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UPOV

PLANT VARIETY PROTECTION

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

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GAZETTE

ACCESSION TO THE 1978 ACT OF THE UPOV CONVENTION

Czech and Slovak Federal Republic

On November 4, 1991, the Czech and Slovak Federal Republic deposited its instrument of accession to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised in Geneva on November 10, 1972, and on October 23, 1978, with the Secretary-General of UPOV. The Act of 1978 of the Convention thus entered into force for the Czech and Slovak Federal Republic on December 4, 1991. On that date, the Czech and Slovak Federal Republic became the twenty-first member State of UPOV and the nineteenth State bound by the Act of 1978.

It is to be noted that the Law on the Legal Protection of the Varieties of Plants and Breeds of Animals and the Decree of the Federal Ministry of Agriculture and Food concerning the implementation of the Law were published in the "Legislation" subsection of the 64th issue.

NEWSLETTER

MEMBER STATES

**Czech and Slovak Federal Republic: Appointment
of Representatives to the Council**

Mr. Ivan Branzovsky, Head of Department for the International Cooperation, Division for Agriculture and Food, Ministry of Economy, Prague, and Mr. Zdenek Venera, Minister-Counsellor, Permanent Mission of the Czech and Slovak Federal Republic, Geneva, have been appointed as representative and alternate representative, respectively, to the Council of UPOV.

Hungary: Change of Representatives to the Council

Mr. Károly Neszmélyi, Director General of the Institute for Agricultural Quality Control, has been appointed representative to the Council, replacing Dr. B. Salóczy. His alternate is Mr. Gusztáv Vékás, Vice-President of the National Office of Inventions.

Ireland: Change of Representative to the Council

Mr. John V. Carvill has been appointed Controller of the Plant Breeders' Rights, Department of Agriculture and Food and representative to the Council, replacing Mr. J.K. O'Donohoe.

Japan: Change of Representative to the Council

Mr. Koji Mino has been appointed Director of the Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries, and representative to the Council, replacing Mr. Yoshio Kobayashi.

Czech and Slovak Federal Republic: Tariff of Fees

The fees for the protection of new plant varieties in the Czech and Slovak Federal Republic are as listed below (in Czech Crowns (Kc)):

1. Administrative fees

a)	Application fee	500
b)	Renewal fees	
	- for the first 5 years (payable before the granting of the Breeders' Certificate)	3,000
	- for the following 3 years	2,000
	- for each subsequent year	800
c)	Transfer of the Breeders' Certificate	400
d)	Cancellation of the Breeders' Certificate	300

2. Examination fees

	Crop groups*	
a)	For each year of test	
	1	4,000
	2 and 3	2,500
	4	1,600
b)	Verification test (if required)	5,000
c)	Assumption of the results from own previous tests	1,000
d)	Purchase of a report from abroad	full cost

*** Crop Groups:**

1. Wheat, Barley, Oats, Rye, Triticale, Potato, Sugar Beet, Fodder Beet, Oilseed Rape, Maize;
2. Durum Wheat, Red Clover, White Clover, Alsike Clover, Lucerne, Timothy, Italian Ryegrass, Westerwold Ryegrass, Hybrid Ryegrass, Perennial Ryegrass, Tall Fescue, Meadow Fescue, Ryegrass x Fescue hybrids, Kentucky Bluegrass, Cocksfoot, Pea, Field Pea, Broad Bean, Common Vetch, French Bean (Field and Garden), Lentil, Soybean, Sunflower, Opium Poppy, White Mustard, Flax;
3. Bird's Foot Trefoil, Kidney Vetch, Sainfoin, Red Fescue, Sheep's Fescue, Wood Meadow-grass, Tufted Hairgrass, Tall Oatgrass, Common Bent, Creeping Bent, Crested Dog's-tail, Scorpion Weed, Fodder Kale, Hop, Vine, Hemp, Tobacco, Cucumber, Tomato, Sweet Pepper, other field crops (not mentioned above);
4. Kohlrabi, Cabbage, Savoy Cabbage, Brussels Sprouts, Cauliflower, Radish, Black Radish, Turnip, Head Lettuce, Spinach, Carrot, Celery, Onion, Garlic, Watermelon, Melon, Pumpkin, other vegetables (not mentioned above), fruits, medicinal and aromatical plants, flowers and decoratives.

Japan: Tariff of Fees

As of December 1, 1991, the tariff of fees in Japan is as follows:

- 1) **Application fee.** 35,000 Yen per variety including examination fees.
- 2) **Annual renewal fees.**

4,500 Yen per year for the 1st to 3rd year;
7,000 Yen per year for the 4th to 6th year;
14,000 Yen per year for the 7th to 9th year;
28,000 Yen per year for the 10th to 12th year;
56,000 Yen per year for the 13th to 18th year.

UPOV

The International Union for the Protection of New Varieties of Plants in 1990 and the first nine months of 1991*

COMPOSITION OF THE UNION

On February 4, 1991, Canada deposited its instrument of ratification of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978 ("Act of 1978"). The Act of 1978 entered into force with respect to Canada on March 4, 1991.

As from the latter date, the Union comprised 20 member States: Australia, Belgium, Canada, Denmark, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Poland, South Africa, Spain, Sweden, Switzerland, United Kingdom and United States of America. They are all party to the Act of 1978, except Belgium and Spain, which are party to the Act of 1961 as amended by the Additional Act of 1972.

Pursuant to Article 32(3) of the Act of 1978, "any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act." The Government of Czechoslovakia asked for such advice by letter of January 31, 1990. The Council met in extraordinary session (its ninth) on April 27, 1990, under the chairmanship of Mr. W.F.S. Duffhues (Netherlands) to consider that request; it unanimously decided to give a positive advice on conformity.**

The table on pages 18 to 20 summarizes the position of the various States as regards the various Acts of the Convention, as of December 4, 1991.

* This item reproduces the substance of the Report of the Secretary-General of UPOV to the twenty-fifth ordinary session of the Council of UPOV held in Geneva on October 24 and 25, 1991

** The Governments of Argentina and Uruguay also asked for such advice in Autumn 1991. The Council considered their requests at its session of October 1991 and unanimously decided to give a positive advice on conformity.

SESSIONS OF THE COUNCIL, THE COMMITTEES AND THE WORKING PARTIES

During 1990 and the first nine months of 1991, the various bodies of UPOV met as described below. Unless otherwise specified, the sessions took place at Geneva.

Council.- The Council held its ninth extraordinary session on April 27, 1990 (see above).

The Council held its twenty-fourth ordinary session on October 18 and 19, 1990, under the chairmanship of Mr. W.F.S. Duffhues (Netherlands). This session was attended by observers from nine non-member States,¹ four inter-governmental organizations² and six international non-governmental organizations.³

At that session, the Council took the following main decisions:

(i) It approved the Secretary-General's report on the activities of the Union in 1989 and the first nine months of 1990.

(ii) It approved the Secretary-General's report on his management during the 1988-1989 biennium and on the financial situation of the Union as at December 31, 1989, and accepted the report on the auditing of the accounts for the above-mentioned period.

(iii) It took the necessary measures for the holding of a Diplomatic Conference for the revision of the UPOV Convention from March 4 to 19, 1991.

(iv) It approved the progress reports on the work of its various subsidiary bodies and drew up or approved plans for their work in the year ahead.

(v) It adopted a declaration of recognition of the competence of the Administrative Tribunal of the International Labour Organisation (ILO) to hear complaints filed against UPOV by its staff members.

(vi) It elected the new Chairmen of four Technical Working Parties for a term of three years expiring at the end of the twenty-seventh ordinary session of the Council, in 1993:

Technical Working Party on Automation and Computer Programs:
Mr. K. Kristensen (Denmark);

Technical Working Party for Fruit Crops: Mr. B. Spellerberg (Germany);

Technical Working Party for Ornamental Plants and Forest Trees:
Mrs. E. Buitendag (South Africa);

¹ Argentina, Bolivia, Bulgaria, Czechoslovakia, Egypt, India, Morocco, Portugal, Venezuela.

² Food and Agriculture Organization of the United Nations (FAO), European Communities (EC), European Patent Organisation (EPO), Organisation for Economic Co-operation and Development (OECD).

³ International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), Association of Plant Breeders of the European Economic Community (COMASSO), Seed-Committee of the Common Market (COSEMCO), International Federation of the Seed Trade (FIS), Union of European Practitioners in Industrial Property (UPEPI).

Technical Working Party for Vegetables: Mr. N.P.A. van Marrewijk (Netherlands).

(vii) It decided to extend the term of office of Mr. M.S. Camlin (United Kingdom) as Chairman of the Technical Working Party for Agricultural Crops by one year so as to have it end at the above-mentioned date.

Consultative Committee.- The Consultative Committee held its forty-first session on April 27, 1990, its forty-second session on October 17, 1990, and its forty-third session on March 18, 1991, under the chairmanship of Mr. W.F.S Duffhues (Netherlands).

Discussions at the forty-first session were mainly devoted to questions in relation to the revision of the UPOV Convention, reconsideration of the list of organizations invited to UPOV meetings, and an exchange of views on the preparation of UPOV seminars (see below). The forty-second session was mainly devoted to preparing the twenty-fourth ordinary session of the Council, especially regarding the revision of the UPOV Convention, and to a first debate on the policy of UPOV in its relations with developing countries. During the forty-third session the Committee mainly discussed the policy of UPOV in its relations with developing countries and decided on an extension of the list of organizations invited to ordinary sessions of the Council.

Administrative and Legal Committee.- The Administrative and Legal Committee held three sessions, under the chairmanship of Mr. J.-F. Prevel (France), as follows (the observer States and organizations having participated in each session are indicated in brackets):

i) its twenty-sixth session from April 23 to 26, 1990 (Argentina, Bulgaria, Finland, Norway, Turkey, World Intellectual Property Organization (WIPO), EC, European Free Trade Association (EFTA), EPO);

ii) its twenty-seventh session from June 25 to 29, 1990 (Finland, EC, EPO);

iii) its twenty-eighth session from October 12 to 16, 1990 (Argentina, Austria, Bulgaria, Canada, Finland, Norway, WIPO, EC, EPO).

The Committee devoted those sessions almost entirely to the revision of the Convention.

Technical Committee.- The Technical Committee held its twenty-sixth session on October 11 and 12, 1990, under the chairmanship of Mr. G. Fuchs (Germany).

On the basis of the preparatory work carried out by the Technical Working Parties, the Technical Committee adopted Test Guidelines for the following 15 taxa (the asterisk denotes a revised version): Asparagus; Bent*; Brussels Sprouts*; Carnation*; Carrot*; Kentucky Bluegrass (Smooth-Stalked Meadow Grass)*; Lachenalia; Leucadendron; Leucospermum; Ornithogalum; Red and White Currant*; Rose*; Ryegrass*; Safflower; Spathiphyllum.

The Committee considered the progress reports on the work of the Technical Working Parties and defined the main features of their future work. It also examined the matters raised by those organs on the basis of the experience gained by the member States in carrying out the examination for distinctness, homogeneity and stability of new plant varieties.

Furthermore, as regards fodder grasses for the time being and, where also possible, other cross-pollinated agricultural crops, the Committee decided on the principle of the replacement of the present method of examination for homogeneity, in which data are analyzed separately for each vegetation period, by the Combined Over-Years Uniformity Analysis (COYU).

