	Cherry, Plum, Quetsch	Cerisier, Prunier, Quetsche	Kirsche, Pflaume, Zwetschge
Spathiphyllum Schott	Spathiphyllum	Spathiphyllum	Spathiphyllum

The entry Orchidaceae replaces the former entries Cattleya Lindl., Cymbidium Sw., X Doritaenopsis hort., X Laeliocattleya Rolfe, X Odontioda hort., Odontoglossum H.B.K., Paphiopedilum Pfitz., Phalaenopsis Bl. and X Vuylstekeara hort. The entry Prunus L. (Cherry, Plum, Quetsch) replaces the former entry Prunus L. (Cherry, Plum, Quetsch, except ornamental varieties).

Pursuant to Article 13 of the Plant Variety Protection Law, protection extends to the end of the thirtieth after the grant in the case of Prunus L. and to the end of the twenty-fifth year following the grant in the case of the other taxa mentioned above.

As regards the availability of protection to foreigners, reference is made to the section "Amendment of Legal Provisions," on page 2 above.

Pursuant to Article 6(1)3 of the Law, applications that relate to recently created varieties of the above-mentioned taxa and are to benefit from the transitional limitation of the requirement of novelty must be filed within one year following inclusion of the taxon concerned in the List of Species under the Plant Variety Protection Law, i.e. before December 21, 1986.

In addition to the extension of protection, the Order provides a consolidated list of the taxa covered by plant variety protection legislation and repeals the previous orders on the subject. Some minor amendments have also been made in the names of taxa in accordance with latest scientific knowledge. The list is given hereunder with the same proviso as for the above list.

Explanations to the List Starting on Page 9

Column A indicates the grouping for fee purposes.

Column B indicates the duration of the period, ending on the date of the application, during which the variety may have been commercialized abroad without prejudice to its novelty and the period of protection (in full calendar years) as follows:

- 1 Four years and 25 years, respectively;
- 2 Four years and 30 years, respectively;
- 3 Six years and 30 years, respectively.

Notes explicatives sur la liste commençant à la page 9

La colonne A indique le groupement aux fins des taxes.

La colonne B indique la durée du délai, expirant à la date du dépôt de la demande, pendant lequel la variété peut avoir été commercialisée à l'étranger sans qu'il soit porté atteinte à sa nouveauté, ainsi que la durée de la protection (en années civiles complètes) comme suit :

- 1 Quatre années et 25 années, respectivement;
- 2 Quatre années et 30 années, respectivement;
- 3 Six années et 30 années, respectivement.

Erläuternde Anmerkungen zu der unten wiedergegebenen Liste

Spalte A gibt die Gruppierung zum Zwecke der Gebühren an.

Spalte B gibt die Dauer des Zeitraums vor dem Antragstag, in dem die Sorte im Ausland gewerbsmässig vertrieben werden kann, ohne dass dadurch ihre Neuheit beeinträchtigt wird, sowie die Schutzdauer (in vollen Kalenderjahren) an. Die hierfür verwendeten Ziffern haben folgende Bedeutung:

- 1 Vier Jahre bzw. 25 Jahre;
- 2 Vier Jahre bzw. 30 Jahre;
- 3 Sechs Jahre bzw. 30 Jahre.

Plant Variety Protection in the Federal Republic of Germany\* /  
Protection des obtentions végétales en République fédérale d'Allemagne\* /  
Sortenschutz in der Bundesrepublik Deutschland\*

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
Abies Miller	Abies	Sapin	Tanne	a	3
Achimenes Pers.	Achimenes	Achimenes	Achimenes	4	1
Aechmea Ruiz et Pav.	Aechmea	Aechmea	Aechmea	4	1
Aeschynanthus Jack	Aeschynanthus	Aeschynanthus	Aeschynanthus	4	1
Agrostis L.	Bentgrass	Agrostis, Agrostide	Straussgras	4	1
Allium cepa L.	Onion	Oignon	Zwiebel	4	1
Allium porrum L.	Leek	Poireau	Porree	5	1
Allium schoenoprasum L.	Chives	Ciboulette, Civette	Schnittlauch	5	1
Alopecurus pratensis L.	Meadow Foxtail	Vulpin des prés	Wiesenfuchsschwanz	4	1
Alstroemeria L.	Alstroemeria, Herb Lily	Alstroemère, Lis des Incas	Inkalilie	2	1
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume	2	1
Apium graveolens L.	Celery, Celeriac	Céleri, Céleri-rave	Sellerie	5	1
Arrhenatherum elatius (L.) P. Beauv. ex J.S. et K.B. Presl	Tall Oatgrass, False Oatgrass	Fromental, Avoine élevée	Glatthafer	3	1
Asparagus officinalis L.	Asparagus	Asperge	Spargel	4	1
Avena nuda L.	Naked Oats	Avoine nue	Nackthafer	3	1
Avena sativa L.	Oats	Avoine	Hafer	1	1
Begonia-Elatior-Hybriden	Elatior Begonia	Bégonia elatior	Elatior-Begonie	4	1
Begonia x tuberhybrida Voss	Tuberous Begonia	Bégonia tubéreux	Knollenbegonie	4	1

\* See explanations, page 8 / Voir les explications à la page 8 / Siehe Erläuterungen oben.

a If marketing of propagating material of the variety is regulated by the Law on Forestry Seeds and Planting Material: 6; otherwise: 5 / Si la commercialisation du matériel de multiplication de la variété est assujettie à la loi sur les semences et plants forestiers : 6; sinon : 5 / Soweit das Vermehrungsmaterial der Sorte hinsichtlich des Vertriebs dem Gesetz über forstliches Saat- und Pflanzgut unterliegt: 6; andernfalls: 5.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
Beta vulgaris L. ssp. vulgaris var. alba DC.	Fodder Beet	Betterave fourragère	Runkelrübe	1	1
Beta vulgaris L. ssp. vulgaris var. altissima Döll	Sugar Beet	Betterave sucrière	Zuckerrübe	1	1
Beta vulgaris L. ssp. vulgaris var. conditiva Alef.	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe	5	1
Beta vulgaris L. ssp. vulgaris var. vulgaris	Mangel, Leaf Beet, Spinach Beet	Bette commune, Poirée	Mangold	5	1
Brassica juncea (L.) Czernj. et Cosson	Brown Mustard	Moutarde brune	Sareptasenf	3	1
Brassica napus L. emend. Metzger var. napobrassica (L.) Rchb.	Swede	Chou-navet, Rutabaga	Kohlrübe	4	1
Brassica napus L. ssp. oleifera (Metzger) Sinsk.	Swede Rape, incl. Oilseed Rape	Colza	Raps	1	1
Brassica nigra (L.) Koch	Black Mustard	Moutarde noire	Schwarzer Senf	3	1
Brassica oleracea L. convar. acephala (DC.) Alef. var. gongylodes L.	Kohlrabi	Chou-rave	Kohlrabi	5	1
Brassica oleracea L. convar. acephala (DC.) Alef. var. medullosa Thell. & var. viridis L.	Fodder Kale	Chou fourrager	Futterkohl	3	1
Brassica oleracea L. convar. acephala (DC.) Alef. var. sabellica L.	Curly Kale	Chou frisé	Grünkohl	5	1
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Cauliflower	Chou-fleur	Blumenkohl	4	1
Brassica oleracea L. convar. capitata (L.) Alef. var. capitata	Cabbage	Chou pommé	Rotkohl, Weisskohl	5	1
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda L.	Savoy Cabbage	Chou de Milan	Wirsing	5	1
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Brussels Sprouts	Chou de Bruxelles	Rosenkohl	4	1
Brassica pekinensis (Lour.) Rupr.	Chinese Cabbage	Chou de Chine, Pé-tsai	Chinakohl	5	1
Brassica rapa L.	Turnip, Turnip Rape	Navet, Navette	Herbst-rübe, Mai- rübe, Rübsen	a	1
Bromus inermis Leysser	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe	4	1
Calluna vulgaris (L.) Hull	Heather, Ling	Callune	Besenheide	4	1
Cannabis sativa L.	Hemp	Chanvre	Hanf	5	1

a Turnip Rape / Navette / Rübsen: 3; Turnip / Navet / Herbst- , Mairübe: 5.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
<i>Capsicum annum</i> L.	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika	5	1
<i>Chamaecyparis</i> Spach	Chamaecyparis	Chamaecyparis	Scheinzypresse	5	3
<i>Chrysanthemum frutescens</i> L.	Marguerite, Paris Daisy	Marguerite	Strauchmargerite	4	1
<i>Chrysanthemum-Indicum-</i> <i>Hybriden</i>	Chrysanthemum	Chrysanthème	Chrysantheme	2	1
<i>Cichorium endivia</i> L.	Endive	Chicorée frisée, Scarole	Winterendivie	5	1
<i>Cichorium intybus</i> L.	Chicory	Chicorée, Endive	Wurzelzichorie, Salatzichorie	5	1
<i>Cotoneaster</i> Medik.	Cotoneaster	Cotoneaster	Cotoneaster	4	1
<i>Cucumis sativus</i> L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke	4	1
<i>Cucurbita maxima</i> Duchesne	Pumpkin	Potiron, Giraumon	Riesenkürbis	5	1
<i>Cucurbita pepo</i> L.	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Pâtisson, Citrouille	Gartenkürbis, Oelkürbis, Zucchini	a	1
<i>Cydonia</i> Miller	Quince	Cognassier	Quitte	5	3
<i>Cynosurus cristatus</i> L.	Crested Dog's-tail	Crételle	Kammgras	4	1
<i>Dactylis glomerata</i> L.	Cocksfoot, Orchard Grass	Dactyle	Knaulgras	3	1
<i>Dahlia</i> Cav.	Dahlia	Dahlia	Dahlie	4	1
<i>Daucus carota</i> L.	Carrot	Carotte	Möhre	5	1
<i>Dianthus</i> L.	Carnation	Oeillet	Nelke	2	1
<i>Erica</i> L.	Heath	Bruyère	Erika	4	1
<i>Euphorbia fulgens</i> Karw.	<i>Euphorbia fulgens</i>	<i>Euphorbia fulgens</i>	Korallenranke	4	1
<i>Euphorbia lathyrus</i> L.	Caper Spurge	Euphorbe épurge	Kreuzblättrige Wolfsmilch	4	1
<i>Euphorbia-Milii-Hybriden</i>	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn	4	1
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie (Weihnachtsstern)	4	1
<i>Fagopyrum esculentum</i> Moench	Buckwheat	Sarrasin, Blé noir	Buchweizen	4	1
<i>Festuca</i> L.	Fescue	Fétuque	Schwingel	3	1
<i>Fragaria</i> L.	Strawberry	Fraisier	Erdbeere	4	1
<i>Freesia</i> Eckl. ex Klatt	Freesia	Freesia	Freesie	2	1
<i>Gerbera</i> L.	Gerbera	Gerbera	Gerbera	2	1
<i>Glycine max</i> (L.) Merr.	Soya Bean, Soybean	Soja	Sojabohne	5	1
<i>Helianthus annuus</i> L.	Common Sunflower	Tournesol, Soleil	Sonnenblume	3	1

a [Vegetables] / [Variétés potagères] / Gartenkürbis (Zucchini): 5;  
[Fodder] / [Variétés fourragères] / Oelkürbis: 4.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
<i>Helianthus tuberosus</i> L.	Jerusalem Artichoke	Topinambour	Topinambur	4	1
<i>Hordeum vulgare</i> L. sensu lato	Barley	Orge	Gerste	1	1
<i>Humulus lupulus</i> L.	Hop	Houblon	Hopfen	4	2
<i>Hydrangea</i> L.	Hydrangea	Hortensia	Hortensie	4	1
<i>Ilex</i> L.	Holly	Houx	Stechpalme	4	3
Impatiens-Neu-Guinea-Hybriden	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea-Impatiens	4	1
<i>Iris</i> L.	Iris	Iris	Iris	4	1
<i>Juniperus</i> L.	Juniper	Genévrier	Wacholder	5	3
<i>Kalanchoë</i> Adans.	Kalanchoë	Kalanchoë	Kalanchoë	4	1
<i>Lactuca sativa</i> L.	Lettuce	Laitue	Salat	4	1
<i>Larix</i> Miller	Larch	Mélèze	Lärche	a	3
<i>Lathyrus cicera</i> L.	Dwarf Chickling Vetch	Gesse chiche, Jarrosse	Rotblühende Platterbse	4	1
<i>Lathyrus sativus</i> L.	Grass Pea Vine	Gesse cultivée	Gewöhnliche Platterbse	4	1
<i>Lathyrus tingitanus</i> L.	Tangier Pea	Gesse du Maroc	Purpurblühende Platterbse	4	1
<i>Lens culinaris</i> Medik.	Lentil	Lentille	Linse	4	1
<i>Leptospermum scoparium</i> J.R. et G. Forst.	Tea Tree, Manuka	-	Südseemyrte	4	1
<i>Linum usitatissimum</i> L.	Flax, Linseed	Lin	Lein	5	1
<i>Lolium</i> L.	Ryegrass	Ray-grass	Weidelgras	3	1
<i>Lotus corniculatus</i> L.	Bird's Foot Trefoil	Lotier corniculé	Hornschotenklee	4	1
<i>Lotus uliginosus</i> Schk.	Major Bird's Foot Trefoil	Lotier velu, Lotier des marais	Sumpfschotenklee	4	1
<i>Lupinus albus</i> L.	White Lupin	Lupin blanc	Weisse Lupine	3	1
<i>Lupinus angustifolius</i> L.	Blue Lupin	Lupin bleu	Blaue Lupine	3	1
<i>Lupinus luteus</i> L.	Yellow Lupin	Lupin jaune	Gelbe Lupine	3	1
<i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw.	Tomato	Tomate	Tomate	4	1
<i>Malus</i> Miller	Apple	Pommier	Apfel	5	3
<i>Medicago falcata</i> L.	Yellow Lucerne (Sickle Medick), Variegated Lucerne	Lucerne (en faucille)	Sichellucerne	4	1
<i>Medicago lupulina</i> L.	Black Medick, Yellow Trefoil	Lucerne lupuline, Minette	Gelbklee (Hopfenklee)	4	1
<i>Medicago sativa</i> L.	Lucerne, Alfalfa	Lucerne (cultivée)	Blaue Lucerne	3	1