Technical Working Parties.— The Technical Working Parties each held one session in 1990 and one session in 1991, outside Geneva, as follows:

(i) The Technical Working Party for Agricultural Crops (TWA) held its nineteenth session from May 15 to 17, 1990, in Wageningen (Netherlands), and its twentieth session from May 13 to 17, 1991, in Beltsville, Maryland, United States of America, under the chairmanship of Mr. D.S. Camlin (United Kingdom).

(ii) The Technical Working Party on Automation and Computer Programs (TWC) held its eighth session from June 6 to 8, 1990, in Belfast (Ireland), and its ninth session from May 29 to 31, 1991, in La Minière, Guyancourt, France, under the chairmanship of Mr. F. Laidig (Germany).

(iii) The Technical Working Party for Vegetables (TWV) held its twenty-third session from July 2 to 6, 1990, in Avignon (France), and its twenty-fourth session from June 4 to 7, 1991, in Kecskemét, Hungary, under the chairmanship of Mr. R. Brand (France).

(iv) The Technical Working Party for Fruit Crops (TWF) held its twenty-first session from September 10 to 17, 1990, in Tsukuba (Japan), and its twenty-second session from June 11 to 14, 1991, in Bordeaux, France, under the chairmanship of Mr. Bar-Tel (Israel).

(v) The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its twenty-third session from September 16 to 24, 1990, in Tokyo (Japan), and its twenty-fourth session from June 24 to 28, 1991, in Cambridge, United Kingdom, under the chairmanship of Mr. C.J. Barendrecht (Netherlands).

The basic task of four of these Working Parties is to draw up Test Guidelines. In addition to the drafts submitted to the Technical Committee for adoption, they drew up further drafts, for the following taxa, to be submitted to the professional organizations for comment in 1990: blueberry, jostaberry, lingonberry (TWF); azalea, lily (revision) (TWO); in 1991: aster (TWO); cabbage (revision), French bean (revision), peas (revision) (TWV).

In addition, all Technical Working Parties discussed the use of laboratory techniques and equipment—especially of electrophoresis—for the examination of varieties.

OTHER MEETINGS

Two series of specialized meetings were held in 1990 with the following aims:

i) to further the preparatory work for the revision of the Convention and the debate on the relations between the various systems for the protection of intellectual property in the area of plants;

ii) to present and promote the protection of new varieties of plants and UPOV in non-member States.

(Joint UPOV and WIPO) Committee of Experts on the Interface Between Patent Protection and Plant Breeders' Rights.— This Committee of Experts held a session from January 29 to February 2, 1990, under the co-chairmanship of Mr. W.F.S. Duffhues (Netherlands) and Mr. A. Sugden (United Kingdom); Mr. J.-F. Prevel (France) chaired the meeting of February 2 in the absence of Mr. Duffhues. This session was the first meeting at which it was possible, at a global level, for the greater part of the parties concerned by the protection of intellectual property in the area of plants to meet: 39 States,⁴ five intergovernmental organizations⁵ and 24 international non-governmental organizations⁶ participated.

The Committee of Experts had an exchange of views on the basis of a document drawn up jointly by the International Bureau of WIPO and the Office of UPOV entitled "Questions Concerning the Interface Between Patent Protection and Plant Breeders' Rights."

Conference Organized by the ICC on the Interface Between Patent Protection and Plant Breeders' Rights.— The Conference was held on April 5 and 6, 1990, and had been entirely organized by ICC, mainly for the benefit of the international non-governmental organizations in order to harmonize their points of view, following the requests of participants at the session of the above-mentioned Committee of Experts. The Office of the Union participated in the

⁴ Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Canada, Chile, Czechoslovakia, Democratic Republic of Germany, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Greece, Guatemala, Hungary, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Senegal, Soviet Union, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Viet Nam.

⁵ Commission of the European Communities (CEC), European Free Trade Association (EFTA), European Patent Organisation (EPO), International Seed Testing Association (ISTA), Organisation for Economic Co-operation and Development (OECD).

⁶ International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), Asian Patent Attorneys Association (APAA), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), European Council of Chemical Manufacturers' Federations (CEFIC), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), Committee of National Institutes of Patent Agents (CNIPA), General Committee for Agricultural Cooperation in the European Economic Community (COGECA), Association of Plant Breeders of the European Economic Community (COMASSO), Committee of Agricultural Organisations in the European Economic Community (COPA), European Federation of Pharmaceutical Industries' Associations (EFPIA), Institute of Professional Representatives before the European Patent Office (EPI), European Federation of Agents of Industry in Industrial Property (FEMIPI), International Federation of Industrial Property Attorneys (FICPI), International Federation of the Seed Trade (FIS), International Group of National Associations of Agrochemical Manufacturers (GIFAP), Industrial Biotechnology Association (IBA), International Chamber of Commerce (ICC), International Federation of Agricultural Producers (IFAP), Japan Patent Association (JPA), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), Pacific Industrial Property Association (PIPA), Union of Industrial and Employers' Confederations of Europe (UNICE).

Conference, as well as the International Bureau of WIPO, as an observer. Fifteen international non-governmental organizations,⁷ CEC and EPO, together with a number of States, were represented at the Conference.

At the end of the Conference, participants took cognizance--favorably in the majority of cases--of a document entitled "Final Communiqué" and containing a series of principles which, according to them, would have a double effect: on the one hand, they would preserve the legal certainty inherent in the plant variety protection system; on the other hand, they would allow the patent system to retain its ability to respond to technical change and, in the field of plants, this system would benefit from more appropriate treatment of claims for varieties.

Fifth Meeting with International Organizations.— The fifth Meeting with international organizations was held on October 10 and 11, 1990, under the chairmanship of Mr. W.F.S. Duffhues (Netherlands), to enable the international non-governmental organizations to give their views on the draft revised text of the Convention prior to its finalization. They were 16⁸ to participate. WIPO, EC and EPO also attended.

Seminars.— A Regional Seminar on the Nature of and Rationale for the Protection of Plant Varieties Under the UPOV Convention was held in Budapest (Hungary) from September 19 to 21, 1990. It had been organized jointly by the Government of Hungary and UPOV. Some 50 people from 17 countries⁹, mainly from central and eastern Europe, attended.

The seminar dealt with the following subjects: the history of the UPOV Convention and the rationale for plant breeders' rights; the fundamental provisions of the Convention and their possible revision; the interface between breeders' rights and other forms of intellectual property protection, in particular patents; the impact of breeders' rights on the economy from the point of view of Governments and the varieties and seeds industry, and also from the point of view of technology transfer.

A preparatory meeting of the Regional Seminar for Asia and the Pacific on the Protection of New Varieties of Plants of 1991 was held in Tokyo (Japan) from November 27 to 30, 1990. The meeting had been organized by UPOV in cooperation with the Government of Japan and financed by the Japanese funds-in-trust (the Seminar itself will be funded in the same manner). Ten participants from seven invited countries,¹⁰ and 10 participants from the host country attended.

⁷ AIPH, AIPPI, ASSINSEL, CIOPORA, COMASSO, EPI, FEMIP, FICPI, FIS, GIFAP, ICC, JPA, MPI, PIPA, UNICE.

⁸ AIPH, AIPPI, ASSINSEL, European Federation of Agricultural and Rural Contractors (CEETAR), CIOPORA, COGECA, COMASSO, COPA, COSEMCO, FICPI, FIS, GIFAP, ICC, International Federation of Agricultural Producers (IFAP), UNICE, UPEPI.

⁹ Austria, Bulgaria, Czechoslovakia, Denmark, France, Germany, Hungary, Israel, Italy, Netherlands, Poland, Romania, Soviet Union, Spain, Sweden, United Kingdom, United States of America.

¹⁰ China, Indonesia, Malaysia, the Philippines, Republic of Korea, Singapore, Thailand.

The Meeting dealt with the following subjects: the nature of the protection of new varieties of plants; the protection of new varieties of plants and the seed control in Japan; some practical aspects of protection; the organization of the Seminar.

A Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants was held from March 4 to 19, 1991, under the presidency of Mr. W.F.S. Duffhues (Netherlands). All member States were represented; 27 non-member States were represented by observer delegations¹¹ and 25 international organizations¹² had delegated representatives.

On March 19, 1991, the Conference adopted a Revised Act of the International Convention for the Protection of New Varieties of Plants, which was signed immediately after its adoption by the following 10 member States: Belgium, Denmark, France, Germany, Italy, Netherlands, South Africa, Spain, Switzerland, United Kingdom. The Revised Act remains open for signature by member States until March 31, 1992.

The Conference also adopted a resolution on the establishment of draft standard guidelines on essentially derived varieties, a recommendation on the scope of the possible exclusion of farm-saved seed from the scope of protection and a common statement on the territorial extent to which Denmark and the Netherlands would be bound by the 1991 Act of the Convention.

The final act of the Conference was signed by the following 23 States: Argentina, Australia, Belgium, Canada, Colombia, Czechoslovakia, Denmark, Ecuador, France, Germany, Ireland, Italy, Japan, Morocco, Netherlands, New Zealand, Poland, Romania, South Africa, Spain, Switzerland, United Kingdom, United States of America.

¹¹ Argentina, Austria, Bolivia, Brazil, Burundi, Cameroon, Chile, Colombia, Côte d'Ivoire, Czechoslovakia, Ecuador, Finland, Ghana, India, Indonesia, Luxembourg, Morocco, Norway, Republic of Korea, Romania, Thailand, Turkey, Soviet Union, Uganda, Ukrainian SSR, Venezuela, Yugoslavia.

¹² World Intellectual Property Organization (WIPO), Food and Agriculture Organization of the United Nations (FAO), General Agreement on Tariffs and Trade (GATT), European Communities (EC), Organisation for Economic Co-operation and Development (OECD), European Patent Organisation (EPO), International Board for Plant Genetic Resources (IBPGR), International Seed Testing Association (ISTA), International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), European Federation of Agricultural and Rural Contractors (CEETAR), International Community of Breeders of Asexually Reproduced Ornamental and Fruit Tree Varieties (CIOFORA), General Committee for Agricultural Co-operation in the EC (COGECA), Association of Plant Breeders of the European Economic Community (COMASSO), Committee of Agricultural Organisations in the EC (COPA), Seed Committee of the Common Market (COSEMCO), European Federation of Pharmaceutical Industries' Associations (EFPIA), International Federation of Industrial Property Attorneys (FICPI), International Federation of the Seed Trade (FIS), International Group of National Associations of Manufacturers of Agrochemical Products (GIFAP), International Chamber of Commerce (ICC), International Federation of Agricultural Producers (IFAP), Union of Industrial and Employers' Confederations of Europe (UNICE), Union of European Practitioners in Industrial Property (UPEPI).

RELATIONS WITH STATES AND ORGANIZATIONS

On January 4, 1990, the Vice Secretary-General received the visit of Mr. Wilfried Delforge, President of the Belgian branch of CIOPORA.

On January 10, 1990, the Vice Secretary-General participated, by invitation, in a meeting held by the Green Industry Biotechnology Platform (GIBiP) in Amsterdam, Netherlands. Visits were made to Dutch vegetable breeders and the Vice Secretary-General participated in discussions on the revision of the Convention.

On January 11, 1990, the Vice Secretary-General received the visit of Dr. Parry Mulleavy, Director General of the Mushroom Cooperation, Michigan, United States of America, who was interested in the protection of edible fungi, particularly the morel.