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
<i>Medicago x varia</i> T. Martyn	(Hybrid) Lucerne	Luzerne hybride	Bastardluzerne	3	1
<i>Nicotiana rustica</i> L.	Syrian Tobacco	Nicotiane rustique	Bauerntabak	4	1
<i>Nicotiana tabacum</i> L.	Tobacco (common)	Tabac	Tabak	4	1
<i>Onobrychis viciifolia</i> Scop.	Sainfoin	Sainfoin, Esparcette	Espargette	4	1
Orchidaceae	Orchids	Orchidées	Orchideen	2	1
<i>Ornithopus sativus</i> Brot.	Serradella	Serradelle	Serradella	4	1
<i>Panicum miliaceum</i> L.	Common Millet	Millet commun, Panic millet, Panic faux millet	Rispenhirse	4	1
<i>Papaver somniferum</i> L.	Opium Poppy	Oeillette, Pavot	Mohn	4	1
<i>Pelargonium</i> L'Hérit. ex Ait.	Show and Fancy Pelargoniums, Ivy-leaved Pelargonium, Zonal Pelargonium	<i>Pelargonium</i> des fleuristes, Géranium-lierre, Géranium, Pelar- gonium zonale	Edelpelargonie, Efeupelargonie, Zonalpelargonie	5	1
<i>Petroselinum crispum</i> (Miller) Nyman ex A.W. Hill	Parsley	Persil	Petersilie	5	1
<i>Phacelia tanacetifolia</i> Benth.	Scorpion Weed	Phacélie à feuilles de tanaïs	Phazelie	3	1
<i>Phalaris arundinacea</i> L.	Reed Canary Grass	Alpiste roseau	Rohrglanzgras	4	1
<i>Phaseolus coccineus</i> L.	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne	5	1
<i>Phaseolus vulgaris</i> L.	Dwarf French Bean, Climbing French Bean	Haricot nain, Haricot à rames	Buschbohne, Stangenbohne	a	1
<i>Phleum bertolonii</i> DC.	Timothy	Fléole diploïde, Petite fléole	Zwiebellieschgras	4	1
<i>Phleum pratense</i> L.	Timothy	Fléole des prés	Wiesenlieschgras	3	1
<i>Picea</i> A. Dietr.	Spruce	Epicéa	Fichte	b	3
<i>Pinus</i> L.	Pine	Pin	Kiefer	b	3
<i>Pisum sativum</i> L.	Pea	Pois	Erbse	c	1
<i>Poa</i> L.	Meadow-grass	Pâturin	Rispengras	3	1
<i>Populus</i> L.	Poplar	Peuplier	Pappel	b	1
<i>Potentilla fruticosa</i> L.	Shrubby Cinquefoil	Potentille ligneuse	Fingerstrauch	5	1
<i>Prunus</i> L.	Cherry, Plum, Quetsch	Cerisier, Prunier, Quetsche	Kirsche, Pflaume, Zwetschge	5	3
<i>Pseudotsuga</i> Carr.	Douglas Fir	Sapin de Douglas	Douglasie	b	3

a Dwarf French Bean / Haricot nain / Buschbohne: 4; Climbing French Bean / Haricot à rames / Stangenbohne: 5.

b See footnote a, page 9 / Voir note a, page 9 / Siehe Fussnote a, Seite 9.

c Field Pea / Pois fourrager / Futtererbse: 3; Garden Pea / Petit pois / Erbse ausser Futtererbse: 4.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
<i>Pyracantha</i> M.J. Roem.	Firethorn	<i>Pyracantha</i> , Buisson ardent	Feuerdorn	5	1
<i>Pyrus</i> L.	Pear, except ornamental varieties	Poirier, sauf variétés orne- mentales	Birne, ausser Ziersorten	5	3
<i>Raphanus sativus</i> L. var. <i>niger</i> (Miller) S. Kerner	Black Radish	Radis d'été, d'automne et d'hiver	Rettich	5	1
<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.	Fodder Radish	Radis oléifère, Radis chinois	Oelrettich	3	1
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radish	Radis de tous les mois	Radieschen	5	1
<i>Rhipsalidopsis</i> Britt. et Rose	Easter Cactus	Cactus de Pâques	Osterkaktus	4	1
<i>Rhododendron</i> L.	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee	4	a
<i>Ribes</i> L.	Currants, Goose- berry, except ornamental varieties	Cassis, Groseil- liers, sauf variétés orne- mentales	Johannisbeere, Stachelbeere, ausser Ziersorten	5	1
<i>Rosa</i> L.	Rose	Rosier	Rose	2	1
<i>Rubus</i> L.	Bramble, Rasp- berry, except ornamental varieties	Ronce, Fram- boisier, sauf variétés ornementales	Brombeere, Himbeere, ausser Ziersorten	5	1
<i>Saintpaulia</i> H. Wendl.	Saintpaulia	Saintpaulia	Usambaraveilchen	4	1
<i>Salix</i> L.	Willow	Saule	Weide	b	3
<i>Schlumbergera</i> Lem.	Christmas Cactus	Cactus de Noël	Weihnachtskaktus	4	1
<i>Scorzonera hispanica</i> L.	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel	5	1
<i>Secale cereale</i> L.	Rye	Seigle	Roggen	1	1
<i>Setaria italica</i> (L.) P. Beauv.	Foxtail Millet, Italian Millet	Millet d'Italie, Millet des oiseaux	Kolbenhirse	4	1
<i>Sinapis alba</i> L.	White Mustard	Moutarde blanche	Weisser Senf	3	1
<i>Solanum tuberosum</i> L.	Potato	Pomme de terre	Kartoffel	1	2
<i>Sorghum dochna</i> (Forsk.) Snowden	Sweet Sorghum, Broom Corn	Sorgho sucré, Sorgho à balai	Besenhirse, Zuckerhirse	4	1
<i>Spathiphyllum</i> Schott	Spathiphyllum	Spathiphyllum	Spathiphyllum	4	1
<i>Spinacia oleracea</i> L.	Spinach	Epinard	Spinat	5	1
<i>Streptocarpus</i> Lindl.	Streptocarpus	Streptocarpus	Streptocarpus	4	1
<i>Thuja</i> L.	Thuja	Thuja	Lebensbaum	5	3

a Pot azaleas / Azalées en pots / Topfazalee: 1; Rhododendron, except pot azaleas / Rhododendron, sauf azalées en pots / Rhododendron ausser Topfazalee: 3.

b See footnote a, page 9 / Voir note a, page 9 / Siehe Fussnote a, Seite 9.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>A</u>	<u>B</u>
<i>Trifolium alexandrinum</i> L.	Berseem Clover	Trèfle d'Alexandrie	Alexandriner Klee	3	1
<i>Trifolium hybridum</i> L.	Alsike Clover	Trèfle hybride	Schwedenklee	3	1
<i>Trifolium incarnatum</i> L.	Crimson Clover	Trèfle incarnat	Inkarnatklee	4	1
<i>Trifolium pratense</i> L.	Red Clover	Trèfle violet	Rotklee	3	1
<i>Trifolium repens</i> L.	White Clover	Trèfle blanc	Weissklee	3	1
<i>Trifolium resupinatum</i> L.	Persian Clover	Trèfle de Perse	Persischer Klee	3	1
<i>Trifolium subterraneum</i> L.	Subterranean Clover	Trèfle souterrain	Bodenfrüchtiger Klee	4	1
<i>Trisetum flavescens</i> (L.) P. Beauv.	Golden Oatgrass	Avoine jaunâtre	Goldhafer	4	1
X <i>Triticosecale</i> Wittm.	Triticale	Triticale	Triticale	1	1
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen	1	1
<i>Triticum durum</i> Desf.	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen	3	1
<i>Triticum spelta</i> L.	Spelt	Epeautre	Spelz	4	1
<i>Ulmus</i> L.	Elm	Orme	Ulme	a	3
<i>Vaccinium-Corymbosum</i> - Hybriden	Blueberry	Myrtille	Kulturheidelbeere	5	1
<i>Vaccinium vitis-idaea</i> L.	Cowberry, Mountain Cranberry	Airelle rouge	Preiselbeere	5	1
<i>Valerianella locusta</i> (L.) Laterr.	Cornsalad, Lamb's Lettuce	Mâche, Doucette	Feldsalat	5	1
<i>Vicia articulata</i> Hornem.	One-flowered Vetch	Vesce	Wicklinse	4	1
<i>Vicia faba</i> L.	Field Bean, Tick Bean, Broad Bean, Horse Bean	Féverole, Fève	Ackerbohne, Dicke Bohne	b	1
<i>Vicia pannonica</i> Crantz	Hungarian Vetch	Vesce de Pannonie	Pannonische Wicke	4	1
<i>Vicia sativa</i> L.	Common Vetch	Vesce commune	Saatwicke	3	1
<i>Vicia sepium</i> L.	Bush Vetch, Hedge Vetch	Vesce des haies	Zaunwicke	4	1
<i>Vicia villosa</i> Roth	Hairy Vetch	Vesce velue	Zottelwicke	4	1
<i>Vitis</i> L.	Vine, except ornamental varieties	Vigne, sauf variétés ornementales	Rebe, ausser Ziersorten	4	3
<i>Vriesea splendens</i> (Brongn.) Lem.	Vriesea	Vriesea	Vriesea	4	1
<i>Zea mays</i> L.	Maize	Maïs	Mais	1	1

a See footnote a, page 9 / Voir note a, page 9 / Siehe Fussnote a, Seite 9.

b Field Bean / Féverole / Ackerbohne: 3; Broad Bean / Fève / Dicke Bohne: 4.



## Ireland

By virtue of the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1986, issued on February 26, 1986 (Statutory Instrument No. 46 of 1986), protection was extended to the species mentioned in the list appearing below and marked with an asterisk (the Latin and English names appear in the Plant Varieties (Proprietary Rights) Regulations, whereas the French and German common names have been added, without guarantee of concordance, by the Office of the Union).

Pursuant to Section 5(1)(c) of the Plant Varieties (Proprietary Rights) Act, 1980 (see Plant Variety Protection No. 32, page 25), applicants who are citizens or nationals of or are resident or have a place of business (being a business whose activities consist of or include the sale or propagation of plants) in a UPOV member State may obtain protection in Ireland under the same conditions as Irish citizens.

Plant Variety Protection in Ireland / Protection des obtentions végétales  
en Irlande / Sortenschutz in Irland

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of Protection (in Years)</u>
*Agrostis tenuis Sibth.	Brown Top	Agrostide commune	Rotes Straussgras	20
Avena sativa L.	Oats	Avoine	Hafer	15
*Beta vulgaris L. ssp. vulgaris var. alba DC.	Fodder Beet	Betterave fourragère	Runkelrübe	20
*Brassica napus L. var. napobrassica Peterm.	Swede	Chou-navet, Rutabaga	Kohlrübe	20
Brassica napus L. ssp. oleifera (Metzg.) Sinsk	Swede Rape	Colza	Raps	20
*Brassica oleracea L. convar. acephala (DC.)	Fodder Kale	Chou fourrager	Futterkohl	20
Dactylis glomerata L.	Cocksfoot	Dactyle	Knautgras	20
*Festuca rubra L.	Red Fescue	Fétuque rouge	Rotschwingel	20
Hordeum vulgare L.	Barley	Orge	Gerste	15
*Linum usitatissimum L.	Flax, Linseed	Lin	Lein	20
Lolium X hybridum Hausskn.	Hybrid Ryegrass	Ray-grass hybride	Bastardweidelgras, Oldenburgisches Weidelgras	20
Lolium multiflorum Lam.	Italian Ryegrass	Ray-grass d'Italie	Welsches Weidel- gras, Italieni- sches Raygras	20
Lolium perenne L.	Perennial Ryegrass	Ray-grass anglais	Deutsches Weidelgras	20
*Lupinus albus L.	White Lupin	Lupin blanc	Weisse Lupine	20
*Lupinus angustifolius L.	Blue Lupin	Lupin bleu	Blaue Lupine	20
*Lupinus luteus L.	Yellow Lupin	Lupin jaune	Gelbe Lupine	20
Phleum pratense L.	Timothy	Fléole des prés	Wiesenlieschgras	20
Pisum sativum L. (partim)	Field Pea	Pois fourrager	Futtererbse	20
Solanum tuberosum L.	Potatoes	Pomme de terre	Kartoffel	20
*Trifolium pratense L.	Red Clover	Trèfle violet	Rotklee	20
Trifolium repens	White Clover	Trèfle blanc	Weissklee	20
*X Triticosecale Wittmack	Triticale	Triticale	Triticale	15
Triticum aestivum L. emend. Fiori et Paol.	Wheat	Blé	Weizen	15
Vicia faba L. (partim)	Field Bean	Féve role	Ackerbohne	20

[This text replaces the text published in Plant Variety Protection No. 41]

## FRANCE

### Decree Fixing the List of Plant Species for which New Plant Variety Certificates may be Issued, and the Scope and Duration of the Breeder's Right in the Case of each Plant Species\*

Consolidated Text of Decree No. 71-765 of September 9, 1971,  
as Last Amended by Decree No. 85-1452 of December 26, 1985

#### Article 1

New plant variety certificates may be issued, under the conditions provided for by the Law of June 11, 1970, mentioned above<sup>1</sup> and its implementing decrees, for the following species: apple, barley, bean, carnation, red clover, lettuce, lucerne, maize, oats, pea, potato, rice, rose, ryegrass, hard wheat, soft wheat.