From January 24 to 26, 1990, the Vice Secretary-General participated in meetings in Munich, Germany, of the European Patent Office's ad hoc Working Party on Harmonization (Biotechnology) at which matters were examined for discussion at the session of the joint UPOV and WIPO Committee of Experts on the Interface between Patents and Plant Breeders' Rights held the following week.

On February 8, 1990, the Vice Secretary-General received the visit of Mr. Joon-Kyu Kim, Intellectual Property Attaché at the Permanent Mission of the Republic of Korea in Geneva. Mr. Kim sought information and papers relating to plant variety protection.

On February 19, 1990, the Vice Secretary-General paid a visit to the Secretary to the Department of Agriculture, Ministry of Agriculture, in New Delhi, India, and to the Secretary in that Department responsible for seed. He described the UPOV system of plant variety protection and answered questions.

From February 20 to 24, 1990, the Vice Secretary-General participated in an International Conference on Seed Science and Technology in New Delhi, India. He chaired a session of the Conference dealing with the development of hybrid varieties, seed production and plant breeders' rights and gave in the session a paper on "the international plant breeders' rights system established under the UPOV Convention."

From February 19 to 23, 1990, an official of the Union participated in the second session of the ad hoc Working Group for the preparation of a legal instrument on the biological diversity of the planet, held at the Palais des Nations in Geneva. The Working Group agreed, inter alia, to undertake a study on "the relationship between intellectual property rights and access to genetic resources in biotechnology."

On March 28, 1990, the Vice Secretary-General participated in a Symposium on the challenges of biotechnology in a changing legal and economic environment, held by the International Chamber of Commerce in Paris, France. He gave a contribution on UPOV and developments in the protection of plant varieties.

On May 17, 1990, the Vice Secretary-General received the visit of Mr. J. Van Wijk, from the University of Amsterdam. Mr. Van Wijk is also the Secretary of a study group, set up by the Netherlands Ministry for Foreign Affairs, on biotechnology and the protection of intellectual property in connection with developing countries.

On May 28 and 29, 1990, the Vice Secretary-General participated in Munich, Germany, in a meeting of the European Patent Office's ad hoc Working Party on Harmonization (Biotechnology), at which in particular the proposals for the revision of the UPOV Convention were considered.

On May 31 and June 1, 1990, an official of the Union participated in Perugia, Italy, in a forum on biotechnology law at which he presented a paper.

On June 7 and 8, 1990, the Vice Secretary-General visited the Finnish authorities in Helsinki in connection with their intention to introduce a plant variety protection system and to become a member of UPOV.

From June 11 to 15, 1990, the Vice Secretary-General participated in Seville, Spain, in the congresses of the International Federation of the Seed Trade (FIS) and of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL).

From July 9 to 13, 1990, the Vice Secretary-General and an official of the Union participated in the third session of the ad hoc Working Group for the preparation of a legal instrument on the biological diversity of the planet, which was held at the ILO headquarters in Geneva.

On July 12, 1990, the Vice Secretary-General received the visit of two members of the Permanent Mission of China in Geneva; they requested information about UPOV and plant variety protection.

On August 6 and 7, 1990, the Vice Secretary-General participated in Buenos Aires, Argentina, in a conference on "the protection of plant varieties, present situation and future prospects," at which he presented a paper. On that occasion, he also met with the Argentinian authorities responsible for plant variety protection and representatives of interested circles. He discussed in particular the amendments which the Government of Argentina was planning to make to legislation on plant variety protection in order to bring it into line with the UPOV Convention and enable Argentina to become a member of UPOV.

On August 9 and 10, 1990, the Vice Secretary-General was in Montevideo, Uruguay, where he met with the Uruguayan authorities responsible for plant variety protection in order to discuss, in particular, the amendments which the Government of Uruguay was planning to make to legislation on plant variety protection to bring it into line with the UPOV Convention and enable Uruguay to become a member of UPOV. He also met with representatives of interested circles and presented a paper at a conference specially organized on the occasion of his visit.

During his stay in Montevideo, the Vice Secretary-General also participated in a meeting organized by the Latin American Integration Association (ALADI). ALADI was trying to establish a uniform seed certification system for Latin America and considered that plant variety protection could be complementary to that project. It was agreed that ALADI and UPOV would proceed to an initial exchange of information.

From August 12 to 15, 1990, the Vice Secretary-General participated at Ames, Iowa, United States of America, in the Fourth International Symposium on the Development and Application of New Technologies for Varietal Identification, organized with the support of the International Seed Testing Association (ISTA); he presented a paper there.

On August 16 and 17, 1990, the Vice Secretary-General visited the United States Patent and Trademark Office and the Ministry of Agriculture in Washington, D.C. He also participated in Beltsville, Maryland, in a meeting of national program leaders for crop research and of administrators of the Agricultural Research Service. During that meeting, convened specially on the occasion of his visit, he described the present state and the future developments of the UPOV Convention.

On August 20 and 21, 1990, the Vice Secretary-General participated at Rodd's Mill River Resort, Prince Edward Island, Canada, in the Conference on Plant Breeders' Rights for Potatoes, organized by the Prince Edward Island Potato Marketing Commission and coordinated by the Atlantic Advisory Committee for Potatoes; he presented a paper there.

From September 12 to 15, 1990, the Vice Secretary-General participated at Yalova, near Istanbul, Turkey, in the International Seed Certification Symposium organized by the Turkish Ministry of Agriculture, Forestry and Rural Affairs and the Turkish Association of Seed Producers, and presented a paper there. During that Symposium, it was announced that a Bill on plant variety protection had been submitted to Parliament and that it was expected that it would take two years to pass through Parliament.

On September 16, 1990, an official of the Union participated at Osaka, Japan, in an international workshop on the improvement of fruit crops and ornamental plants and the protection of plant varieties, jointly organized by the Japanese Ministry of Agriculture, Forestry and Fisheries, the Japan Association for the International Garden and Greenery Exposition and the Government Garden of Japan; he presented a paper there.

From September 30 to October 2, 1990, the Vice Secretary-General participated at Ottawa, Canada, in a meeting on intellectual property rights, organized in the context of the Keystone International Dialogue Series on Plant Genetic Resources.

From November 11 to 15, 1990, the President of the Council, together with the Vice Secretary-General, visited Bulgaria, at the invitation of the Bulgarian Government, where they met with the Minister for Agriculture, the Director General and senior officials of the Bulgarian Institute of Inventions and Rationalizations. They also attended a meeting convened for officials of the Ministry of Agriculture, officials of the Institute of Inventions and Rationalizations and the Chairman of the Committee of the Bulgarian Parliament which is responsible for the drafting of a new patent law. The aim of the meeting was to consider how the protection of new plant varieties should be administered.

From November 30 to December 1, 1990, following the Preparatory Meeting for the UPOV Regional Seminar for Asia and the Pacific on the Protection of New Plant Varieties, the Vice Secretary-General travelled to the Republic of Korea where he met officials of the Ministry of Agriculture, of the Office of the Rural Development Administration and of the Korea Industrial Property Office.

On December 17, 1990, the Vice Secretary-General received a visit from an Attaché of the Permanent Mission of Colombia in Geneva, who expressed great interest in plant variety protection and asked for information.

On January 10, 1991, the Vice Secretary-General received a visit from Professor J.K. Barton of Stanford Law School (United States of America), who was participating in a policy review group of the Consultative Group on

International Agricultural Research (CGIAR) and who gave information about an on-going fundamental review of the policy of the international agricultural research centers in relation to plant variety protection and intellectual property protection in general.

On January 30, 1991, the Secretary-General received a visit from the Minister for Foreign Affairs of Colombia and passed him relevant documents on plant variety protection.

On February 12, 1991, the Vice Secretary-General received a visit from Mr. Nicolai J. Maimeskoul, Second Secretary of the Permanent Mission of the Ukrainian SSR in Geneva, who sought information concerning laws for the protection of new plant varieties and the conditions of accession to the UPOV Convention.

On February 25, 1991, the Vice Secretary-General participated in an observer capacity in the tenth meeting of the Ad Hoc Working Party on Harmonization (Biotechnology) of the European Patent Office in Munich, Germany, which discussed the proposals for the revision of the UPOV Convention.

On March 11, 1991, the Vice Secretary-General received a visit from a representative of the Permanent Mission of Colombia in Geneva and from Mr. Hernando Gutiérrez de la Roche, Secretary General of the Colombian Institute of Agriculture and the delegate of Colombia to the Diplomatic Conference, to discuss the interest of the Government of Colombia in plant variety protection and the UPOV Convention.

On the same day, the Vice Secretary-General received a visit from the Delegation of the Ukrainian SSR to the Diplomatic Conference. The Delegation explained the interest of the Ukraine in plant variety protection and their intention to legislate on the subject and to become a member of UPOV.

On March 12, 1991, the Vice Secretary-General received a visit from Mr. Olli Rekola, Director, Ministry of Agriculture and Forestry, Helsinki, Finland, who explained the latest situation in his country concerning its proposed legislation on plant variety protection and the accession of Finland to the UPOV Convention.

On April 8, 1991, the Ambassador and Permanent Representative of Argentina in Geneva paid a visit to the Secretary-General in order to sign the final act adopted by the Diplomatic Conference.

From April 15 to 17, 1991, the Vice Secretary-General participated in a symposium, organized by the Finnish Group of AIPPI in Helsinki, entitled "Frontiers of Patent Law." He gave a paper on protection under the UPOV Convention and emphasized particularly the provisions of the Act of 1991.

From April 15 to 19, 1991, an official of the Union participated in an observer capacity in the fourth session of the Commission on Plant Genetic Resources of FAO in Rome, Italy.

On April 18, 1991, the Vice Secretary-General participated in the Sixth Biennial Conference on Plant Variety Protection Law, organized by the Intellectual Property Law Unit of Queen Mary and Westfield College in the University of London, which was held in Cambridge, United Kingdom. He spoke on the 1991 Act.

From April 21 to 23, 1991, an official of the Union attended the Congress of the Seed Committee of the Common Market (COSEMCO) which was held in Edinburgh, United Kingdom.

From April 23 to 25, 1991, the Vice Secretary-General participated in Rome, Italy, in an Intellectual Property Rights Work Group, organized as part of the Keystone International Dialogue Series on Plant Genetic Resources.

On May 3, 1991, the Office of the Union provided the Government of Argentina with comments on its preliminary draft of a new decree which is intended to bring its law on plant variety protection into conformity with the UPOV Convention.

On May 7, 1991, the Secretary-General visited the Minister for Agriculture of the Republic of Korea in Seoul and discussed with him plant variety protection and the interest of his country in becoming a member of UPOV.

From May 13 to 15, 1991, an official of the Union participated in Paris, France, in the Annual Meeting of Representatives of Designated Authorities under the OECD Schemes for the Certification of Seed Moving in International Trade, where he gave a brief presentation on the revision of the UPOV Convention.

From May 13 to 17, 1991, during the period of the session of the Technical Working Party for Agricultural Crops, in which he participated in Beltsville, Maryland, United States of America, the Vice Secretary-General visited the United States Patents and Trademarks Office and the United States Department of Agriculture. He also visited the World Bank and the Consultative Group on International Agriculture Research in Washington, D.C., where he had a meeting with the Executive Secretary.

On May 15, 1991, in the course of a visit to Romania, the Secretary-General met the Vice Prime Minister, Mr. Dan Mircea Popescu, and discussed the interest of that country in adhering to the UPOV Convention.