For those species, any foreigner who is a national of a State party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, or who has his domicile, registered office or establishment in one of those States may obtain a new plant variety certificate under the same conditions as French nationals.

Foreigners who are not nationals of one of those States or do not have their domicile, registered office or establishment therein may obtain new plant variety certificates only under the conditions of reciprocity set out in Article 2 below.

#### Article 2

New plant variety certificates may also be issued under the conditions provided for by the Law of June 11, 1970, and its implementing decrees for the following species: almond, alstroemeria, apricot, elatior begonia, berberis, fruiting blackberries, Kentucky bluegrass, brome (*Bromus carinatus* Hook et Arn., *Bromus sitchensis* Trin., *Bromus stamineus* Desv. incl. *B. valdivianus*

\* French title (of Decree No. 71-765): Décret fixant la liste des espèces végétales pour lesquelles peuvent être délivrés des certificats d'obtention végétale ainsi que, pour chacune d'elles, la durée et la portée du droit de l'obtenteur.

\*\* Consolidated text prepared by the Office of the Union from the texts published in the Journal officiel:

Decree No. 71-765 of September 9, 1971: J.O. of September 18, 1971;  
Decree No. 76-775 of August 9, 1976: J.O. of August 18 and September 12, 1976;  
Decree No. 78-245 of February 23, 1978: J.O. of March 8, 1978;  
Decree No. 82-247 of March 12, 1982: J.O. of March 18, 1982;  
Decree No. 83-22 of January 12, 1983: J.O. of January 15, 1983;  
Decree No. 84-619 of July 4, 1984: J.O. of July 18, 1984;  
Decree No. 85-1452 of December 26, 1985: J.O. of December 31, 1986.

<sup>1</sup> Law on the Protection of New Plant Varieties (No. 70-489 of June 11, 1970); J.O. of June 12, 1970.

Phil., *Bromus willdenowii* Kunth, *B. unioloides* H.B.K., *Catharticus* auct.), buddleia, cherry, chestnut, chrysanthemum, cornsalad, ornamental crab, black currant, red and white currants, cypress (Mediterranean cypress, Arizona cypress, Duprez cypress, Leyland cypress - X *Cupressocypariss* and its hybrids), dieffenbachia, eggplant, endive, *Euphorbia fulgens*, firethorn, flax and linseed, forsythia, freesia, gerbera, gladiolus, gooseberry, hazelnut, holly (hybrids of *Ilex aquifolium*), hop, hydrangea, bulbous and rhizomatous iris, juniper, kalanchoë, lagerstroemia, lavender, lily, white lupin, oleander, orchids, peach, pear, pelargonium (zonal, ivy-leaved and hybrid pelargonium), sweet pepper, plum, poinsettia, poplar, quince, rapeseed, raspberry, rhododendron, sorghum (inbred lines of *Sorghum bicolor* (L.) Moench), soya bean, strawberry, streptocarpus, common sunflower, thuya, thyme, tomato, triticale, tulip, vine, African violet, weigela.

For these species, any foreigner may obtain a new plant variety certificate provided that French nationals are accorded reciprocal protection for the said species by the State of which the foreigner is a national or in which he has his domicile or establishment.

Orders of the Minister of Agriculture and the Minister for External Relations, issued on the proposal of the Committee for the Protection of New Plant Varieties shall determine, for each species and for each State concerned, that the legislation of that State satisfies this condition of reciprocity.

### Article 3

For the species appearing in the following list, the breeder's right shall relate to the seeds, as defined in accordance with Article 1 of the Decree of May 18, 1981, mentioned above<sup>1</sup>, as well as to the plants or parts thereof marketed for planting purposes: barley, bean, brome (*Bromus carinatus* Hook et Arn., *Bromus sitchensis* Trin., *Bromus stamineus* Desv. incl. *B. valdivianus* Phil., *Bromus willdenowii* Kunth, *B. unioloides* H.B.K., *Catharticus* auct.), red clover, Kentucky bluegrass, cornsalad, eggplant, endive, flax and linseed, lettuce, lucerne, white lupin, maize, oats, pea, sorghum (inbred lines of *Sorghum bicolor* (L.) Moench), sweet pepper, rapeseed, rice, ryegrass, soya bean, common sunflower, tomato, triticale, hard wheat, soft wheat.

### Article 4

For potatoes, the breeder's right shall relate to the seeds to be used for the propagation of the species as defined in accordance with Article 1 of Decree No. 81-605 of May 18, 1981, mentioned above.

### Article 5

For poplars, the breeder's right shall relate to the cuttings and, generally, to any part of the plant which is to be used as material for the multiplication of the variety.

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<sup>1</sup> Decree No. 81-605 Issued for the Implementation of the Law of August 1, 1905, on the Repression of Fraud as far as the Commerce in Seed and Planting Material is Concerned (J.O. of May 20, 1981). Article 1 of this Decree reads as follows:

"This Decree shall apply, under the term "seeds" or "planting material," to plants or parts of plants of any kind intended for production or multiplication.

"In the marketing of these products, the terms "seeds" or "planting material" may only be preceded by the qualifiers "basic," "certified," "commercial," "standard" or by another qualifier fixed under the conditions laid down in Articles 9 and 10."

#### Article 6

For strawberries, the breeder's right shall relate to the whole plant or part thereof which is to be used as material for the multiplication of the variety.

#### Article 7

For the species appearing in the following list, the breeder's right shall relate to the whole plant or part thereof, as well as to any reproductive or vegetative propagating material of the variety concerned: alstroemeria, elatior begonia, berberis, buddleia, carnation, chrysanthemum, ornamental crab, cypress (Mediterranean cypress, Arizona cypress, Duprez cypress, Leyland cypress - X Cupressocyparis and its hybrids), dieffenbachia, Euphorbia fulgens, firethorn, forsythia, freesia, gerbera, gladiolus, holly (hybrids of Ilex aquifolium), hydrangea, bulbous and rhizomatous iris, juniper, kalanchoë, lagerstroemia, lavender, lily, oleander, orchids, pelargonium (zonal, ivy-leaved and hybrid pelargonium), poinsettia, rhododendron, rose, streptocarpus, thyme, thuya, tulip, African violet, weigela.

#### Article 8

For the species appearing in the following list, fruit-bearing varieties and rootstocks may be protected: almond, apple, apricot, fruiting blackberries, cherry, chestnut, black currant, red and white currants, gooseberry, hazelnut, hop, peach, pear, plum, quince, raspberry, vine. The breeder's right shall relate to any part of the plant which is to be used as vegetative propagating material, such as plants, grafts, cuttings, layers, or which is to be used for laying down plantations with a view to the commercial production of fruit. It shall also relate to the seeds, as defined in accordance with Article 1 of Decree No. 81-605 of May 18, 1981, mentioned above, or to the pips and stones of the said species in cases where they may be used as seeds for the generative reproduction of the varieties.

#### Article 9

The term of protection shall be twenty years for the following species: alstroemeria, barley, bean, elatior begonia, berberis, Kentucky bluegrass, buddleia, carnation, chrysanthemum, cornsalad, dieffenbachia, eggplant, endive, Euphorbia fulgens, firethorn, flax and linseed, forsythia, freesia, gerbera, gladiolus, hydrangea, bulbous and rhizomatous iris, kalanchoë, lagerstroemia, lavender, lettuce, lily, white lupin, maize (except inbred lines), oats, oleander, orchids, pea, pelargonium (zonal, ivy-leaved and hybrid pelargonium), sweet pepper, poinsettia, rapeseed, rice, rose, soya bean, strawberry, streptocarpus, common sunflower, tomato, triticale, tulip, African violet, weigela, hard wheat, soft wheat.

The term shall be twenty-five years for the following species: almond, apple, apricot, fruiting blackberries, brome (*Bromus carinatus* Hook et Arn., *Bromus sitchensis* Trin., *Bromus stamineus* Desv. incl. *B. valdivianus* Phil., *Bromus willdenowii* Kunth, *B. unioloides* H.B.K., *Catharticus* auct.), cherry, chestnut, red clover, ornamental crab, black currant, red and white currants, cypress (Mediterranean cypress, Arizona cypress, Duprez cypress, Leyland cypress - X Cupressocyparis and its hybrids), gooseberry, hazelnut, holly (hybrids of *Ilex aquifolium*), hop, juniper, lucerne, maize (inbred lines only), peach, pear, plum, poplar, potato, quince, raspberry, rhododendron, ryegrass, sorghum (inbred lines of *Sorghum bicolor* (L.) Moench), thyme, thuya, vine.

#### Article 10

Any person who desires at the time of any act of assignment, concession or commercialization of the varieties referred to in the foregoing Articles, to avail himself of the possibility under Article 9 of the Law of June 11,

1970, mentioned above of adding a trademark to the variety denomination, whether he is the owner of the mark or other lawful user thereof, shall take the necessary precautions, especially in correspondence, in advertisements, in the preparation of trade catalogs and on packages or labels, to ensure that the denomination is sufficiently visible in its context so as to prevent any likelihood of confusion in the mind of the purchaser as to the variety's identity.

#### Article 11

Orders of the Minister of Agriculture issued on the proposal of the Committee for the Protection of New Plant Varieties shall determine, when the need arises, the details of the application of this Decree, which shall enter into force on publication in the Journal officiel of the French Republic of the Order provided for by Article 11 of the Law of June 11, 1970, mentioned above<sup>1</sup>.

#### Article 12

The Minister for External Relations and the Minister of Agriculture are entrusted, each within his attributions, with the implementation of this Decree, which shall be published in the Journal officiel of the French Republic.

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<sup>1</sup> Order of September 17, 1971, Relating to the Tariff of the Fees Charged in New Plant Variety Protection Matters (J.O. of October 2, 1971). The entry into force referred to is that of the original Decree No. 71-765.

## ITALY

## Standards for the Protection of New Plant Varieties\*

Consolidated Text of Decree No. 974 of August 12, 1975, as amended  
by Articles 76 to 78 of Decree No. 338 of June 22, 1979,  
and Law No. 620 of October 14, 1985\*\*

Article 1

Patents for industrial inventions may be granted in respect of new plant varieties capable of agricultural or industrial application.

Within the meaning of this Decree, a new plant variety, regardless of how it is obtained, is one that meets the following criteria:

(a) it must be sufficiently homogeneous, having regard to the particular features of its sexual reproduction or vegetative propagation;

(b) it must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation and, where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each cycle;

(c) whatever may be the origin, artificial or natural, of the varieties from which it derives, it must be clearly distinguishable by one or more important characteristics from any other plant variety whose existence is a matter of common knowledge at the time when protection is applied for. Common knowledge may be established by reference to various factors such as: cultivation or marketing already in progress, entry in an official register of varieties already made or in the course of being made, inclusion in a reference collection or precise description in a publication.

At the time of the application for a patent, the plant variety must not have been, with the agreement of the breeder or his successor in title, the subject of commercial acts for longer than one year in Italy, or for longer than six years in the case of grapevine, forest trees, fruit trees and ornamental trees, including, in each case, their rootstocks, or for longer than four years in the case of the other plants in the territory of any other State.

However, the fact that a new plant variety has been the subject of trial cultures, or has been entered or submitted for entry in an official register, shall not affect the right of the breeder of such a variety or his successor in title.

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\* Italian title (of Decree No. 974): Decreto del Presidente della Repubblica, 12 agosto 1975, No. 974 - Norme per la protezione delle nuove varietà vegetali.

\*\* Consolidated Text prepared by the Office of the Union from the texts published in the Gazzetta Ufficiale della Repubblica Italiana:

Decree No. 974 of August 12, 1975: GU of April 26, 1976;  
Decree No. 338 of June 22, 1979 (Revision of the National Patent Legislation Pursuant to the Delegation Given by Law No. 260 of May 26, 1978): GU of August 7, 1979;  
Law No. 620 of October 14, 1985 (Ratification and Implementation of the Act for the Revision of the International Convention of December 2, 1961, for the Protection of New Varieties of Plants, as Revised on November 10, 1972, Signed at Geneva on October 23, 1978, and Amendment of the Decree of the President of the Republic No. 974 of August 12, 1975, Containing the Standards for the Protection of New Plant Varieties): GU of November 12, 1985.

The characteristics which permit a new plant variety to be defined and distinguished may be of a morphological or physiological nature. In all cases, they must be capable of precise description and recognition.