From May 22 to 31, 1991, the Vice Secretary-General participated in the FIS and ASSINSEL World Congresses in Tokyo, Japan. During the Congresses, he met officials of the Agricultural Production Bureau of the Ministry of Agriculture, Forestry and Fisheries of Japan; he also addressed participants in the ASSINSEL Congress on the outcome of the 1991 Diplomatic Conference.

From May 27 to June 2, 1991, an official of the Union visited Santa Fé de Bogotá, D.C., Colombia, where he participated in the National Seed Seminar, a section of which was concerned with systems of protection for plant varieties, and read a paper on some features of the plant variety protection systems under the UPOV Convention. He also paid several visits to governmental authorities.

From June 1 to 4, 1991, the Vice Secretary-General participated in a session of the Keystone International Dialogue Series on Plant Genetic Resources which was held in Oslo, Norway.

On June 6, 1991, a study team from the Japan Patent Association visited WIPO and during the course of the team's visit, an official of the Union gave a presentation on the revision of the UPOV Convention and the Vice Secretary-General answered questions.

On June 11, 1991, the Assistant Secretary for Policy and Legislation, Department of Science and Technology of the Philippines, paid a visit to the Office of the Union and was given information on UPOV and the forthcoming seminar which is to be held in Tokyo, Japan.

On June 17, 1991, the Regional Seed Program Manager for the FAO Program (the DANIDA Program) for improved seed production in Asia, visited the Office of the Union to discuss the possibility of the Office providing assistance or participating in future training programs which might include one more session devoted to plant variety protection.

On June 20 and 21, 1991, the Vice Secretary-General and an official of the Union were guests at a reception in Paris, France, to honor Mr. Michel Simon, a past Secretary General of the Committee for the Protection of New Plant Varieties (CPOV), on the occasion of his retirement and met a commission of the French Group of AIPPI which was studying AIPPI Question No. 93 which concerns the protection of plant varieties.

From June 22 to 27, 1991, an official of the Union participated in the third session of the ad hoc Working Group of Legal and Technical Experts on Biological Diversity, organized by the United Nations Environment Programme in Madrid, Spain.

From July 2 to 4, 1991, the Vice Secretary-General participated in Rio de Janeiro, Brazil, in an International Workshop, entitled "Intellectual Property in Biotechnology--A Tool for Continental Integration in the Global Scene," organized by the Brazilian Association of Biotechnology Enterprises, the Brazilian Society for Biotechnology and the Latin-American Federation of Associations of Biotechnology Enterprises. The Workshop concluded that "plant varieties should be protected by plant breeders' rights in a system based on the UPOV Convention."

During the period of the meeting, the Vice Secretary-General visited the President of the National Institute for the Protection of Industrial Property (INPI) where he learned that an interministerial commission of the Brazilian Government had been established to make recommendations for the protection of plants varieties.

On July 8 and 9, 1991, the Vice Secretary-General visited Government offices in Brasília, including the Ministry of Foreign Affairs, the Ministry of Agriculture, the Brazilian National Agricultural Research Organization (EMBRAPA) and the National Center for Genetic Resources (CENARGEN), where he delivered a lecture on the UPOV Convention to officials of the Ministry of Agriculture, EMBRAPA and CENARGEN.

From July 10 to 12, 1991, the Vice Secretary-General visited Santa Fé de Bogotá, D.C., Colombia, where he met the acting Minister for Agriculture, Dr. Fidel Cuellar, the Vice-Minister for Foreign Affairs, Dr. Rodrigo Pardo, Dr. Jorge Ramirez, Head of the Agricultural Unit in the National Planning Department (which is attached to the President's Office), Dr. Fidelia Villamizar de Pérez, Superintendent of the Superintendence of Industry and Commerce, Dr. Clemente Forero Pineda, Director General of the Colombian Institute for the Development of Science and Technology, Dr. Gabriel Montes Llamas, General Manager of the Colombian Institute of Agriculture (ICA), officials of the International Trade Division of the Ministry of Development and officials of ASCOFLORES, the Association of Colombian Flower Producers. He was also a guest at a dinner given by the President of the National Association of Industrial Property Lawyers of Colombia, Dr. Luis

Alberto Zorro Sanchez. All sectors of the Colombian Government expressed support for the introduction of plant variety protection, and it was agreed that UPOV would organize a national Seminar in Colombia on November 21 and 22, immediately preceding the Seminar in Buenos Aires, Argentina.

On July 15 and 16, 1991, the Vice Secretary-General visited Mexico City where he met the Secretary (Minister) of the Secretariat for Agriculture and Water Resources, Prof. Carlos Hank Gonzalez, and Dr. Roberto Villarreal, Director General of the Technology Development in the Ministry of Industry and Overseas Trade (which is responsible for industrial property). Mexico has recently introduced a modified patent law which extends conventional patent protection to plant varieties. Discussions concerned the possible introduction of a plant variety protection law which will accord with the UPOV Convention.

On July 16, 1991, the Office of the Union received a communication from Dr. Akhlaq Hussain, Director of the National Seed Registration Department, Food and Agriculture Division, Rawalpindi, Pakistan, enclosed with which was a draft law for the protection of new plant varieties. The Office of the Union provided its outline comments on this draft to the Government of Pakistan.

On July 25, 1991, Professor Decio Zylbersztajn of the University of Sao Paulo in Brazil visited the Office of the Union. He has been funded by the Brazilian Government to research the impact of plant variety protection in countries outside Brazil.

On July 30, 1991, the Office of the Union received a draft of a proposed law for the protection of plant varieties from Morocco and a request from the Government for a UPOV mission to visit Morocco for discussions concerning the draft law.

On July 31, 1991, the Office of the Union received for its comments a draft of a proposed plant variety protection law from Bulgaria.

On August 23, 1991, an official of the Union gave a lecture to trainee patent agents in Zurich, Switzerland, on the UPOV system of plant variety protection.

On August 26, 1991, an official of the Union participated in a meeting of the Forest Seed Group of the International Federation of the Seed Trade (FIS) in Yverdon, Switzerland, and explained the outcome of the Diplomatic Conference.

During June, July and August 1991, the Office of the Union exchanged correspondence with the Government of Uruguay concerning proposed changes in its law to bring it into conformity with the 1978 Act of the UPOV Convention.

On September 3, 1991, the Secretary-General received from the Government of Uruguay a request under Article 32(3) of the 1978 Act (see paragraph 3 above).

On September 17 and 18, 1991, the Vice Secretary-General participated in York, United Kingdom, in a Conference on "New Technology for Cropping Systems" organized by the Association of Applied Biologists and gave a lecture.

On September 18, 1991, an official of the Union participated in Angers, France, in the General Assembly of SEPROMA, the association of maize seed producing firms of France.

PUBLICATIONS

In 1990, the Office of the Union published one issue of Plant Variety Protection and five issues in the first nine months of 1991 as well as the records of the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention held in Budapest, Hungary, from September 19 to 21, 1990.

The Office of the Union also made preparations for the publication of brochures containing the 1991 Act in English, French and German. Furthermore it established draft official texts in Arabic and Spanish and sent them to the interested Governments for comments. Draft translations were also established in Italian, Portuguese and Russian.

MEMBERSHIP OF THE UNION (as of December 4, 1991)
(including signatory States that are not yet members)

State	Date of signature ¹	Date of deposit of instrument ^{1,2}	Date of effect ¹
Australia	- - -	- - February 1, 1989	- - March 1, 1989
Belgium	December 2, 1961 November 10, 1972 October 23, 1978	November 5, 1976 November 5, 1976 -	December 5, 1976 February 11, 1977 -
Canada	- - October 31, 1979	- - February 4, 1991	- - March 4, 1991
Czech and Slovak Federal Republic	- - -	- - November 4, 1991	- - December 4, 1991
Denmark	November 26, 1962 November 10, 1972 October 23, 1978	September 6, 1968 February 8, 1974 October 8, 1981	October 6, 1968 February 11, 1977 November 8, 1981
France	December 2, 1961 November 10, 1972 October 23, 1978	September 3, 1971 January 22, 1975 February 17, 1983	October 3, 1971 February 11, 1977 March 17, 1983

¹ First Line: International Convention for the Protection of New Varieties of Plants of December 2, 1961.
Second Line: Additional Act of November 10, 1972.
Third Line: Revised Text of October 23, 1978.

² of ratification where the State has signed the Convention or the Additional Act, depending on the case; of ratification, acceptance or accession where the State has signed the Revised Text of 1978; of accession where it has not signed the text concerned.

State	Date of signature ¹	Date of deposit of instrument ^{1,2}	Date of effect ¹
Germany	December 2, 1961 November 10, 1972 October 23, 1978	July 11, 1968 July 23, 1976 March 12, 1986	August 10, 1968 February 11, 1977 April 12, 1986
Hungary	- - -	- - March 16, 1983	- - April 16, 1983
Ireland	- - September 27, 1979	- - May 19, 1981	- - November 8, 1981
Israel	- - -	November 12, 1979 November 12, 1979 April 12, 1984	December 12, 1979 December 12, 1979 May 12, 1984
Italy	December 2, 1961 November 10, 1972 October 23, 1978	June 1, 1977 June 1, 1977 April 28, 1986	July 1, 1977 July 1, 1977 May 28, 1986
Japan	- - October 17, 1979	- - August 3, 1982	- - September 3, 1982
Mexico (not yet a member)	- - July 25, 1979	- - -	- - -
Netherlands	December 2, 1961 November 10, 1972 October 23, 1978	August 8, 1967 January 12, 1977 August 2, 1984	August 10, 1968 February 11, 1977 September 2, 1984
New Zealand	- - July 25, 1979	- - November 3, 1980	- - November 8, 1981
Poland	- - -	- - October 11, 1989	- - November 11, 1989
South Africa	- - October 23, 1978	October 7, 1977 October 7, 1977 July 21, 1981	November 6, 1977 November 6, 1977 November 8, 1981
Spain	- - -	April 18, 1980 April 18, 1980 -	May 18, 1980 May 18, 1980 -
Sweden	- January 11, 1973 December 6, 1978	November 17, 1971 January 11, 1973 December 1, 1982	December 17, 1971 February 11, 1977 January 1, 1983

State	Date of signature ¹	Date of deposit of instrument ^{1,2}	Date of effect ¹
Switzerland	November 30, 1962	June 10, 1977	July 10, 1977
	November 10, 1972	June 10, 1977	July 10, 1977
	October 23, 1978	June 17, 1981	November 8, 1981
United Kingdom	November 26, 1962	September 17, 1965	August 10, 1968
	November 10, 1972	July 1, 1980	July 31, 1980
	October 23, 1978	August 24, 1983	September 24, 1983
United States of America	- - October 23, 1978	- - November 12, 1980	- - November 8, 1981