The provisions of this Decree shall in every case be without prejudice to those of Article 14, third paragraph, and Article 15, third paragraph.<sup>1</sup>

Processes whereby new plant varieties are obtained shall not be protectable under the provisions of this Decree, even if they are described in the patent application; however, such processes may be the subject of separate applications for a patent for an industrial invention, in accordance with the provisions of Royal Decree No. 1127 of June 29, 1939, provided that they are not essentially of a biological nature.

### Article 2

The provisions of Articles 2584 to 2591 of the Civil Code and those of Royal Decree No. 1127 of June 29, 1939, as subsequently completed and amended, and of the Rules approved by Royal Decree No. 244 of February 5, 1940, as subsequently completed and amended, are applicable to new plant varieties, provided that they are not inconsistent with those of this Decree.

### Article 3

The breeder of a new plant variety or his successor in title may claim a right of priority, either at the time of filing the application for a patent or within two months thereafter, based on the first application filed previously in another State of the Paris Union for the Protection of New Varieties of Plants for the purpose of obtaining a title of protection for the same variety. The right of priority may only be enforced if the application for a patent and claim in respect of priority are filed in Italy within the mandatory period of twelve months from the date of filing of the first application.

The breeder or his successor in title who claims the right of priority shall be allowed a period of four years after the expiration of the period of priority in which to furnish the additional documents and material necessary for the examination provided in Article 8 below. Those documents and the material necessary for the examination may be requested, however, before the expiration of the four-year period and within an adequate period where the application whose priority is claimed is rejected or withdrawn. The period of six months laid down in Article 20 of the Rules approved by Royal Decree No. 244 of February 5, 1940, for the submission of a copy, certified by the

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<sup>1</sup> Of the Law on Patents for Inventions (Royal Decree No. 1127 of June 29, 1939, as last amended by Decree of the President of the Republic No. 338 of June 22, 1979.

Article 14, paragraph (3), reads as follows:

"Additionally, the content of Italian patent applications, or of European or international patent applications designating Italy, as filed, of which the dates of filing are prior to the date referred to in the preceding paragraph and which were published or made available to the public on or after that date, shall be considered as comprised in the state of the art."

Article 15, paragraph (3), reads as follows:

With respect to inventions for which priority is claimed under international conventions, the existence of the novelty requirement provided for under Article 14 must be evaluated with reference to the starting date of the priority."

competent authority, of the documents which constitute the first filing shall remain unaffected.<sup>1</sup>

#### Article 4

The rights conferred by a patent in respect of a new plant variety shall consist of the exclusive right to produce for sale, to put on the market and to introduce in the territory of the State, propagating or reproductive material of the patented new variety.

Such exclusive right shall extend to the production, the marketing and the introduction in the territory of the State of the products of the patented new variety in cases where its predominant use occurs through the sale of plants, parts of plants or flowers to be used for ornamental purposes.

Where the new variety is derived from another patented variety but can be reproduced independently from that other variety, the provisions of Article 5 of Royal Decree No. 1127 of June 29, 1939, shall not apply.<sup>2</sup>

Authorization by the proprietor of the patent shall be required, however, when the repeated use of the plant variety is necessary for the commercial production of another variety.

However, third parties have the right to produce the patented new plant variety for the purpose of research or of obtaining hybridization material. Such production shall, in all cases, be restricted in such a way as to preclude the commercial exploitation of the product, which shall not be distributed for purposes of gain outside the farm where it was produced.

The maximum limits on such production shall be laid down for the various plant families and species by the Ministry of Agriculture and Forestry, on the advice of the Commission referred to in Article 18 below.

#### Article 5

The new plant variety being the subject of a patent shall have the denomination given to it by the breeder, who shall specify it at the time of filing of the application for a patent.

The denomination must be such as to enable the new variety to which it refers to be identified and may not consist solely of figures, except where this is established practice for designating varieties. The denomination must meet the following criteria:

- (1) it must not be contrary to law, public order or morality;
- (2) it must be identical to the denomination already registered as the designation of the same variety in one of the States of the Paris Union for the Protection of New Varieties of Plants, subject to the power of the Central Patent Office to request a translation into Italian of the original denomination;

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<sup>1</sup> The third paragraph of that Article reads as follows:

"The patent shall be granted without the mention of priority if the documents specified in the first paragraph of Section 11 above have not been submitted in the prescribed form within six months from the filing of the application."

<sup>2</sup> That Article reads as follows:

"The patent for an industrial invention, the working of which involves the working of inventions protected by prior, still valid patents for industrial inventions, may not be worked or used without the consent of the proprietors of such prior patents."



(3) it must not be liable to mislead or to cause confusion concerning the characteristics or value of the plant variety or the identity of the breeder; in particular, it must be different from every denomination which designates, in any member State of the aforementioned International Union, an existing variety of the same or a closely related botanical species.

The denomination of the patented new plant variety shall be regarded as the generic name of that variety and shall be used in order to distinguish it, even after the expiration of the protection of that variety.

The denomination of the patented new plant variety shall also be entered in the appropriate register.

It shall be prohibited to use the aforementioned denomination to designate plant varieties of the same species but which differ from the patented variety.

It shall be permitted to associate a trademark, trade name or other similar indication with the variety denomination, provided that the variety denomination remains easily recognizable.

#### Article 6

It shall be prohibited to the breeder or his successor in title to use, as the denomination of a new plant variety, distinguishing words or signs in respect of which he enjoys the protection, either in the State or in a member State of the Union for the Protection of New Varieties of Plants, accorded to trademarks and which serve to distinguish a botanical species that is identical or similar to the new variety; neither may he use, for the the aforementioned purpose, a denomination liable to cause confusion with the said mark.

If the breeder or his successor in title wishes to use, as the denomination of the new variety to be patented, a trademark such as that described in the preceding paragraph, or a denomination liable to cause confusion with such a mark, he may renounce his right to protection of that mark. In that case, his renunciation shall be effective from the date of its entry in the trademark register.

If a denomination coming under the prohibition laid down in the first paragraph above is nevertheless registered, the breeder or his successor in title may not continue to assert his right to the trademark in respect of the new variety or a similar one.

In cases where the denomination of the new variety specified in the patent application appears to fall under the prohibition laid down in the first paragraph above and it has not yet been registered, the breeder or his successor in title shall be allowed to request to substitute for it another denomination which meets the prescribed requirements. If he fails to submit a new denomination within six months from the date of the request to that effect, he may not continue to assert his right to the corresponding trademark in respect of the new variety or a similar one.

Once the new denomination has been registered for the variety, the breeder or his successor in title may prohibit the use of the previous denomination by persons obliged to use it before the entry into force of this Decree only after the expiration of a period of one year from the date of publication of the registration of the new denomination.

#### Article 7

The duration of a patent granted under this Decree shall be 15 years from the date of its grant.

The patent shall last for 30 years from the date of its grant in the case of plants with a woody stem such as grapevine, fruit trees and their rootstocks, forest trees and ornamental trees.

Subject to the provisions of Article 4, third paragraph, of Royal Decree No. 1127 of June 29, 1939,<sup>1</sup> the effects of the patent shall commence on the date on which the application, together with its annexes, is made available to the public as provided in Article 9 below.

#### Article 8

The application for a patent in respect of a new plant variety shall be examined to ascertain:

- (a) that the application and the documents appended thereto are in order;
- (b) that the denomination of the new plant variety is in conformity with the provisions of this Decree;
- (c) that there are no elements liable to impede the grant of a patent within the meaning of Article 1 above.

The Central Patent Office shall provide for the examination in respect of item (a) above. The examinations in respect of items (b) and (c) above shall be within the competence of the Ministry of Agriculture and Forestry, which may, however, decide to dispense with such examinations, wholly or in part, if such examinations have already been carried out with sufficient guarantees in Italy or in another State of the Paris Union for the Protection of New Varieties of Plants.

In that case, the applicant shall submit documentary evidence of the examinations made.

#### Article 9

Applications for patents in respect of new plant varieties shall be filed only in Rome, with the Central Patent Office. They may also be sent through the post in accordance with Article 2 of the Decree of the President of the Republic No. 540 of June 30, 1972.<sup>2</sup> The other documents relating to the said applications may be filed with the Chambers of Commerce, Industry and Handicrafts of the capital towns of the provinces.

Within 60 days after the date of filing of the application for a patent, the Central Patent Office shall put up a notice to this effect on its notice-board, where the notice shall remain for 30 days.

For the applications for patents in respect of new plant varieties, the period provided in Article 4 of Royal Decree No. 1127 of June 29, 1939, for making the documentation available to the public shall be 90 days from the date of filing of the application.

Any person may, within the following 60 days, address its observations to the Central Patent Office, in duplicate, in respect of the patentability of the plant variety.

#### Article 10

The Central Patent Office shall satisfy itself that the application is in order and, where observations have been presented to it by third persons, it shall send the applicant a copy thereof, and invite him to submit any counter-statement.

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1 That paragraph reads as follows:

"With regard to persons whom the applicant notified his application, with the specification and possible drawings, the effects of the patent shall commence on the date of such notification."

2 i.e. by registered mail, return receipt requested.

#### Article 11

The Central Patent Office shall forward the documents relating to the application for a patent to the Ministry of Agriculture and Forestry, together with the observations, if any, of interested third parties, the applicant's counter-statement and any other relevant information, and request the Ministry for an advice as to whether the application is admissible.

The Minister of Agriculture and Forestry shall, before undertaking the examinations falling within his competence, invite the applicant to pay, within a period of three months, the fee prescribed under Article 22bis below and to transmit to it the receipt evidencing payment.

Any unjustified failure to pay within the said period shall entail the application for a patent to be considered withdrawn in all respects.

#### Article 12

On the advice of the Ministry of Agriculture and Forestry, the Central Patent Office shall either grant the patent or reject the application.

The patent granted under this Decree shall not exempt its proprietor or any other person using its subject matter from conforming with the laws and regulations governing the production, marketing and use of the subject matter.

The Ministry of Agriculture and Forestry shall have the right, at any time, to undertake a technical control test in order to establish that the conditions set forth in items (a) and (b) of the second paragraph of Article 1 are still being complied with.

#### Article 13

The patent shall be declared null and void if it is established that the conditions laid down in item (c) of the second paragraph and in the third paragraph of Article 1 of this Decree were not effectively complied with at the time the patent was granted.

The patent shall become forfeit if the breeder or his successor in title:

(a) fails to provide the Ministry of Agriculture and Forestry with the reproductive or propagating material capable of producing the new variety with its morphological and physiological characteristics as defined when the patent was granted;

(b) within the prescribed period and after being requested to do so, does not provide the competent authority with the reproductive or propagating material, the documents and the information deemed necessary for checking the new variety, or does not allow inspection of the measures which have been taken for the maintenance of the variety;

(c) has failed to pay within the prescribed period such fees as may be payable to keep the patent in force.

In the cases referred to in items (a) and (b) above, the patent shall be declared forfeited by the Central Patent Office on the proposal of the Ministry of Agriculture and Forestry.

A patent may not be declared null and void or become forfeit on grounds other than those set out in this Article.

#### Article 14

The provisions of the Decree of the President of the Republic No. 849 of February 26, 1968, Concerning Compulsory Licenses, as subsequently amended, shall apply to patents in respect of new plant varieties insofar as they are compatible with the provisions of this Decree.

There shall be considered to be failure to work, suspension or reduction in working, within the meaning of Article 1 of the aforementioned Decree, if the breeder or his successor in title, either directly or by means of one or more licensees, fails to provide users on the territory of the State with the reproductive and propagating material of the patented plant variety to an extent that meets the requirements of the country's economy.

#### Article 15

In accordance with the same provisions of the aforementioned Decree of the President of the Republic No. 849 of February 26, 1968, for reasons of public interest and regardless of whether or not the patent is being worked, special--non-exclusive--compulsory licenses may be issued at any time, against payment of equitable compensation to the proprietor of the patent, for the exploitation of such patented plant varieties as are suitable for the production of food for human or animal consumption, therapeutic purposes or the manufacture of drugs.

#### Article 16

The licenses provided in the preceding articles shall be issued in accordance with the advice of the Ministry of Agriculture and Forestry, which shall decide the conditions prescribed for the issuance of licences. The amount and terms of payment of the remuneration, in case of opposition in the sense of Article 54<sup>quater</sup> of Royal Decree No. 1127 of June 29, 1939, shall be determined on the basis of Article 50, second paragraph, of the said Decree.<sup>1</sup>

The decision to issue a license may impose an obligation on the proprietor of the patent to provide the licensee with the necessary reproductive and/or propagating material.

#### Article 17

In order to undertake the examinations which are necessary for the advices to be given under the provisions of this Decree, the Ministry of Agriculture and Forestry shall be authorized to conduct experiments on national territory and to carry out inspections at productions sites.

For such purposes, the said Ministry shall be entitled to the assistance of agricultural research institutes, university institutes and those institutes set up under international conventions or agreements to which Italy is a party.

#### Article 18

In order to enable the Ministry of Agriculture and Forestry to give its advices in conformity with the provisions of this Decree, an Advisory Commission shall be set up in that Ministry by decree of the Minister of Agriculture and Forestry.

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<sup>1</sup> Article 54<sup>quater</sup>, second paragraph, reads as follows:

"...the proprietor of the patent and any persons holding rights in the patent on the basis of recorded or registered acts, may oppose the grant of the application or declare not to accept the amount and terms of payment of the compensation. Such opposition must be accompanied by the reasons therefor."

Article 50, second paragraph, reads as follows:

"...[the] amount and the terms of payment shall be determined by a Board of Arbitration, consisting of three members, one to be appointed by each of the parties and the third by the first two or, in case of disagreement, by the President of the Board of Appeals. The Board of Arbitration shall base its award on a fair evaluation. If its award is clearly unfair or wrong or if one of the parties refuses to appoint its arbitrator, the matter shall be decided by a judge."

The Commission shall consist of:

- (1) a Chairman, who shall be a Section Head of the Council of State and be appointed by its President;
- (2) the Director General for Agricultural Production, Ministry of Agriculture and Forestry;
- (3) the Director General of the Department for the Protection of Agricultural Production, Ministry of Agriculture and Forestry;
- (4) the Director General of the Department of Upland Economy and Forestry, Ministry of Agriculture and Forestry;
- (5) the Director of the Institute in charge of the registers of seed product varieties;
- (6) the Director of the Central Patent Office;
- (7) an ordinary professor from the faculty of agriculture of a university, who shall be appointed by the Minister of Education;
- (8) the Director of an agricultural experimental institute, who shall be appointed by the Minister of Agriculture and Forestry;
- (9) a technical examiner from the Central Patent Office;
- (10) an official of the Ministry of Health.

Those members listed in items (2) to (6) above may be represented by officials of their respective departments; for those members listed in items (7) to (10), an alternate shall be appointed.

On the decision, which must be justified, of the Chairman, particularly qualified experts, to a maximum of three, may be called upon to become members of the Commission for the examination of specific questions.

An official of the Ministry of Agriculture and Forestry from the category of directors, of a rank not lower than that of Head of Department, shall act as Secretary of the Commission.

The Commissions's term of office shall be three years, and that of its members shall be renewable.

In the event of the Commissions's term of office not being renewed on the date due, the Commission shall continue to function pending such renewal.

Before expressing its advice, the Commission may hear the views of the parties concerned or of their representatives, who shall in all cases be heard if they so request.

#### Article 19

Those members of the Commission who are not government officials shall receive, where appropriate, the per diem payable to higher officials.

#### Article 20

The expropriation referred to in Articles 60 et seq. of Royal Decree No. 1127 of June 29, 1939, shall, in the case of new plant varieties, be carried out in consultation with the Ministry of Agriculture and Forestry.<sup>1</sup>

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<sup>1</sup> i.e. in the interest of the military defense of the country or for other reasons of public interest.

#### Article 21

A copy of the introductory act of every civil legal proceeding and appeal to the Commission referred to in Article 71 of Royal Decree No. 1127 of June 29, 1939,<sup>1</sup> in connection with patents for new plant varieties shall be communicated to both the Central Patent Office and the Ministry of Agriculture and Forestry by those persons instituting the proceedings. If this has not been done, the judicial authority or the aforementioned Commission may, at any stage in the proceedings and before reaching a decision, request that such a communication be made.

#### Article 22

The patents for new plant varieties shall be the subject of the same fees and the same time limits for payment as are provided for patents for industrial inventions.

For the application for and grant of a special compulsory license under Article 15 above, the same fees shall be due, and at the same dates, as are provided for the ordinary compulsory licenses in item 91 of title VIII of the tariff attached to the Decree of the President of the Republic No. 641 of October 26, 1972, as subsequently amended.

#### Article 22bis

For the issuance of the advices and the undertaking of the technical control tests provided by Articles 11 and 12 above, the compensations provided by the tariff fixed by Decree of the Minister of Agriculture and Forestry, after consultation of the competent department of the High Council for Agriculture and Forestry, shall be due in proportion with the cost of the service.

Such compensations shall be served into a special item of the State budget by the applicants for patents for new plant varieties.

#### Article 23

The costs of implementation of this Decree, estimated at 120 million Lira for 1976, shall be offset by the income derived from the fees laid down in the preceding Article.

The Minister for the Treasury shall be authorized, by means of appropriate decrees, to amend the budget as necessary.

#### Article 24

The provisions of this Decree shall apply, from the date of its coming into force, to new plant varieties of the following genera and species: (1) wheat; (2) barley; (3) rice; (4) maize; (5) lucerne; (6) clover; (7) rose; (8) carnation; (9) grapevine and its rootstocks; (10) poplar.

By decree of the Minister of Industry, Commerce and Handicrafts in agreement with the Minister of Agriculture and Forestry, the foregoing provisions may be extended gradually to new plant varieties of other genera and species.

#### Article 25

This Decree shall enter into force 180 days after the date of its publication in the Official Journal of the Italian Republic.

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<sup>1</sup> i.e. the Board of Appeals.

The necessary technical and administrative measures for implementation of this Decree shall be provided for by decree of the Minister for Industry, Commerce and Handicrafts, in agreement with the Minister of Agriculture and Forestry and the Minister of Health.

This Decree, fitted with the Seal of the State, shall be included in the Official Collection of Laws and Decrees of the Italian Republic. It shall be the obligation of each and every person to observe the Decree and to see that it is observed.

Article 15 of Law No. 620 of October 14, 1985

The compensations referred to in the preceding Article [Article 22bis] and the procedure for their collection shall apply to the applications for patents concerning new plant varieties filed after the date of entry into force of this Law.

Within one year from the date referred to in the preceding paragraph, there shall be provided, by Decree of the Minister of Industry, Commerce and Handicrafts, in agreement with the Minister of Agriculture and Forestry and the Minister of Health, for the amendment of the Ministerial Decree of October 22, 1976, published in the Official Journal No. 15 of January 18, 1977, containing the Implementing Regulations of the Decree of the President of the Republic No. 974 of August 12, 1975.

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NEWSLETTER
MEMBER STATES

## Federal Republic of Germany: Modification of Fees

A new tariff of fees has been introduced with effect from January 8, 1986, pursuant to Articles 12 to 14 of the Order Concerning Procedures Before the Federal Plant Varieties Office of December 30, 1985 (Bundesgesetzblatt of January 7, 1986 (No. 1, pp. 23-30)). The main fees are as follows (in DM):

Type of Fee	Group*	1	2	3	4	5	6
<u>Application for protection</u>		600	600	600	600	600	60
<u>Examination of the variety**</u>							
Examination by the Federal Plant Varieties Office		700	700	500	500	500	50
Taking over of own examination results (charged once)		150	150	150	150	150	150
Taking over of foreign examination results (charged once)		500	500	500	500	500	500
<u>Annual fees***</u>							
	Year 1	200	100	100	100	100	20
	Year 2	300	200	200	100	100	20
	Year 3	400	200	200	100	100	20
	Year 4	500	300	300	200	200	20
	Year 5	600	300	300	200	200	20
	Year 6	700	400	400	200	200	20
	Year 7	900	400	400	300	300	20
	Year 8	1.100	500	500	300	300	20
	Year 9	1.300	600	600	300	300	20
	Year 10	1.500	700	700	400	400	20
	Year 11	1.500	900	900	500	400	50
	Year 11	1.500	1.100	1.100	600	400	50
	Year 12	1.500	1.200	1.200	700	500	50
	Year 13	1.500	1.200	1.200	800	500	50
	Year 14	1.500	1.200	1.200	800	500	50
	Year 15	1.500	1.200	1.200	800	600	50
	Year 16	1.500	1.300	1.300	800	600	50
	Year 17	1.500	1.300	1.300	800	600	50
	Year 18	1.500	1.300	1.300	800	600	50
	Year 19	1.500	1.300	1.300	900	600	50
	Year 20 <u>et seq.</u>	1.500	1.300	1.300	900	600	50

\* cf. page 9 et seq.

\*\* An examination fee is charged in respect of each testing period that has started, except when the Federal Plant Varieties Office has not started the examination or the maintenance breeding of the variety. Where, in the case of varieties of perennial plants, the state of the characteristics or the properties cannot be assessed, or can only be assessed in part, in a given testing period because of the particular features of development of the species, the fee charged is half of the normal fee. Where the applicant indicates more than one use or cultivation method for the variety, the fee corresponding to each use or cultivation method which requires a specific test is charged. In the case of varieties whose plants are produced by crossing specific hereditary components and for which the Federal Plant Varieties Office extends the examination to the components, an additional fee is charged.

\*\*\* No annual fee is charged in respect of national listing if an annual fee is paid in respect of plant variety protection.



## GENERAL STUDIES

## Biological Inventions and Swedish Patent Legislation\*

Ragnhild Walles\*

As announced in issue No. 48, the columns of Plant Variety Protection are made available below to the more detailed reviews of the article bearing the same title by Tore Oredsson. The article by Ragnhild Walles is again reproduced from Nordiskt Immateriellt Rättsskydd (1985, No. 4, pp. 509-522) with the kind permission of the periodical and the author. It incorporates, however, some elements of a keynote article to appear in NIR, 1986, No. 1. It is followed by a reply by Tore Oredsson, reproduced on pages 42 to 45 below from NIR, 1985, No. 4, pp. 568-572.

It goes without saying that the views expressed by both authors do not necessarily correspond to the views of UPOV or its member States, in particular since some of the problems dealt with are outside the terms of reference of UPOV.

The Patent Office has a more positive view on the possibility of the patent system to enhance development in the biotechnical field than the view expressed by Mr. T. Oredsson in Plant Variety Protection No. 48.<sup>1</sup> Above all, however, we also have a more positive view on how to apply the legislation to make such an enhancement of the development possible. This article will show some reasons for these views. Some further comments relevant in this context will also be presented.

I. Form of Protection

One of the grounds for our positive view on the patent system is that it was shown by the answers to the OECD questionnaire 1982 on Biotechnology and Government Policies: Patent Protection in Biotechnology<sup>2</sup> that patent protection is a suitable form of protection in this field. The answers came from industry, universities, academies, State authorities and other interested bodies. The answers also showed that the amendments recommended primarily concern a greater international harmonization of legislation and practice and that it is considered most urgent that all countries which signed the European Patent Convention (EPC) harmonize their national laws and practice with European law.

Another ground for this positive view is that AIPPI (International Association for the Protection of Industrial Property) in its resolution adopted at the Executive Committee meeting in Rio de Janeiro, Brazil, in May 1985 after an extensive enquiry answered by 23 national groups "is of the opinion that biotechnological inventions should be protected by the application of the existing principles of patent law and that the creation of a special body of law is not necessary."

Ethical Reasons for Questioning Patent Protection.- Apart from questioning the value of the patent protection in this field, it has even been questioned whether biotechnological inventions should be given any protection at all. Among the reasons for such an opinion are two kinds of ethical reasons. One is, however, already covered in Section 1 of the Patent Act which excludes from patentability inventions which would be contrary to morality or public order. An example is the development of new human beings. Ethical exclusion from patentability on the ground of morality or public order of course always exists and has never been questioned.

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\* Head of Division, Swedish Patent Office.

<sup>1</sup> pp. 37-63, with comments from L. Björklund and R. Walles on pages 64 and 65.

<sup>2</sup> Beier, Crespi, Straus, Patent Protection in Biotechnology: An international Review, OECD, Paris 1984.

The second ethical ground put forward against patentability, e.g. by Mr. Oredsson, is that some inventions should be free for use by mankind without any restrictions. That is why in the past the Patent legislation of Sweden and many other countries did not allow product protection for foodstuffs or medicines (and still does not allow protection for methods for surgical or therapeutic treatment or diagnostic methods, practised on humans or animals).

Dissemination of Information.- However, information disclosed in patent applications in Sweden and many other countries is publicly available already 18 months after the first priority filing and can be used for further experiments and development. Thus the applications are an important means for the dissemination of information. Thereby necessary development also in the biotechnological field is enhanced.

In exchange for this something is given to the applicant--otherwise an innovator would keep his innovation a trade secret to an even greater extent than now. In the microbiological field, where it is mostly the chemical product produced by a microorganism which is being sold, the possibility of keeping the producing microorganism secret is especially great.<sup>3</sup>

Another possibility, if trade secrets are considered too hazardous, is to avoid expensive research in a field where there is no possibility to recover invested money. Thus, excluding biotechnological inventions from protection may perhaps enhance the free dissemination of some information but too much information would be kept secret and much less information would be produced for lack of funds.

The example concerning Milstein and Köhler given by Mr. Oredsson has already been commented on in the commentary by L. Björklund and myself in the Plant Variety Protection No. 48. Further it can be noted that at least Milstein has later applied for a European patent for another innovation (EP, A, 0014519).

For the developing countries the patent system is of special value in case the inventor is not from such a country. Patent protection is often not pursued in developing countries, but through patent documentation innovations in the biotechnological field can also be freely used.<sup>4</sup>

Protection Period.- One reason put forward for another type of protection than patent protection is that the scientific development is so rapid that the invention is no longer interesting when a patent is granted.

At the same time there are strong wishes for a longer protection period because other governmental approvals (e.g. for pharmaceuticals) take a long time. Moreover, even when the application is published at 18 months, a provisional protection is provided if a patent later is granted. The processing period we are aiming at is less than 3 years for a final decision. Another form of protection with decisions taken more rapidly would mean decisions taken with less accuracy. Such decisions would have to be decided on in Court to a much greater extent, take time and cost money and would hardly be suited to enhance development. That would especially apply to the system of registration suggested by Mr. Oredsson.

Also a decision for a plant variety protection title normally takes 2 1/2 - 3 1/2 years, depending on the season when the application is filed.

The protection period in Sweden for a plant variety is 20 years from the start of the year after grant as compared to the protection period for a patent, which is 20 years from the filing.