PLANT VARIETY PROTECTION STATISTICS FOR THE PERIOD 1986-1990

	State	Year	Applications filed by:			Titles issued to:			Titles having ceased to be in force in reference year	Titles in force at end of reference year
			Residents	Non-residents	Total	Residents	Non-residents	Total		
AU	Australia Australie Australien	1986	-	-	-	-	-	-	-	-
		1987	-	-	-	-	-	-	-	-
		1988	15	21	36	-	-	-	-	-
		1989	23	111	134	12	10	22	-	22
		1990	53	81	134	13	53	66	-	88
BE	Belgium Belgique Belgien	1986	18	88	106	7	33	40	26	312
		1987	15	89	104	1	37	38	36	314
		1988	19	109	128	5	33	38	26	326
		1989	37	107	144	17	69	86	50	362
		1990	29	110	139	3	49	52	47	367
CH	Switzerland Suisse Schweiz	1986	7	46	53	7	33	40	4	187
		1987	8	67	75	2	59	61	15	233
		1988	6	80	86	-	45	45	15	263
		1989	8	92	100	16	84	100	26	337
		1990	17	43	60	4	70	74	26	385
DE	Germany Allemagne Deutschland	1986	543	333	876	287	196	483	227	2823
		1987	515	326	841	297	150	447	267	3003
		1988	586	424	1010	355	244	599	331	3271
		1989	650	335	985	289	207	496	300	3467
		1990*	941	372	1313	427	238	665	476	4012
DK	Denmark Danemark Dänemark	1986	29	160	189	22	85	107	78	678
		1987	60	169	229	29	134	163	82	730
		1988	59	184	243	29	136	165	76	819
		1989	80	173	253	51	175	226	62	954
		1990	68	163	231	48	172	220	156	1018
ES	Spain Espagne Spanien	1986	-	-	-	-	-	-	-	-
		1987	78	181	259	35	83	118	34	523
		1988	116	203	319	-	-	-	7	518
		1989	138	201	339	19	96	115	31	602
		1990	86	214	300	34	68	102	54	654
FR	France Frankreich	1986	519	210	729	221	91	312	190	2255
		1987	571	286	857	333	209	542	280	2517
		1988	-	-	-	-	-	-	-	2827
		1989	645	251	896	306	177	483	268	3042
		1990	687	337	1024	552	271	823	346	3519

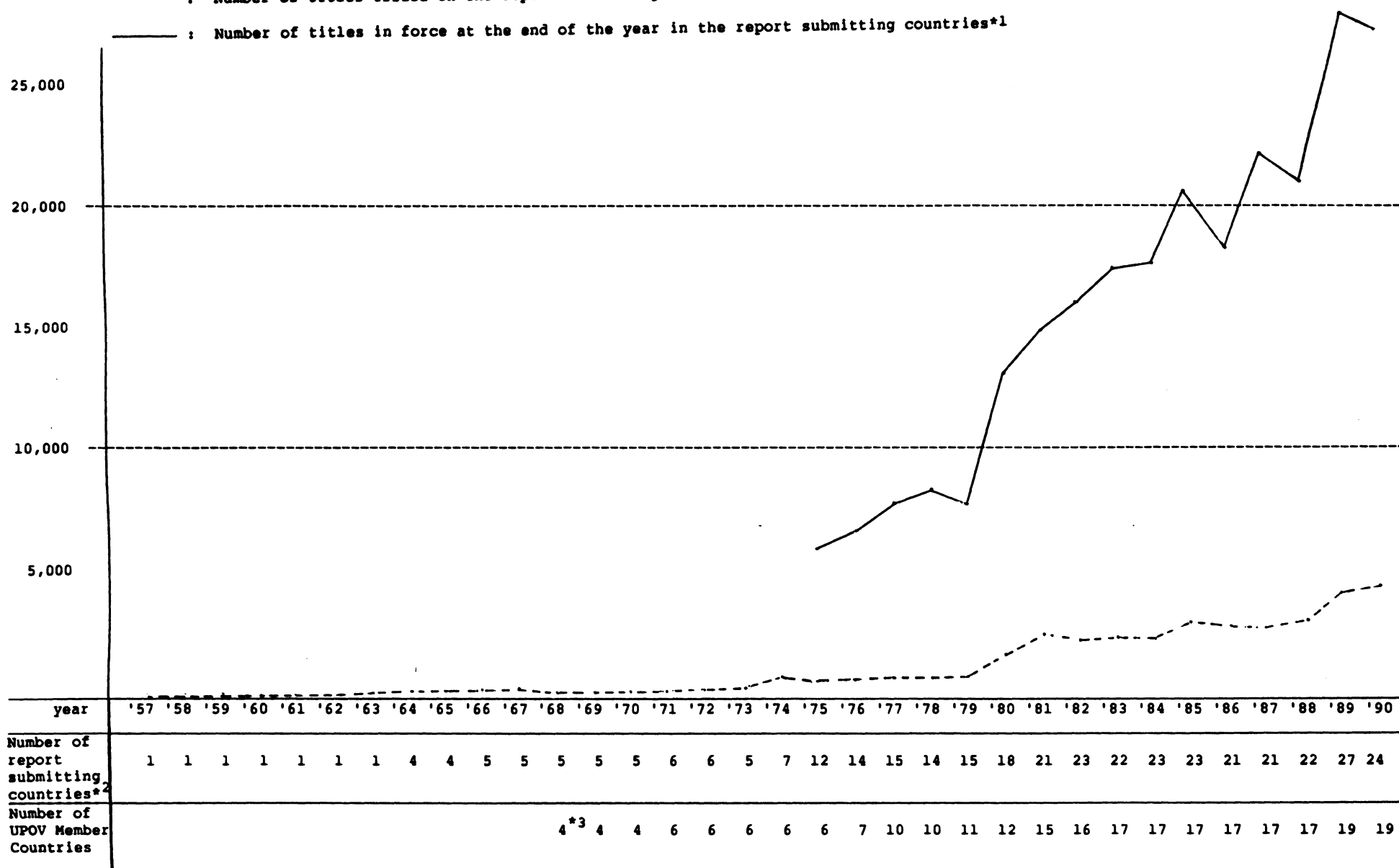
* Including the applications filed and titles issued in the former German Democratic Republic / y inclus les demandes déposées et titres délivrés en l'ancienne République Démocratique Allemande / einschliesslich der in der ehemaligen Deutschen Demokratischen Republik hinterlegten Anmeldungen sowie erteilten Sortenschutzrechte

	Etat	Année	Demandes déposées par des :			Titres délivrés pour des :			Titres ayant expiré au cours de l'année de référence	Titres en vigueur à la fin de l'année de référence
			Résidents	Non- résidents	Total	Résidents	Non- résidents	Total		
GB	United Kingdom	1986	164	288	452	105	112	217	183	1476
	Royaume-Uni	1987	167	198	365	93	153	246	245	1477
	Vereinigtes Königreich	1988	-	-	-	-	-	-	-	1662
		1989	207	338	545	117	164	281	259	1684
		1990	188	300	488	98	215	313	238	1759
HU	Hungary	1986	4	11	15	6	15	21	1	52
	Hongrie	1987	32	6	38	4	5	9	-	61
	Ungarn	1988	38	67	105	9	2	11	-	72
		1989	38	29	67	4	12	16	-	88
		1990	65	32	97	14	18	32	3	107
IE	Ireland	1986	1	15	16	3	10	13	24	111
	Irlande	1987	-	-	-	-	-	-	-	-
	Irland	1988	-	-	-	-	-	-	-	121
		1989	8	15	23	2	8	10	14	117
		1990	9	19	28	3	9	12	25	104
IL	Israel	1986	98	66	164	13	41	54	13	330
	Israël	1987	122	94	216	35	48	83	20	393
	Israel	1988	122	77	199	48	26	74	14	453
		1989	80	61	141	30	6	36	15	474
		1990	54	67	121	87	97	184	78	580
IT	Italy	1986	-	-	181	-	-	113	-	-
	Italie	1987	-	-	-	-	-	-	-	-
	Italien	1988	117	165	282	28	38	66	-	-
		1989	-	-	-	-	-	-	-	-
		1990	93	197	290	45	36	81	-	-
JP	Japan	1986	320	37	357	308	10	318	34	1192
	Japon	1987	419	22	441	239	1	240	45	1387
	Japan	1988	503	76	579	295	63	358	67	1678
		1989	475	62	537	234	6	240	140	1776
		1990	404	167	571	415	61	476	159	2093
NL	Netherlands	1986	705	305	1010	394	123	517	298	2682
	Pays-Bas	1987	-	-	-	-	-	-	-	2810
	Niederlande	1988	804	336	1140	482	266	748	404	3114
		1989	879	369	1248	577	293	870	646	3338
		1990	971	484	1455	541	271	812	476	3674
NZ	New Zealand	1986	32	56	88	18	36	54	14	267
	Nouvelle-Zélande	1987	28	43	71	16	35	51	7	311
	Neuseeland	1988	40	32	72	18	37	55	21	345
		1989	30	66	96	18	29	47	24	368
		1990	33	95	128	17	43	60	25	403

	Staat	Jahr	Anmeldungen hinterlegt durch Personen mit Sitz im:			Sortenschutz erteilt für Personen mit Sitz im:			Im Bezugsjahr beendete Schutzrechte	Am Ende des Bezugsjahr gültige Schutzrechte
			Inland	Ausland	Zusammen	Inland	Ausland	Zusammen		
PL	Poland Pologne Polen	1986	-	-	-	-	-	-	-	-
		1987	-	-	-	-	-	-	-	-
		1988	64	6	70	9	-	9	-	9
		1989	62	34	96	37	11	48	-	57
		1990	53	127	180	18	-	18	2	73
SE	Sweden Suède Schweden	1986	32	60	92	11	41	52	20	221
		1987	33	36	69	16	21	37	9	249
		1988	30	51	81	16	34	50	37	262
		1989	34	29	63	16	43	59	27	294
		1990	25	64	89	15	49	64	28	330
US	United States of A America Etats-Unis d'Amérique Vereinigte Staaten von Amerika	1986	146	14	160	209	18	227	3	1705
		1987	209	15	224	170	17	187	-	1892
		1988	-	-	-	-	-	-	-	2122
		1989	274	43	317	107	-	107	1	2228
		1990	254	18	272	122	9	131	24	2336
	B	1986	193	127	320	150	74	224	103	2874
		1987	222	163	385	131	98	229	52	3051
		1988	240	137	377	260	165	425	71	3405
		1989	208	175	383	345	242	587	199	3793
		1990	255	163	418	153	165	318	132	3979
ZA	South Africa Afrique du Sud Südafrika	1986	47	51	98	13	45	58	12	279
		1987	56	43	99	22	25	47	13	313
		1988	43	87	130	50	46	96	16	391
		1989	74	23	97	23	29	52	7	436
		1990	100	51	151	40	43	83	-	521
	Total of all member States	1986	2858	1867	4906	1774	963	2850	1230	17444
		1987	2535	1738	4273	1423	1075	2498	1105	19264
		1988	2802	2055	4857	1604	1135	2139	1085	21658
		1989	3950	2514	6464	2220	1661	3881	2069	23439
		1990	4385	3104	7489	2649	1937	4586	2295	26002

Development of Plant Variety Protection (Source: WIPO statistics on the Protection of new Plant Varieties)

--- : Number of titles issued in the report submitting countries
 — : Number of titles in force at the end of the year in the report submitting countries*1



*1 Data available only since 1975

*2 Countries submitting statistical reports before the entry into force of the UPOV Convention were the following: the United States of America (since 1949); Denmark; Germany; the Netherlands (since 1964); the United Kingdom (since 1966)

*3 Entry into force of the UPOV Convention (1968)

[This text replaces the text published in Plant Variety Protection No. 47]

BELGIUM

Royal Decree Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species*

of March 12, 1991**

Article 1

The Service for the Protection of New Plant Varieties may, pursuant to the provisions of the Royal Decree of July 22, 1977, on the Protection of New Plant Varieties, issue New Plant Variety Certificates for the species the list of which appears in Annex 1 to this Decree (published in Plant Variety Protection No. 65).