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<sup>3</sup> Patentverkets yttrande över Genetik kommitténs betänkande Genetisk integritet = Official note signed in June 1985 by Göran Borggård as Director General of the Patent Office. Taking part in this note were also L. Björklund, R. Waller, I. Schalin, T. Halén and Y. Siösteen.

<sup>4</sup> Op. cit., footnote 3 supra.

UPOV Protection.- To obtain a plant variety protection under the UPOV (International Union for the Protection of New Varieties of Plants) Convention no "enabling written disclosure" is necessary, and although a deposit is required for examination purposes, public access to this material is not ensured either before or after the grant of the plant variety right<sup>5</sup>. In this way less information is being disseminated than by a deposit for patent purposes.

It is not possible to obtain a UPOV protection for a process. Nor is it possible to obtain UPOV protection for different aspects of an idea expressed in a set of claims or any claim at all but only for a certain variety. Another difference from patent protection is that no inventive step is required for plant variety protection. The novelty requirement of the plant variety protection is not based on disclosure but on marketing and the variety must be clearly distinguishable (and homogeneous and stable). The scope of protection under the UPOV Convention extends only to commercial manufacture and marketing of propagating material. Plants and parts thereof remain unprotected for any marketing unrelated to propagation purposes. Breeders cannot, therefore, oppose imports of protected varieties from other countries, unless marketed as propagating material.<sup>6</sup> Thus less is required to obtain a plant variety protection and a protection which from some aspects is less valuable is obtained.

For a UPOV protection premature publication does not destroy novelty, but commercialization does. The reason is that the mere knowledge of a variety would not mean that the general public had access to the variety and thus it would not enable anybody to reproduce it. That is also the case in the patent system. The difference is that commercialization abroad is only detrimental to novelty if it took place more than four years and in some cases even six years before filing the application.

A variety has to be homogeneous and stable, which is not required under the general patent law. However, to me those characteristics seem to be indispensable to obtain a reproducible invention.

The examination is often different, because tests are not always conducted by the breeder himself. The description is established by the Office.

Deposit of propagating material at the time of application is only necessary in the priority country. For subsequent applications material can be submitted within an additional period of four years. With the Budapest Treaty for patent applications only one deposit is ever necessary.

Under the UPOV system protected seed can be saved one year and freely used for sowing or planting at the next growing season, which would not be the case under the patent system. As I see it, that must depend on the extent of saving. If the saving is only made to produce something that the farmer uses himself, that would be allowable. Saving for commercial production would not be allowable. Also in the UPOV system exception is made for material used for the production of cut flowers or ornamental plants and because of e.g. the development of micropropagation the existence of the system of saving seed is being discussed (CAJ/XVI/3).

Within UPOV the fact is stressed that rights for new varieties created by the use of another variety is not dependent on the right of the first variety and that the use of varieties for experiments is always free. However, the free use in the UPOV system is from the date of commercialization, while the free use for experimentation under the patent system exists at least from the grant of a patent and very often already 18 months after filing. The dependency of the first invention is a result of the requirement of inventive step and the wider scope of protection in the patent system.

The patent system is said to be contrary to the free flow of genetic resources according to an undertaking by FAO.<sup>7</sup> However, the patent system does not seem to be more contrary to the FAO undertaking than the UPOV protection. Sweden has signed the FAO undertaking making the allowable exception for special genetic stocks (including elite and current breeders' lines and mutants).

<sup>5</sup> World Intellectual Property Organisation document with analysis by J. Straus of July 1985, BIG/281 p.64.

<sup>6</sup> op. cit., footnote 5 supra, p. 65.

<sup>7</sup> International Undertaking on Plant Genetic Resources, FAO Conference resolution 8/83.

One reason for a need of a wider scope of protection in the plant breeding field is that traditional crossing and breeding was very time-consuming - 12 to 15 years. With genetic engineering methods, changes of a protected variety can be made much faster.

In short differences exist between patent and plant variety protection. However, they are mostly not really important. The important differences lie in the requirement of inventive step and the scope of protection.

Discussions are also going on in UPOV concerning the relation between UPOV protection and patent protection. In October 1984 I attended a Symposium devoted to this subject. As seen from the records from that 1984 UPOV Symposium<sup>8</sup> one important reason against patent protection in this field is that its possible existence would depend on reproducibility. "A further injustice would also reside in the fact that the breeder of the initial variety ... would have carried out a far greater amount of variety creation work but would have to be content with a special title of protection" i.e. this special title (UPOV) is considered of less value than a patent.

Copyright.- It has been suggested that copyright protection should be used for DNA molecules. However, as Mr. Oredsson points out, different DNA molecules can function in the same way. His conclusion is that patent protection in the field can be questioned. My conclusion, however, is that patent protection being a protection of ideas, is far better in this field than copyright protection. That does not prevent amelioration through greater use of computerized data to make research in this field more efficient. The development towards filing applications in machine-readable form will also facilitate research in this field.

WIPO.- Work on an international solution began in 1984 within WIPO (World Intellectual Property Organization). A committee of experts on biotechnological inventions and industrial property was convened in Geneva, on November 5-9, 1984, with representatives from industrialized and developing countries and a great number of interested organisations. The purpose is to find uniform and simple solutions in order to give inventors improved legal security and to provide a form of internationally harmonized protection which is as reliable and as inexpensive as possible.

Within WIPO a study will be made concerning to what degree changes are necessary, e.g. whether a treaty is needed, whether the Budapest Treaty (concerning the international recognition of deposits of microorganisms for the purpose of patent protection) should be amended, whether guidelines should be established for the amendment of national laws and regulations and/or interpretation of those texts. The Swedish Patent Office (through the undersigned) and the Ministry of Justice are participating in this work and continuously have contacts with various microbiological and biological experts for preparative discussions.

A recommendation (934) of the Council of Europe to the Ministerial Committee to investigate the patentability of microorganisms genetically changed by hybrid DNA technique has resulted in the question having been passed on to WIPO.

The patent system is very flexible. For a scientist who wishes to publish an article or deliver a speech there will be a delay between the filing and the publishing of the article and frequently also a corresponding delay between the announcement and the delivering of a speech. During that time an application can be filed. If the application is not complete enough at the filing date it can be completed within a year with the help of the priority system. One way of further delaying a decision to spend money on patent procedures, until a better estimate can be made of the value of the innovation both scientifically and commercially, is to use the PCT system.

Until a decision within the WIPO work has been made the introduction of new aspects on biotechnological inventions in the application of the patent law is continuously being solved along with the development of the molecular biology.

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<sup>8</sup> UPOV publication No. 342 (E) and Plant Variety Protection No. 44 and 45.

EPO.- Sweden has in the biotechnological field followed the practice of the European Patent Office. This European practice has in my view often been very positive for our efforts to stimulate development.

## II. Application of the Legislation

It is true that Section 1 of the Patent Act, which more closely regulates the conditions for patentability, was not changed in connection with other legislative changes concerning microorganisms made in 1978 and 1983. The reason for this was not a lack of insight about development in the microbiological field as Mr. Oredsson suggested. The fact was, however, that Sweden concerning the wording of the rules for patentability is tied by the same wording in the Law Convention of 1963, the Patent Cooperation Treaty (PCT) and the European Patent Convention (EPC), and that Section 1 was considered to make possible an application that follows the practice in the bigger industrial countries and the European Patent Office (EPO)<sup>9</sup>.

What has been said above does not preclude that there is a need for guidelines for development and that such guidelines are elaborated in international cooperation. If such guidelines result in amendments of the above-mentioned conventions and the patent legislation and practice of the big industrialized countries, a discussion of amendments of the Swedish legislation in this field will take place.<sup>9</sup>

The Swedish Patent Office has in different contexts underlined the necessity of international interpretations of certain terms. This has been done e.g. in connection with the earlier mentioned OECD questionnaire concerning patent protection and biotechnology. The Patent Office has also had the opportunity to put forward views in that direction when taking part in answering the above-mentioned AIPPI questionnaire in preparation for the Rio Meeting in May 1985<sup>10</sup>.

In the article by Mr. Oredsson several views were expressed concerning the borderline between what is patentable and what is not. These views differ --according to the Swedish Patent Office--in important aspects from current views both in our country and in other industrialized countries. Partly his views concern questions that are being discussed in the above-mentioned WIPO Committee<sup>11</sup>.

The discussion will be limited to the following points.

Reproducibility.- The question of patent protection for microorganisms is partly dependent on the reproducibility of microorganisms as a product. The system of deposit under certain conditions, which was introduced in the legislation of 1978, has made it possible for a deposit to be a completion of what has been stated in the written description about the invention, e.g. about its reproducibility. The deposit as such can guarantee the reproducibility since a man skilled in the art can repeatedly perform the invention with a sample of the microorganisms<sup>11</sup>. There is no need for a reproducibility of more than 100%, i.e. either a deposit or a reproducible process for the production of the microorganism is required. The same view has been expressed in other countries, e.g. in the United States of America, Japan, the United Kingdom and in the EPO.

Patentability of Microorganisms.- The system with the use of deposits of microorganisms for patent purposes suggested by Mr. Oredsson in 1958, which existed at that time in the United States of America, enhanced the possibility for the patentability of microorganisms. Deposits made at that time could however be withdrawn at any time and no guarantee existed for the public availability of a deposited microorganism. Thus earlier legislation did not

<sup>9</sup> Op. cit., footnote 3 supra.

<sup>10</sup> Question 82. Patent Protection for Biological Inventions 1984. AIPPI Annuaire 1984/IV München 1984.

<sup>11</sup> Op. cit., footnote 3 supra.

result in a guarantee for reproducibility of microorganisms. With the legislation of 1978 the general reasons against the patentability of microorganisms depending on reproducibility has disappeared in our country<sup>12</sup>.

After a Nordic meeting on practice in 1981 patent protection for microorganisms has been granted also by the Swedish Patent Office. This was also confirmed in 1982 in the commentary by the Patent Office to the suggested new legislation in SOU 1981:21. Sweden thus follows in its patent practice a great number of industrialized countries and the EPO. As the legislator has assumed, this harmonization has been possible within the scope of the present legislative text and its term "microbiological processes and products resulting from such processes" (cf. SOU 1981:21)<sup>12</sup>.

According to Section 1 of the Patent Act "microbiological processes and products resulting from such processes" are patentable. Furthermore, according to Circular 14 of the Swedish Patent Office (harmonized with EPO Guidelines C IV 3.5) "microbiological processes" is to be interpreted as covering not only (industrial) processes using microorganisms, but also processes for producing new microorganisms, e.g. genetic engineering processes.

Essentially Biological.- In the article by Mr. Oredsson it was underlined that genetic engineering processes by nature must be considered being close to crossing and selection processes and therefore excluded from patent protection.

Referring to a legislative commentary<sup>13</sup> Mr. Oredsson considers a process to be "biological" if its purpose is to change the hereditary material of plants or animals.

However, that seems to be a misinterpretation. In the commentary it is stated in translation from Swedish: "Selection and crossing are to be considered as purely biological processes. Their purpose is to modify the hereditary material of an animal breed or a plant variety. Also certain other procedures exist which aim at the modification of hereditary material. For these processes certain means are used, e.g. chemical preparations, influence of temperature, radiation or mechanical apparatus. The question whether such processes are to be considered as essentially biological and thereby fall within the scope of the prohibition is to be decided by legal practice." The commentary continues to refer to the part of the Guidelines of the EPO, C IV:3.4, which states that a process would fall within the scope of the exclusion of purely biological processes if the technical intervention does not play a significant part. The citations made from the commentary are completely in accordance with the view of the Patent Office<sup>14</sup>.

In case T 49/83 a Board of Appeal of the EPO<sup>15</sup> has decided that the following is patentable. A chemical treatment--being not essentially biological--of propagating material for cultivated plants and direct claims for the propagating material (claim 13), e.g. seed (claim 14), produced by such a process. In the decision it is stated that the propagating material is not a special plant variety with largely the same characteristics and thus nothing is protected that could also be protected by UPOV protection.

The Supreme Court of the Federal Republic of Germany has in its Rote Taube decision defined "technical" as being "methodically utilized controllable natural forces to achieve a causal, perceivable result"<sup>16</sup>.

The important borderline must, according to the view of the Patent Office, be drawn between crossing and selection where chance plays an important part

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<sup>12</sup> Op. cit., footnote 3 supra.

<sup>13</sup> M. Jacobsson, E. Tersmeden, L. Törnroth - Patentlagstiftningen - en kommentar, 1980 Norstedt & söners förlag, Lund. p. 59.

<sup>14</sup> Op. cit., footnote 3 supra.

<sup>15</sup> Official Journal EPO 3/1984 p. 112

<sup>16</sup> Op. cit., footnote 5 supra.

on one hand, and such genetic engineering processes which are based on technical intervention by man on the one hand and are reproducible on the other<sup>17</sup>.