Article 2

For hop, quince and raspberry, all varieties with exception of ornamental varieties but including rootstocks can be protected.

Article 3

The New Plant Variety Certificates relating to the species referred to in the list appearing in Annex 1*** of this Decree shall have a duration of either 20 years or 25 years as prescribed in the said Annex.

Article 4

The Royal Decree of May 21, 1985, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species shall be repealed.

Article 5

This Decree shall enter into force on the day following its publication in the Moniteur belge.

Article 6

The Minister for External Relations and the State Secretary for Agriculture are requested, within their areas of competence, to implement this Decree.

* French title: Arrêté royal déterminant les espèces végétales pour lesquelles un certificat d'obtention peut être délivré et fixant la durée de la protection pour ces espèces.

** Translation by the Office of the Union of the text published in the Moniteur belge - Belgisch Staatsblad of June 21, 1991, on pages 13977 to 13981.

*** Not reproduced here; see item 1 of Miscellaneous Information

PORTUGAL

Decree-Law No. 213/90*

of June 28, 1990**

Article 1

Object

(1) This Decree-Law establishes the legal regime governing breeders' rights in new plant varieties.

(2) Those botanical species the plant varieties of which may be the subject of breeders' rights shall be specified by order of the Minister of Agriculture, Fisheries and Food.

Article 2

Plant Varieties Eligible for Protection

Breeders' rights may be accorded solely in respect of those plant varieties which, according to the definition to be laid down by order of the Minister of Agriculture, Fisheries and Food, are deemed to be distinct, homogeneous, stable and new.

Article 3

Content of Plant Breeder's Rights

(1) The breeders' rights in a plant variety confer on their owner exclusive entitlement to produce and market plants of that variety or the corresponding reproductive or vegetative propagating material.

(2) Plant breeders' rights shall not prevent the use of the protected plant variety as initial or basic material for the production of other varieties, except where its repeated or systematic use is necessary.

Article 4

Term of Plant Breeders' Rights

(1) Plant breeders' rights shall have a limited term which shall be a minimum of 15 or 20 years, depending on whether they relate to herbaceous plants or to woody plants.

(2) Terms may differ according to species or group of species.

* Portuguese title: Decreto-Lei No. 213/90 de 28 de Junho

** Translation by the Office of the Union of the text published in the Diário da República - 1 Série, No. 147 of June 28, 1990, on pages 2727 and 2728

Article 5

Lapse of Plant Breeders' Rights

Plant breeders' rights shall lapse, inter alia:

- (a) when their term has expired;
- (b) when fees due have not been paid;
- (c) when the new plant variety no longer displays the characteristics required by this Decree-Law and the Regulations under it;
- (d) when the breeder or the actual owner so requests;
- (e) when it is demonstrated that the holder of the rights is not the lawful owner thereof.

Article 6

National Registry of Protected Varieties

(1) The National Registry of Protected Varieties (Centro Nacional de Registo de Variedades Protegidas--CENARVE) is hereby created, to operate within the framework of the National Institute of Agricultural Research (Instituto Nacional de Investigação Agrária--INIA), the current President of which shall direct it.

(2) CENARVE shall be responsible for taking the necessary action for the implementation of this Decree-Law.

(3) The President of INIA, in his capacity as Director of CENARVE, shall be assisted, in the exercise of the functions conferred on him by this Decree-Law, by a Technical Board, the membership of which shall be laid down by order of the Minister of Agriculture, Fisheries and Food.

(4) The members of the Technical Board shall carry out their functions without remuneration.

Article 7

Offenses

(1) The production, marketing and use of plant varieties in breach of the provisions of Article 3 of this Decree-Law and the Regulations for which it provides shall constitute an offense punishable with a fine of 20,000 to 500,000 escudos.

(2) Negligence shall be punishable.

(3) Where liability for the offense lies with a legal entity, the maximum amounts of the fines shall be 6,000,000 escudos in the case of a fraudulent act or 3,000,000 escudos in the case of an act committed by negligence.

(4) Forty per cent of the proceeds from fines imposed shall be paid to INIA, and the balance to the State Treasury.

Article 8

Fees

For the purposes of registration with CENARVE and the keeping of its Register, the persons and entities concerned shall pay fees, the amount of which shall be set in accordance with paragraph (2) of Article 38 of Decree-Law No. 5-A/88 (of January 14, 1988).

Article 9

Regulations

The technical provisions for the implementation of this Decree-Law shall be approved by order of the Minister of Agriculture, Fisheries and Food.

PORTUGAL

Ministerial Order No. 940/90

of October 4, 1990*
as amended by Ministerial Order No. 351/91
of April 20, 1991**

1.(1) The Regulations on the Protection of New Plant Varieties, annexed to this Order, of which they form an integral part, are approved.

1.(2) The Regulations on the Protection of New Plant Varieties shall enter into force 30 days after the date of their publication.

2.(1) The National Registry of Protected Varieties, designated by the abbreviation CENARVE, shall be the department responsible for the implementation of the provisions of this Order.

2.(2) CENARVE shall operate within the framework of the National Institute of Agricultural Research, and shall be directed by the President of that Institute or by his representative.

3. CENARVE shall be responsible, inter alia, for the following:

(a) producing and examining documents in support of the grant of plant breeders' rights;

(b) conducting tests and inspections and taking any other action necessary to evaluate and rule on applications for the grant of plant breeders' rights;

(c) requesting or contracting for the provision of specialized services in its areas of concern, particularly with regard to DHS (distinctness, homogeneity and stability) testing;

(d) producing a periodical journal to publicize the varieties granted protection and also the most important documents from the files on the grant of plant breeders' rights;

(e) seeking the cooperation of the Departments of the Ministry of Agriculture, Fisheries and Food where such cooperation proves necessary for the proper conduct of its activities;

(f) coordinating its action with that of other bodies--both national and foreign--that concern themselves with plant variety protection matters, and promoting the conclusion of such agreements and protocols as may prove necessary or useful for the safeguarding of the interests in its charge.

* Portuguese title: Portaria No. 940/90

** Consolidated text prepared by the Office of the Union on the basis of the texts published in the Diário da República - 1 Série, No. 230 of October 4, 1990, on pages 4118 to 4123 and No. 92 of April 20, 1991, on page 2266

4. The Director of CENARVE shall be responsible, inter alia, for the following:

- (a) directing CENARVE and coordinating its operations;
- (b) presiding over the Technical Board of CENARVE;
- (c) issuing plant plant breeders' certificates, amending them or revoking them;
- (d) proposing to higher authorities such regulatory and legislative acts and measures as are necessary for the discharge of CENARVE's duties;
- (e) performing any other acts provided for in this Order or in other legislative or regulatory texts.

5.(1) The Technical Board is a consultative body that advises the Director of CENARVE; its members shall be the following:

- (a) the Director of CENARVE, who shall preside over it;
- (b) the Director of the National Center for the Protection of Agricultural Production, or his representative;
- (c) a representative of the breeders' associations;
- (d) a representative of the seed producers' associations;
- (e) a representative of the associations of producers of vegetative propagating material;
- (f) two public figures of recognized competence in the field of plant variety protection, one of them having legal training.

5.(2) The members referred to in the foregoing paragraph under (c), (d), (e) and (f) shall be designated by the Director of CENARVE, after the relevant associations have been heard.

5.(3) The Director of CENARVE may invite public figures of recognized competence to attend meetings of the Technical Board, without the right to vote, should such a step prove useful for the clarification of matters under consideration.

5.(4) The secretariat shall be provided by a CENARVE official designated by the Chairman of the Board, which official shall not have the right to vote.

6.(1) The Technical Board of CENARVE shall be responsible, inter alia, for the following:

- (a) issuing the advice provided for in this Order and pronouncing on all questions submitted to it by the Director of CENARVE;
- (b) proposing to the Director of CENARVE such acts and measures as it considers useful for the satisfactory performance of the Registry's duties.

6.(2) Where not provided otherwise by law or by a decision of the Director of CENARVE, the Technical Board shall issue the reports requested of it within a maximum period of one month.

7. The Technical Board shall meet in accordance with the rules governing it; minutes shall be taken of every meeting.

8.(1) For the purpose of publicizing the main documents in the files entrusted to CENARVE, a periodical journal entitled CENARVE Bulletin (Boletim do CENARVE) shall be produced.

8.(2) The CENARVE Bulletin shall publish the following, inter alia:

(a) applications for the grant of plant breeders' rights accepted by CENARVE;

(b) the refusal and the grant of plant breeders' certificates, and also the amendment, revocation or lapse thereof where applicable.

ANNEX**Regulations on the Protection of New Plant Varieties****Chapter I****GENERAL PROVISIONS****Article 1****Object**

These Regulations establish the legal regime for the protection of plant breeders' rights in accordance with Decree-Law No. 213/90 of June 28, 1990.

Article 2**Persons to Whom the Regime Applies**

(1) Foreigners shall enjoy the protection granted to nationals under the conditions laid down in the conventions to which Portugal is party.

(2) In the absence of international conventions, foreigners shall enjoy the protection granted to nationals except where the legal order in the country concerned, while granting protection to its own nationals, does not do so to Portuguese nationals in the same circumstances.

Article 3**Definitions**

For the purposes of these Regulations:

(a) "clone" means a group of individuals produced by vegetative propagation from a single plant that have an identical genetic heritage;

(b) "line" means a natural or artificial sexually-reproduced group having sufficient uniformity;

(c) "strain" means the offspring of plants of the same origin, produced by breeding and possessing numerous common characteristics;

(d) "hybrid" means a plant resulting from spontaneous or induced crosses from parent material with a generally different genetic heritage;

(e) "new plant variety" means any variety (cultivar), clone, line, strain or hybrid recognized as such from a technical or commercial point of view.

CHAPTER II

FUNDAMENTAL PRINCIPLES

Article 4

Content of Plant Breeders' Rights

(1) The breeders' rights in a plant variety shall confer on their owner exclusive entitlement to produce and market plants of that variety or the corresponding reproductive or vegetative propagating material.

(2) Plant breeders' rights shall not prevent the use of the protected plant variety as initial or basic material for the production of other varieties, except where its repeated or systematic use is necessary.

Article 5

Requirements for the Grant of Plant Breeders' Rights

(1) Breeders' rights in a plant variety shall be granted for any new product which:

(a) is distinct, meaning that, irrespective of the manner in which it is produced, it differs from any other variety the existence of which is a matter of common knowledge by one or more characteristics susceptible of recognition and precise description;

(b) is homogeneous, meaning that all the plants constituting the new variety are similar with respect to the particular features of their reproduction or vegetative propagation;

(c) is stable, meaning that, after a succession of reproductions or vegetative propagations, it has the same essential characteristics according to the description given by its breeder;

(d) is new, meaning that, on the filing date of the corresponding application for protection, it has not been put on sale or marketed within the country for more than one year--with its breeder's consent--or abroad for more than six years in the case of woody plants or four years in the case of herbaceous plants respectively.

(2) In addition to the conditions specified in the foregoing paragraph, the grant of plant breeders' rights shall be determined by the conformity of the relevant denomination to the provisions of these Regulations and by compliance with the other conditions laid down therein.

Article 6

Term of Plant Breeders' Rights

Plant breeders' rights shall have a term of 15 or 20 years for herbaceous and woody plants respectively.

Article 7

Protected Species

The botanical species the varieties of which may be the subject of plant breeders' rights shall be the following:

(Not reproduced here. See item 1 of Miscellaneous Information on page 47.)

CHAPTER III

PROCEDURE FOR THE GRANT OF PROTECTION

Article 8

Persons Qualified to Apply for the Grant of Plant Breeders' Rights

(1) The grant of plant breeders' rights in a plant variety may be applied for by the breeder thereof or by whoever succeeds him, whether by contract or mortis causa, provided that the person concerned is:

- (a) of Portuguese nationality;
- (b) of foreign nationality but resident in Portugal;
- (c) a legal entity with headquarters in Portugal;

(d) a national of a member State of the International Union for the Protection of New Varieties of Plants (UPOV) or a natural person or legal entity with residence or headquarters in one of the States of the Union, provided that the State concerned grants protection to the species or genus to which the variety referred to in the application belongs;

(e) a national of another State or a natural person or legal entity with residence or headquarters in a State in which Portuguese, or foreigners resident in Portugal and legal entities with headquarters in Portugal, enjoy the same protection as is accorded to the nationals of the State concerned with respect to varieties belonging to the genus or species referred to in the application.

(2) Persons or entities not resident or not having headquarters in Portugal may apply for the grant of plant breeders' rights only if they designate a representative who fulfils those conditions.

(3) Where two or more persons have jointly discovered a plant variety, the corresponding application for plant breeders' rights shall likewise be drawn up jointly; a representative shall however be appointed who shall act in the name of all of them in any relations to be conducted with CENARVE.

(4) The representative referred to in the foregoing paragraph may be one of the applicants or a third party. Where no representative is appointed, the applicant named first shall be considered the representative.

Article 9

Application for the Grant of Plant Breeders' Rights

- (1) The application for the grant of plant breeders' rights may be filed with CENARVE personally or sent by registered letter with notice of receipt.
- (2) The application, made on the appropriate printed forms provided by CENARVE, shall be written in Portuguese, and any documents to be submitted that are written in a foreign language shall be accompanied by a duly certified translation.
- (3) The date of the application shall be that of its filing with CENARVE.

Article 10

Conditions to Be Met by the Application for the Grant of Plant Breeders' Rights

1. The application for the grant of plant breeders' rights shall contain the following particulars, inter alia:

- (a) the name or business style of the applicant, with domicile or headquarters;
- (b) the nationality of the applicant in the case of a natural person;
- (c) the name and address of the representative, if any;
- (d) the name and address of the breeder, if other than the applicant;
- (e) the denomination of the plant variety or the designation given it by its breeder;
- (f) where the plant variety is protected or where protection has already been applied for in any country, the following particulars shall also be given;
 - the identity of that country or those countries;
 - the denomination registered in that country or those countries;
 - the number under which the application for or title of protection is registered;
 - the date of the application or title granted;
- (g) if any priority is claimed, the date of the first application for protection and the country in which it was filed;
- (h) the signature of the applicant or his representative.

(2) The application shall be accompanied by the following:

- (a) a full description of the plant variety;
- (b) a power of attorney signed before a notary, where the application is filed by a representative;
- (c) where the application is not filed by the breeder, a document attesting the acquisition of the corresponding rights;
- (d) a declaration stating that the plant variety is new within the meaning of these Regulations;

(e) a declaration stating that the applicant undertakes, as from the grant of plant breeders' rights, not to exercise his rights in the use of any trademark or trade name liable to cause confusion with the denomination for which protection is sought that may have been registered in his favor in the country or in any other country with which Portugal has entered into an agreement on identical or similar goods;

(f) any other particulars that the applicant considers useful for the full evaluation of the application;

(g) the amount of fees payable;

(h) an inventory of the documents submitted to CENARVE.

(3) The description referred to in subparagraph (a) of the foregoing paragraph shall state, inter alia:

(a) the botanical species to which the plant variety belongs;

(b) the main morphological and physiological characteristics and also, in the case of hybrid varieties, the main morphological and physiological characteristics of the parents;

(c) the technique used to breed the variety concerned;

(d) the similarities and differences of the variety in relation to any other variety in existence.

Article 11

Benefit of Priority

(1) When applying for the grant of breeders' rights in a plant variety, the person concerned may claim the benefit of priority if, less than one year previously, he has filed an application in due form for the protection of the same variety in a member country of UPOV.

(2) The effect of the benefit of priority shall be that the date of the application shall be deemed to be that of the earlier application filed in the foreign country.

(3) The request for priority shall be considered in the light of copies of the documents attesting the filing of the earlier application for the grant of plant breeders' rights on the basis of which priority is claimed, duly certified and dated by the appropriate departments.

(4) The documents referred to in the foregoing paragraph shall be filed together with the application for the grant of plant breeders' rights or within the three months thereafter, failing which the benefit of priority shall not be recognized.

(5) Where appropriate, the applicant shall state in the application for the grant of plant breeders' rights the date on which he intends to submit the propagating material referred to in paragraph (3) of Article 16, as the period of four years following the date on which the priority expires may not be exceeded.

(6) the request for priority shall be accompanied by the amount of the fee payable.

Article 12

Denomination of the Plant Variety

(1) Any plant variety shall be designated by a single denomination that enables it to be identified and is different from that used for any other plant variety of the same or a related species already registered in the country or in any other member State of UPOV.

(2) The denomination given to a protected variety may not be used as a trademark or trade name for any new plant variety of the same or a related species.

Article 13

Conditions to Be Met by the Denomination

(1) The denomination of the plant variety may be composed of:

- (a) not more than three words;
- (b) an alphanumerical combination comprising not more than four elements;
- (c) a combination of words and letters comprising not more than four elements;
- (d) a combination of words and numerals comprising not more than four elements.

(2) The proposed denomination shall be written in full.

(3) The proposed denomination must not:

- (a) be difficult to pronounce or remember;
- (b) be misleading as to the origin, source, value or characteristics of the plant variety or the identity of the breeder;
- (c) be identical, or easy to confuse, with another denomination already registered in the country or in any other member State of UPOV, which is used to designate a plant variety of the same species or species in the same class;
- (d) be contrary to morality or public policy;
- (e) incorporate the botanical or common name of a plant genus or species, or the words "variety," "cultivar," "hybrid," "form" or "cross";
- (f) give the impression that the plant variety derives from another variety, or is related to such a variety, when that is not the case;
- (g) evoke solely characteristics that are common to other protected plant varieties of the same species;
- (h) be inadequate for linguistic reasons;
- (i) be identical to a denomination used to designate another commonly-grown plant variety, even if the latter variety is already public property.

(4) Notwithstanding the provisions of the foregoing paragraph, if the plant variety for which protection is sought is already protected in another member State of UPOV, or if an application for protection has already been filed in such a State, only the previously-used denomination may be proposed and registered.

(5) The denomination of the protected plant variety shall always be used for the marketing of the said variety, or for the marketing of propagating material of the variety, even after the term of protection has expired.

Article 14

Acceptance or Rejection of the Application

(1) Within a period of five working days following the date of its filing with CENARVE, the application for the grant of plant breeders' rights shall be examined to determine whether it fulfils the conditions laid down in these Regulations.

(2) If it contains all the elements necessary for evaluation, the application shall be accepted and entered in a special register, in which the filing date shall also be recorded.

(3) Where the application is incomplete, or where CENARVE considers that further details are necessary, it shall invite the applicant to provide them and shall set a time limit for the purpose which shall be neither shorter than 15 days nor longer than 30 days.

(4) Where the elements requested pursuant to the foregoing paragraph are not communicated within the time limit set, the application shall be rejected and the fact shall be notified to the applicant, who shall not be entitled to repayment of any fees already paid.

Article 15

Publication of the Application and Oppositions Filed Against It

(1) Once the application has been accepted, it shall be published in the CENARVE Bulletin, which shall record the date of filing, the name or business style of the applicant with residence or headquarters, the name or business style of the breeder--if other than the applicant--with residence or headquarters, the proposed denomination and the main characteristics of the variety as given in the application.

(2) Within two months following the date of the publication referred to in the foregoing paragraph, any interested party may file opposition to the grant of plant breeders' rights.

(3) Oppositions shall be filed in triplicate and shall clearly and precisely state:

(a) the name or business style and residence or headquarters of the opponent;

(b) the application for plant breeders' rights opposed and the issue of the CENARVE Bulletin in which it was published;

(c) the grounds on which the grant of plant breeders' rights should be refused.

(4) Oppositions filed with CENARVE shall be communicated to the applicant, in order that the latter may reply to them within a period of 30 days.

Article 16

Decision on the Continuation of the Procedure

(1) On expiry of the time limit set in paragraph (2) of the foregoing Article or, where oppositions have been filed, after the submission of the reply or the expiry of the time limit allowed for the purpose, the Director of CENARVE shall decide whether to continue or to cancel the procedure, basing his decision, inter alia, on oppositions filed and, if possible, satisfying himself that the requirement specified in subparagraph (d) of paragraph (1) of Article 5 has been fulfilled.

(2) Cancellation of the procedure shall be notified to the applicant with a sufficient statement of reasons.

Article 17

Tests for Distinctness, Homogeneity and Stability

(1) New plant varieties for which plant breeders' rights have been applied for shall be tested to determine their distinctness, homogeneity and stability.

(2) The tests referred to in the foregoing paragraph shall be carried out by CENARVE or by any other body, either national or foreign, designated by it.

(3) CENARVE shall inform the applicant of the quantity of propagating material that he has to provide, and also of the place and date of delivery; it shall likewise inform him of the body that will be carrying out the tests, the place in which they will be carried out, the date on which they will start and their expected duration.

(4) In the course of the tests, CENARVE may request the applicant to provide further information or additional propagating material, setting a date for compliance.

(5) Where the applicant does not deliver the propagating material referred to in paragraph (3) to the place or on the date specified, or where without explanation he refuses to cooperate in the manner described in the foregoing paragraph, the application shall be cancelled without reimbursement of any fees already paid.

Article 18

Test Results

- (1) Once the DHS tests have been completed, the body that has carried them out shall draw up a report on them and also a final assessment of the new plant variety.
- (2) The documents referred to in the foregoing paragraph shall be sent to the applicant, who shall be allowed one month within which to comment on them.

Article 19

Advice of the Technical Board

Once the period referred to in paragraph (2) of the foregoing Article has expired, the file shall be submitted to the Technical Board of CENARVE for its advice.

Article 20

Decision and Publication

- (1) Once the advice of the Technical Board of CENARVE has been given or the period set for the purpose has expired, the file shall be submitted to the Director of CENARVE for a decision.
- (2) If the plant breeders' rights applied for are granted, a title called a "plant breeder's certificate" shall be issued in which the following particulars shall appear:
 - (a) the number thereof;
 - (b) the species to which the plant variety qualifying for plant breeders' rights belongs;
 - (c) the denomination given to the plant variety;
 - (d) the name of the owner of plant breeders' rights and that of the breeder if another person;
 - (e) the date of grant of the certificate and that on which the protection afforded by it ceases to operate;
 - (f) the signature of the Director of CENARVE.
- (3) The grant of the plant breeder's certificate shall be published in the CENARVE Bulletin, which shall record the elements referred to in the foregoing paragraph.
- (4) Refusal to grant plant breeders' rights shall also be published, with an indication of the grounds on which it was pronounced.