The Term Microorganism.- The problem of what to include in the term "microorganism" has been difficult to solve. An argument for a broad interpretation of the term is that sometimes a deposit under the Budapest Treaty is the only way to obtain a reproducible invention. There is no possibility, according to our present legislation, to allow a deposit of anything but a microorganism to compensate for a written description with a defective characterization. Since a deposit is not necessary if a reproducible disclosure can be made in writing, a possibility of making a deposit of something which is impossible to describe in words would be of great advantage. The term is being discussed within the above-mentioned WIPO Committee. Attempts to reach a united view were made in vain during the preparatory work for the Budapest Treaty. In the preparatory documents to the Budapest Treaty (DMO/III/15, p.4) were listed e.g. viruses, some algae, protozoa, cells derived from the bodies or the embryos of higher organisms maintained and propagated in undifferentiated form in artificial culture, e.g. cell lines.<sup>17</sup>

It was decided that the term "should be interpreted in the broadest sense taking into account the purposes of the Treaty; such interpretation need not necessarily correspond to usage in some scientific circles." As can be seen from the observation to article 2 in the Records of the Diplomatic Conference 1977 this wording was introduced in the said observation together with a statement that "it includes all microorganisms which can be stored by a depositary institution."

The regulations of the Swedish Patent Office are worded in accordance with the result that was attained at the Budapest Conference. As examples in the regulations, the above-mentioned listing of the preparatory documents is given. Moreover, since 1983, plasmids are added to the examples, considering this being in accordance with EPO guidelines. Although plasmids and even viruses are not in all scientific circles considered to be microorganisms, microbiological experts I have consulted find it reasonable to include plasmids in the term in the context used, bearing in mind the necessary self-replication, which is also a prerequisite for the viability test of a Budapest Treaty deposit. Plasmids without a host (and cell cultures) are accepted by depositary institutions as Budapest Treaty deposits.

I think there are two alternative solutions to the problem of making as many inventions as possible reproducible. One is to amend the Budapest Treaty to expressly include also other living entities than those considered to be what is a microorganism in the strictest interpretation of the word. That was a suggested alternative at the WIPO Meeting in November 1984. This alternative would also make it possible to include other biochemical macromolecular products which are difficult to characterize.<sup>18</sup> The other is to continue with a broad interpretation which the Budapest Treaty makes possible. Many countries already seem to choose the last-mentioned way. In the EPO the limitation to "non-differentiated" plant or animal cells seems not to exist as seen from an article<sup>19</sup> by Cadman, as Chairman of a Board of Appeal of the European Patent Office. Such an interpretation would necessitate industrial applicability in the cell form and not in the form of a plant. The original reason for this limitation was, according to my information, to ensure avoiding conflict with the UPOV protection at a point of the scientific development when differentiated cells stable for 30 years hardly existed.

Derived Culture.- To give an exact interpretation of the concept "derived culture which has retained the characteristics essential for working the invention" is not possible as that would decide once and for all the scope of the protection. That scope must be decided case by case and, as always, vary depending upon the unpredictability of the technology.

<sup>17</sup> Op. cit., footnote 3 supra.

<sup>18</sup> NIR 1978 Häfte 4 Lommi, Waller, Assarsson Komplikationer vid patentskyddet för kemiska produkter, p. 385.

<sup>19</sup> GRUR Int. 1985, Heft 4, pp. 242-245.

Scope of Protection.- The scope of protection within new technical fields is less settled than in old ones. Decisions would not be improved by another form of protection--but by international discussions. If the scope of the protection is too narrow, the filing of applications right now is discouraged, and if the scope of the protection is too broad, future innovation is discouraged. That holds for all types of protection and the non-existence of a protection is the ultimate limit of a narrow scope.

Disclosure.- The deposit is part of the description and thus replaces part of a written description. Compare with what has been said above about reproducibility. The only specific requirement concerning the written part is given in Section 17 of the Swedish Patent Decree according to which the applicant is required to state all relevant information as is available. The same wording appears in Rule 28 of EPC and in the USPTO Manual of Patent Examining Procedure. Of course also the grounds for fulfilling the patentability requirements of novelty, inventive step and industrial application have to be given, i.e. a rather extensive characterization.

A deposit is only necessary when a reproducible written description is not possible. An applicant avoids making a deposit if that is possible. However, he has no reason to avoid making a written description if a deposit has been made. If he is interested in his invention he has another sample to make a new deposit when needed and would probably gain nothing by making a new deposit which is different from the original.

At the Nordic meeting for patent office employees in Oslo in 1985, Mr. C.-O. Gustafsson, a senior examiner, suggested that Budapest International Depositary Authorities should keep the dead microorganism and compare its DNA structure to that of the new deposited microorganism by hybridizing analyses possibly in combination with a detailed comparison of the surface structure by way of monoclonal antibodies. In that way uncertainty about identity could be set aside.

A product can rarely be characterized solely by its being producible in a given way. Moreover, as Mr. Oredsson states, "if the claim contains parameters, which in themselves define the product to the required degree, it does not need to be disclosed in the claim how the product has been produced." However, in a practical case the combination of insufficient parameters and the process by which the product is producible would according to the Swedish Patent Office and the European Patent Office constitute a distinct characterization and the grounds for an absolute protection.<sup>20</sup>

In this connection I want to comment on a related subject raised by Mr. Straus.<sup>21</sup> When is a deposited microorganism included in the state of the art? He states "It is believed, however, that following the decisions of the American courts, a deposit in the American Type Culture Collection would be effective as a reference at least from the date it was listed in the American Type Culture Collection Catalogue or referenced in the literature." He asks for a harmonized solution. A listing in literature together with a necessary statement in some form that the strain is publicly available would as I see it certainly make it state of the art. A deposit mentioned in a Swedish patent application would be part of the state of the art in the same way as the rest of the application.

Isolated Microorganisms.- Mr. Oredsson states that the Chakrabarty case does not concern a biologically pure culture isolated from an impure state in nature, as does the Bergy case which was withdrawn purposefully to avoid decision against such cultures. However, since that withdrawal, another US decision by the Board of Appeals in Ex parte Jackson 1982 decided that three deposited specific strains of *Micromonospora pilosospora* isolated from nature or mutants thereof were patentable per se.<sup>22</sup>

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<sup>20</sup> EPO Guidelines Part C, Chapter III, 4.7(b).

<sup>21</sup> Op. cit., footnote 5 supra, p. 81.

<sup>22</sup> 217 USPQ 804 (PTO Bd. App. 1982).



In this connection I would like to add the following concerning the difference between a non-patentable discovery and a patentable invention. In the EPO Guidelines Part C Chapter IV 2.1 it is stated: "If a man finds out a new property of a known material or article, that is mere discovery and unpatentable. If however a man puts that property to practical use he has made an invention which may be patentable." The same chapter (IV 2.1) states "To find a substance freely occurring in nature is also mere discovery and therefore unpatentable. However, if a substance found in nature has first to be isolated from its surroundings and a process for obtaining it is developed, that process is patentable. Moreover, if the substance can be properly characterized (...) and if it is new in the absolute sense of having no previously recognized existence then the substance per se may be patentable."

A microorganism which is found in nature but not in a form capable of producing valuable industrial results should in principle be patentable in analogy with other natural products when in their purified industrially usable state, and fulfilling other general patentability requirements. This has been the practice in the Swedish Patent Office since the above-mentioned Nordic meeting on practice in 1981.

Such is also the case in Japan, Denmark, the United Kingdom, the United States of America, the Federal Republic of Germany, France, Finland, Canada and the Netherlands.<sup>23</sup>

Expert Solution.- Sweden was opposed to the introduction of the expert solution in Rule 28 of the EPC by which samples are only available to the public through an expert from the 18 months' publication to the patenting (which in Sweden with its opposition procedure taking place before granting corresponds to laying open for inspection) or to a final decision which is earlier than the European patenting or the Swedish equivalent. It was decided to review the solution after a certain period and Sweden made the same introduction partly because those interested in it could obtain it via EPO and partly to gain some experience on its use until the reevaluation. This is the only point in the biotechnological EPO legislation where the harmonization has been made with hesitation. However, it has not yet been used in Sweden and very little in the EPO. The ATCC representative at the WIPO November 1984 meeting mentioned the existence of very few expert requests. It has been or is being introduced in the other Nordic countries together with the introduction of the requirement of deposit of microorganisms (Denmark July 1, 1985, Finland September 1, 1985, and Norway January 1, 1986). Just as in the above-mentioned legislations it is optional in France, but in Italy it is compulsory. Moreover in Italy the expert solution lasts for the entire life of the patent.<sup>24</sup>

However, the expert solution is of minimal importance as long as there is one important country without it, as long as that country gives public availability to samples after 18 months and has not adhered to the EPC. Through that country a sample can be obtained without an expert.

Patentability in New Fields of Biotechnology.- As biotechnology develops very fast, decisions on what is patentable cannot, even internationally, be decided once and for all. One very good clue should be that what fulfills general patentability requirements--including the requirement of reproducibility--has a very good chance of obtaining patent protection. In a case where patentability requirements cannot be fulfilled, of course there always exists the possibility to spread information freely, e.g. in the form of articles in scientific journals.

Use of Plants.- At the Nordic meeting for patent office employees in May 1985 the question was raised on the requirement of reproducibility of plants when the protection applied for is not the plant variety but the industrial production of something where a plant is used. The example given was the use of a certain barley variety, or barley with a certain gene, for beer production. If the barley variety is known and is deposited for a sufficiently long period at an internationally recognized institution at the latest the same day the application was filed and is publicly available, should that be necessary, and

<sup>23</sup> Op. cit., footnote 5 supra, p. 50.

<sup>24</sup> Op. cit., footnote 10 supra, p. 372.

could it be valued in a way which corresponds to a Budapest Treaty deposit? The question will be further discussed and seems also worthy of an international discussion. Would an amended legislation be necessary?

Animal Production.- Methods of selecting animals to improve the stock have been known for a long time. Breeding has during the last three decades become more scientific and more reproducible, e.g. through the use of deep frozen sperm from bulls, boars and rams in artificial insemination<sup>25</sup>. Moreover a system of transferring embryos of cattle, developed in a cow stimulated with hormones to produce up to 10 fertile eggs, to surrogate cow mothers has been developed<sup>26</sup>. However, in this way the reproducibility necessary to obtain patent protection seems not yet to exist.

In the United Kingdom the General Comptroller of Patents has decided that a certain surgical method for the transfer of embryos should be prohibited because of the exclusion from patentability of methods for the surgical treatment of the human or animal body.<sup>27</sup> Confer, however, paragraph 23 of the "Minutes of the Munich Diplomatic Conference" 1973, page 28, which reads: "... the Main Committee endorsed the United Kingdom delegation's interpretation of the text ... whereby 'treatment of the animal body by therapy' means the treatment of illness or disease and not, for example, treatment effected with a view to increasing the quantity of the production of an animal product." This was cited also in the above-mentioned decision, but not considered to concern the same type of method.

The reproducibility of genetic engineering processes in the field of animals will be possible to obtain some time in the future. The question is, whether now is the time to consider an amendment of the exclusion for animal breeds. For such animals where no ethical ground for exclusion exists, a patent protection does not seem impossible, especially as no other form of protection exists. At present there exist patents of the type shown in SE, B, 7609986-0 including treatment with a certain chemical to diminish the population of rats or mice. A method is known<sup>28</sup> by Brinster and Palmiter whereby a structural gene for growth hormone has been taken from a rat, combined with a promoter/regulator gene from mice, put in a plasmid, micro-injected into a fertilized mouse egg and eventually expressed in the hereditary material of a certain percentage of the fully matured mice individuals.

Conclusion.- The science of biotechnology is in rapid progress.. This brings about a need for an internationally harmonized view of how to treat the new inventions. Such a view is developing in the Committee convened by WIPO. There are some problems to solve, but solving them does not seem impossible. Any other form of protection would bring about much the same problems, among others ethical problems and problems of borderlines or overlapping between forms of protection.

One drawback with all systems for protection is that information about them in society has not been spread widely enough. That is something we at the Patent Office are trying to correct. We also welcome opinions and information from those interested in the field.

In the Swedish Patent Office we have developed an approach which is expressed in the Regulations and in Circular 14. The practice developed in the Office is harmonized with the European practice and it has not been contested in appeals to the Swedish Court of Patent Appeals. As the stress from all interested parties is on an internationally harmonized practice, the Swedish Patent Office has chosen a solution which is believed to benefit inventors now, while it at the same time has the possibility to be valid internationally in the future.

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<sup>25</sup> Djupfrysning av galtsperma - forskning och framtida användning, Lantmannen 97 (1976); 10 p. 33.

<sup>26</sup> Op. cit., footnote 5 supra, pp. 12 and 19.

<sup>27</sup> Op. cit., footnote 5 supra, p. 76. See also IIC, Vol. 16, No 2/1985, pp. 216-221, and EPC Guidelines C IV 4,3.

<sup>28</sup> Cf. SBF-nytt (Informationsorgan för Stiftelsen för Biotechnisk Forskning) 29, April 1985, Lund, Liljedahl, Bioteknik inom husdjursförädlungen, p. 61.

## Biological Inventions and Swedish Patent Legislation. - II

Tore Oredsson\*

My article in Plant Variety Protection No. 48 with the same title as above caused Mr. L. Björklund, Head of the Patent Department, and Mrs. R. Walles, Head of Division, both in the Swedish Patent Office, to some brief observations (pp.64-65). In this issue Mrs. R. Walles is giving a detailed commentary (pp. 32-39). I welcome an open and free debate on these questions.

To begin with, here are some comments on the origin and the publication of my first article. In 1982, the Swedish Government appointed a committee, the Committee on Genetic Ethics, to make an inquiry into ethical, humanitarian and social issues, arising from the use of genetic engineering (recombinant DNA techniques). On the initiative of the committee, the inquiry involved a discussion of the patentability of microorganisms genetically altered by recombinant DNA techniques. The committee included experts from various fields of science and society: the chairman was a lawyer and the secretary a biologist. I was commissioned by that committee to write an article on "Biological Inventions and Swedish Patent Legislation."

The committee published at the end of November 1984 its report "Genetisk integritet" (SOU 1984:88). The report includes the main part of my article, Attachment 5, and the proposal of the committee concerning a review of the Swedish legislation in this field (p. 187-188). At the end of the Attachment (p. 273) it is stated that it is a part of an article to be published in Industrial Property in 1985. WIPO's intention to publish my article in the February 1985 issue of "Industrial Property/La propriété industrielle" was namely confirmed in a letter of October 29, 1984. In February 1985, however, I received a telegram from WIPO dated February 4, stating that publication of the article was not possible. The reasons for this were, according to WIPO, of "an administrative nature." In this situation I immediately contacted the editor of NIR and asked him to publish my article, which occurred in due time. May I here express my great respect for the correct handling by the editor of this publication matter.

In its report the Committee on Genetic Ethics makes the following statement (p. 187-188): "When the committee has studied Oredsson's report it has struck the committee how little adjusted the terminology in the Patents Act is when applied to the development within the area of biological research over the past few decades. From the point of view of biotechnology it appears to be very unfortunate that the legal text contains such obsolete concepts as 'microbiological process and products of such a process' and that 'microorganisms' are not even mentioned.

To a certain extent it might be possible to adjust the inadvertences of the legal text by the use of teleological interpretation methods, but such methods also have their limits. The committee is hesitant as to whether it is possible to achieve results that would best benefit the areas of research and inventions by the application of the law. Besides this, if it is left to the application of the law to solve the problems it can take a great deal of time prior to any guiding precedent being created. Meanwhile the inventors will find themselves in a state of insecurity resulting in difficulties about how to best protect their inventions. The committee has therefore concluded that a committee as soon as possible should be appointed to make an investigation of the requirements for patentability in the Patents Act regarding biological inventions. Preferably these matters should be investigated on an international level as the present requirements for patentability have been derived from an international convention and it would be out of place for Sweden to introduce its own regulations especially after having joined the European Patent Convention. The committee is of the opinion that the committee ought not to make a concrete suggestion in this regard, but would like to emphasize the concern that the initiative be taken to make those changes to the Patents Act which the achievements in the field of biological research naturally would call for."

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\* Chairman, Chemical Division, Court of Patent Appeals, Stockholm.

When the report was circulated to the bodies concerned the proposal for a committee for examining the Swedish legislation in this field was supported by several institutions.<sup>1</sup>

The Swedish University of Agricultural Sciences "emphasizes strongly the necessity of such an investigation being realized without delay, and points out that the investigation must be carried out with regard to the developments on an international level, but not only by Sweden passively following these developments. The investigation cannot only consider the gene technology in the legislation, but must include a thorough inspection of the terminology and the definitions connected with patent legislation of biological organisms. It must be based on biological knowledge and not only try to translate previous technically based requirements for patentability. Such prior attempts have resulted in confusion and impossible consequences in our present regulations. The obscurity in the present patent legislation concerns among other things the following: How does one define plants, plant cells, microorganisms, bacteria, viruses, viroids, chromosomes, DNA sequences and plasmids in the patent legislation? Should the concept 'microorganism' include 'non-differentiated plant and animal cells (cell lines)', would the result be that the one genome, as long as it is found in a non-differentiated cell culture, could be exposed to patentable treatment for the purpose of plant breeding, while a plant breeding procedure is not patentable (the patentable treatment is without doubt a plant breeding procedure, can lead to the same result as a sexual plant breeding procedure)? Principally plant cells are considered totipotent, i.e. they can be regenerated to whole plants with the same genome as the individual cell. Consequently, when the cell has become a plant it is possible to protect the plant by the plant breeders' right. Further complications arise when transferring genes between microorganisms, plant cells-plants-animal cells, but the absurdity in the interpretation of the concept of microorganisms from a plant breeding point of view ought to be sufficient to justify an investigation of the patent legislation and the plant breeders' right. It is important that those involved with research aimed at benefitting the developing countries also are given the opportunity of participating in such an investigation."

The Swedish Court of Patent Appeals recalls its statement on the Patent Policy Committee Report: "International Patent Cooperation III" (SOU 1981: 21)<sup>2</sup> and "argues that the terminology in the Patents Act is extremely out of date and that it is likely, concurrently with the development in this area, to create considerable interpretation difficulties. The Court emphasizes that guiding administrative practice in individual matters is not established until long after they have been brought to the fore through the patent application. Furthermore a judicial re-examination in a court of general jurisdiction can result in the fact that the judgement of the Patent Authority or in certain cases the Administrative Courts is relinquished. Against this background, according to the Court of Patent Appeals, it appears unlikely that the present obscurities and shortcomings of the legislation will reach a satisfactory solution within a reasonable period of time through practice. The obscurities, that exist regarding the patentability, are likely to obstruct the free exchange of research results and have therefore serious effects on research and development within the field of biotechnology. An inspection of the requirements for patentability in the Patents Act for biotechnical inventions is therefore necessary. The present patent system is primarily intended for the protection of technical improvements where natural forces and non-living materia combine. Improvements where natural forces and living materia combine are considered to fall outside the patentable area with the exception of culturing and fermenting processes and other similar processes where microorganisms are used (in the rendering of the Patents Act: 'microbiological processes') which processes are considered patentable. The Court has in its previously mentioned statement questioned the accuracy of utilizing the patent system for further technique where living material is used. Thus the Court emphasized that the new gene technology makes it possible to--at least in principle--bring about previously determined changes to the hereditary material

<sup>1</sup> e.g. the National Bacteriological Laboratory, the University of Stockholm, the Board of the Faculty of Law, the National Recombinant DNA Advisory Committee, the National Board of Occupational Safety and Health, the Swedish University of Agricultural Sciences, the Swedish Agency For Research Cooperation With Developing Countries, the Swedish Medical Association and the Swedish Court of Patent Appeals.

<sup>2</sup> Cf. Plant Variety Protection No. 48, p. 42, last paragraph, and 43, first paragraph.

amongst living organisms in contrast to the former technique by mutation developing means. These new methods could according to the Court be compared with those 'essentially biological processes for producing plants or animals', which are excluded from patentability. In the plant breeders' right--with consideration to the importance placed on having the new plant breeding methods at general disposal as soon as possible--the methods for the refinement process have been excluded from civil law protection. As the Court emphasized in the previously mentioned statement, the same reasons that were given to exclude methods, which primarily are aimed to change the hereditary material in plants from civil law protection, can be given regarding the new methods of gene technology. Bearing in mind the considerable development potential of the gene technology the Court considers, however, that the industrial application of this technique ought to be supported in a rational way and that--from this point of view--some form of suitably formulated civil law protection might be considered. An investigation of pertinent questions appears even more urgent now against the background of the international discussion about forms of protection for biotechnical inventions that has started. To sum up the Court agrees with the conception of the Committee regarding the urgency of an inspection of the Patents Act as far as biotechnical inventions are concerned. The Court recommends however that such an inspection be preceded by considerations regarding the need of delimitation between, on the one hand, those inventions which on the whole ought to be given civil law protection and, on the other hand, those where there may be reasons for them to be kept completely outside such a protection and also the need for a new form of protection in the field of biotechnology. The investigation ought to, as the Committee recommends, be carried out with the aim of a broad international solution of the problems."

In the light of these statements the grounds for the positive view, that Mrs. Waller, who seems to speak on behalf of the Swedish Patent Office, presents in her comments, seem not too convincing. Thus, apparently the view that she expresses does not correspond very well with the clear standpoint taken by the Court of Patent Appeals. To suggest a three-year prosecution time for patent applications in the Patent Office and increased dissemination of information therefrom in order that the patent system shall offer a suitable form of protection for progress in the fast expanding field of biotechnology, appears as somewhat inconsistent and out-of-way in the light of the extremely slow formation of practice in these matters. Reference to resolutions from, or viewpoints of, "interested circles," in whatever shape they may appear (e.g. AIPPI) cannot and shall not alone be decisive for the construction of the industrial property right in the biological field. Also other interests (interest of universities and research institutions, of the developing countries, of the "consumers," etc.) have to be seriously considered.

Mrs. Waller refers to a paper prepared by Dr. J. Straus at the request of WIPO<sup>3</sup>. This comprehensive paper, however, does not seem to improve the understanding of the concepts in the biological field. On the one hand (p. 7, paragraph 6(a)) Straus states that the term "biological material" includes animal and plant cells, animal and plant cell lines, enzymes, plasmids and viruses (it is unclear if Straus considers these examples as "living entities" or not), on the other hand he enumerates (p. 8, paragraph 7(a)) "living entities ... such as animals, plants and microorganisms, biological material, such as plasmids, viruses and replicons, and parts thereof, such as organs, tissues, cells and organelles" or (p. 44, paragraph 34) "plants, animals, microorganisms and other biological material and parts thereof." It is not unimportant to know where the borderline between living organisms such as animals and plants and non-living material such as enzymes, and between different kinds of living organisms, goes; cf. Plant Variety Protection No. 48, pp. 50-53. This obscurity also makes the subject of the WIPO and Straus study cloudy, since--according to document BioT/CE/1/3, paragraphs 22 and 23--all technological developments, concerning organisms (which include animals, plants and microorganisms) and other biological material, are to be covered (pp. 7-9).

Mrs. Waller refers further to the famous "Red Dove" decision, to which German speakers and writers so often return as "a milestone in the history of patent protection of biotechnological inventions," and gives the impression that apart from the problem of reproducibility such a method for breeding a dove with red plumage should be patentable, whether the patent law has an

<sup>3</sup> WIPO BIG/281, July 1985.

exclusion from patentability of essentially biological processes for the production of animals or not. My opinion is that what is regarded as patentable according to applicable law should not be expanded so drastically in time with progress in science and technology without explicit decision or consent by Parliament.

Mrs. Walles seems still to consider--contrary to my opinion--the requirement of a clear description according to section 8 in the Patents Act fulfilled solely by the deposit of a microorganism. No description of a kind asked for in section 8 is necessary. I recommend Mrs. Walles once again to read the part in my earlier article designated "the importance of the description in the specification in conjunction with biological inventions"<sup>4</sup> and to study the decisions in this field by the Court of Patent Appeals, some of which have also been confirmed by the Administrative Supreme Court.<sup>5</sup>

The limited space given to me and the short time available to comment upon Mrs. Walles' article does not permit me to discuss the different minor items or viewpoints in her paper, even though she seems to have misunderstood certain parts of my article.

The Standing Committee on Legislation of the Parliament has emphasized<sup>6</sup> that the reason for plant breeding having been given a special form of protection was that in the Nordic countries it had not been considered that the patent rules should be applied in the case of living matter. The Patents Act was, according to the Committee, not designed with a view to inventions in "the microbiological field." If patent law is to apply to such inventions a large number of problems will occur requiring special solutions, not compatible with the basic ideas in the patent system.

An unbiased review of the suitability and framing of an industrial property right protection for biological inventions is therefore very urgent.

Such a review is important with regard to the investigations and discussions which at present are going on within OECD, EEC and WIPO. It is necessary that a Swedish standpoint, thoroughly considered, confirmed by discussions between experts not least in plant and animal breeding, microbiology, molecular biology, virology and industrial property rights, can be presented in this complicated technical (biological) field at these international discussions, particularly the discussions in WIPO.

Parliament has the opportunity to initiate such a review by approving motion 1984/85:841.

<sup>4</sup> Plant variety Protection No. 48, pp. 53-55.

<sup>5</sup> The patent applications 15 308/69, 16 023/70, 5873/72, 16 053/72 and 7611201-0.

<sup>6</sup> LU 1982/83:3 (p.6)

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 CALENDAR
 

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UPOV Meetings

April 15	Consultative Committee
April 16 and 17	Administrative and Legal Committee
April 18	Information Meeting on Variety Denominations
May 21 to 23 Hanover (Federal Republic of Germany)	Technical Working Party on Automation and Computer Programs
May 27 to 29 Pontecagnano-Salerno (Italy)	Technical Working Party for Vegetables (Subgroup on May 26)
June 4 to 6 Dublin (Ireland)	Technical Working Party for Agricultural Crops (Subgroup on June 3)
July 16 to 18 Wageningen (Netherlands)	Technical Working Party for Ornamental Plants and Forest Trees (Subgroup on July 15)
September 17 to 19 Wädenswil (Switzerland)	Technical Working Party for Fruit Crops (Subgroup on September 15 and 16)
November 18 and 19	Administrative and Legal Committee
November 20 and 21	Technical Committee
December 1 Paris (France)	Consultative Committee
December 2 to 5 Paris (France)	Council (and Symposium at the occasion of the celebration of the 25 <sup>th</sup> anniversary of the signing of the UPOV Convention)

Meetings of Other International Organizations

May 24 to 28 San Francisco (United States of America)	FIS World Congress
May 28 to 30 San Francisco (United States of America)	ASSINSEL World Congress

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The International Union for the Protection of New Varieties of Plants (UPOV)--an international organization established by the International Convention for the Protection of New Varieties of Plants--is the international forum for States interested in plant variety protection. Its main objective is to promote the protection of the interests of plant breeders--for their benefit and for the benefit of agriculture and thus also of the community at large--in accordance with uniform and clearly defined principles.

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