Article 21**Recording in the National Register of Protected Varieties**

- (1) The grant of plant breeders' rights shall be recorded in the Register of Protected Varieties in chronological order.
- (2) The Register entry referred to in the foregoing paragraph shall contain the following:
- (a) the elements mentioned in paragraph (2) of the foregoing Article;
 - (b) the serial number and dates of filing and acceptance of the application;
 - (c) the description of the plant variety, drawn up after the tests of identity, homogeneity and stability;
 - (d) the name and residence of the representative, if any;
 - (e) the date on which the plant breeder's certificate was issued, and the date of publication thereof in the CENARVE Bulletin;
 - (f) payment of the required fees;
 - (g) revocation or transfer of the plant breeder's rights;
 - (h) any licenses granted;
 - (i) judicial actions concerning the plant breeders' rights.
- (3) Any alteration to Register entries shall be communicated to CENARVE for recording.

CHAPTER IV**SUBSEQUENT CONTROLS AND MAINTENANCE FEES**Article 22**Subsequent Controls**

- (1) CENARVE may demand of the owner of plant breeders' rights that he provide additional material or documents for the purposes of tests to determine whether the protected plant variety still retains the characteristics on the basis of which the said rights were granted.
- (2) For the purposes of the controls referred to in the foregoing paragraph, CENARVE may inspect the maintenance growing plots.
- (3) Failure to observe the provisions of paragraph (1), or unwarranted opposition to the inspections referred to in the foregoing paragraph, shall cause the plant breeders' rights concerned to be revoked.

Article 23

Maintenance Fees

The owner of plant breeders' rights shall pay the appropriate maintenance fee for each year of the term of protection.

Chapter V

TRANSFER OF PLANT BREEDERS' RIGHTS AND EXPLOITATION LICENSES

Article 24

Transfer of Plant Breeders' Rights

- (1) Plant breeders' rights shall be transferable by contract or by inheritance.
- (2) Any transfer under the foregoing Article shall be communicated to CENARVE within one month, and shall give rise to payment of the corresponding fee.

Article 25

License Contracts

- (1) The owner of plant breeders' rights may by contract, either free of charge or for a consideration, authorize another person to exploit the plant variety covered by the rights.
- (2) The conclusion of a contract as referred to in the foregoing paragraph shall be communicated to CENARVE for recording in the Register of Protected Varieties.
- (3) Unless expressly provided to the contrary, the conclusion of a contract shall not prevent the breeder from concluding other contracts or from exploiting the plant variety in question direct.
- (4) The owner of an exploitation license may not transfer it or allow another person to exploit the plant variety in question without the express authorization of the breeder.
- (5) Transfer of the license shall be communicated to CENARVE for recording in the Register of Protected Varieties.

Article 26

Compulsory Licenses

- (1) At the request of interested parties, CENARVE may decide to grant compulsory licenses where such a step is considered necessary for the safeguarding of the public interest which requires the rapid and wide distribution of the plant variety in question.

(2) When it grants a compulsory license, CENARVE shall set the equitable compensation, which shall be economic in character, that accrues to the owner of the plant breeders' rights after the interested party has been heard and the Technical Board has given its advice.

(3) A compulsory license shall be dependent:

(a) on the interested parties possessing the technical and economic means necessary for the efficient exploitation of the plant variety concerned;

(b) on the owner of the plant breeders' rights having refused without justification to enter into a license contract with the interested party;

(c) on the interested party providing every assurance of payment of the compensation referred to in paragraph (2);

(d) on a period of three years having elapsed after the date of grant of the plant breeders' rights concerned;

(e) on payment of the fee due for the purpose.

(4) The term of the compulsory license shall be from two to four years; that term may be prolonged if the conditions on the basis of which the license was granted continue to obtain.

(5) A compulsory license may be revoked if its holder fails to discharge the obligations that he has assumed.

CHAPTER VI

LAPSE AND REVOCATION OF PLANT BREEDERS' RIGHTS

Article 27

Lapse of Plant Breeders' Rights

Plant breeders' rights shall lapse on expiry of the periods referred to in Article 6.

Article 28

Revocation

(1) Plant breeders' rights shall be revoked:

(a) for failure to pay the fees due;

(b) where the plant variety ceases to display the characteristics on the basis of which they were granted;

(c) at the request of the owner;

(d) where the owner has not provided the material demanded by CENARVE for the purposes of verifying the continued presence of the characteristics of the plant variety in question;

(e) where the owner of the rights opposes the inspections referred to in paragraph (2) of Article 19;

(f) where it is shown that the holder of the rights is not the rightful owner thereof.

(2) In the case provided for in subparagraph (f) of the foregoing paragraph, and at the request of the rightful owner, plant breeders' rights may be granted to the said owner without the necessity of a new grant procedure.

CHAPTER VII

FINAL PROVISIONS

Article 29

Fees

(1) Each of the acts provided for in these Regulations shall give rise to the payment of the following fees, which are calculated according to a system of points:

(Not reproduced here; see item 2 of Miscellaneous Information on page 47.)

PORTUGAL

Miscellaneous Information

1. List of Taxa Covered by Plant Variety Protection Legislation
(with effect from April 20, 1991)

<u>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ameixieira	Plum	Prunier	Pflaume
Amendoeira	Almond	Amandier	Mandel
Arros	Rice	Riz	Reis
Aveia	Oats	Avoine	Hafer
Azevéns	Ryegrass	Ray-grass	Weidelgrass
Batateira	Potato	Pomme de terre	Kartoffel
Centeio	Rye	Seigle	Roggen
Cerejeira	Cherry	Cerisier	Kirsche
Cevada	Barley	Orge	Gerste
Crisântemo	Chrysanthemum	Chrysanthème	Chrysantheme
Damasgueiro	Apricot	Abricotier	Aprikose
Ervilhaca	Vetch	Vesce	Wicke
Festucas	Fescue	Fétuque	Schwingel
Girassol	Sunflower	Tournesol	Sonnenblume
Luzerna	Lucerne	Luzerne	Schneckenklee
Macieira	Apple	Pommier	Apfel
Milho	Maize	Maïs	Mais
Morangueiro	Strawberry	Fraisier	Erdbeere
Pereira	Pear	Poirier	Birne
Pessegueiro	Peach	Pêcher	Pfirsich
Roseira	Rose	Rosier	Rose
Tremoceiro	Lupin	Lupin	Lupine
Trevos	Clover	Tréfle	Klee
Trigo	Wheat	Blé	Weizen
Triticale	Triticale	Triticale	Triticale
Videira	Vine	Vigne	Rebe

2. Tariff of Fees

	<u>points</u>
(a) application for plant breeders' rights (Article 9)	12 500
(b) claim of the benefit of priority (Article 11)	4 500
(c) opposition to the grant of protection (Article 15)	4 500

	<u>points</u>
(d) testing of distinctness, homogeneity and stability carried out by CENARVE (Article 17)	25 000 to 41 500
(e) testing of distinctness, homogeneity and stability carried out by other bodies (Article 17)	variable
(f) grant of plant breeders' rights (Article 20)	17 500
(g) maintenance of plant breeders' rights (Article 23):	
first year	8 000
second year	20 000
third year	35 000
fourth year	50 000
fifth and following years	70 000
(h) registration of transfer of plant breeders' rights (Article 24)	8 000
(i) registration of a license contract (Article 25)	7 500
(j) other alterations or entries made in the Register	1 500

(2) The amount of the fee provided for in subparagraph (c) of the foregoing paragraph shall be refunded if the opposition filed is judged valid.

(3) The amount of the fee provided for in subparagraphs (d) and (e) of paragraph (1) shall be set by CENARVE according to the complexity and cost of the tests.

(4) The value of each point is 1.50 escudos.

NON-MEMBER STATES

Portugal: Operation of the Protection of New Plant Varieties

Since the end of 1990 a scheme for the protection of new plant varieties has been in operation. This scheme is based on Decree-Law No. 213/90 of June 28, 1990, on the Legal Regime Governing Breeders' Rights in New Plant Varieties and Ministerial Order No. 940/90 of October 4, 1990. The latter and its annex (Regulations on the Protection of New Plant Varieties) were amended by Ministerial Order No. 351/91 of April 20, 1991. The consolidated texts of the Decree-Law and the Ministerial Order are reproduced in the "Legislation" subsection of this issue, starting on page 27.

As for the availability of protection to foreigners, the Portuguese Government, not yet being party to the UPOV Convention, grants foreign applicants the protection on the basis of the reciprocity principle (See Articles 2 and 8 of the Regulations).

Pursuant to Article 6 of the Regulations, the duration of plant breeders' rights is 15 years for herbaceous plants and 20 years for woody plants.

Applications for the grant of plant breeders' rights should be sent to the National Registry of Protected Varieties (Centro Nacional de Registro de Variedades Protegidas, Tapada de Ajuda, Edificio II, 1300 Lisboa, Portugal). The tariff of fees and protected botanical taxa are listed in the "Legislation" subsection of this issue, starting on pages 47.

MISCELLANEOUS INFORMATION

International Crop Science Congress

The Crop Science Society of America and Iowa State University will co-organize the First International Crop Science Congress (ICSC) at the Iowa State Center, Ames, Iowa, from July 14 to 22, 1992. There will be 5 plenary meetings and 18 Symposia where the participants will hear presentations by 95 speakers from 25 countries. The second symposium, which will take place on the afternoon of July 15, 1992, is entitled "Plant Intellectual Property Rights" and will include the following lectures:

- "Intellectual property rights and international technology transfer" by J. Barton, College of Law, Stanford, United States of America
- "Legal instruments for protection of intellectual property" by R. Jondle, Venable et al., Washington D.C., United States of America
- "Intellectual property rights, biotechnology and the exploitation of plant genetic resources from centers of diversity" by D. Juma, African Center for Technology Studies, Nairobi, Kenya
- "Possible effects of IPR on erosion and conservation of plant genetic resources" by D. Duvick, Iowa State University, United States of America

The program is designated to cover sustainability of agriculture, global climate change, biodiversity, crop improvement beyond the 1990s and the physiology and molecular biology of crop plants. The registration booklet containing detailed information on the congress and registration forms are available at Iowa State University, (c/o Ms. Janet Gardner) Continuing Education,

102 Scheman, Ames, Iowa 50011-1112, United States of America

(Tel.: (515) 294-5366; Fax: (515) 294-6223)

CALENDAR

UPOV Meetings in 1992

January 15 to 17 (Paris, France)	Technical Working Party for Vegetables
April 8 and 9	Administrative and Legal Committee
June 2 to 4 (Wageningen, Netherlands)	Technical Working Party on Automation and Computer Programs
June 16 to 19 (Menstrup Kro, Denmark)	Technical Working Party for Agricultural Crops
June 23 to 26 (Germany)	Technical Working Party for Vegetables
August 24 to September 2 (Nelspruit, South Africa)	Technical Working Party for Fruit Crops
August 27 to September 7 (Stellenbosch, South Africa)	Technical Working Party for Ornamental Plants and Forest Trees
October 21 to 23	Technical Committee
October 26 and 27	Administrative and Legal Committee
October 28	Consultative Committee
October 29	Council
October 30	Meeting with International Organizations

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.

"Plant Variety Protection" is a UPOV publication that reports on national and international events in its field of competence and in related areas. It is published in English only--although some items are trilingual (English, French and German)--at irregular intervals, usually at a rate of four issues a year. Requests for addition to the mailing list may be placed with:

The International Union for the Protection of New Varieties of Plants (UPOV)
34, chemin des Colombettes, 1211 Geneva 20 (POB 18)

Telephone: (022) 730.91.11 - Telex: 412 912 ompi ch - Telefax: (022) 733.54.28