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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**  
GENEVA

**COUNCIL**

**Forty-Fifth Ordinary Session**  
**Geneva, October 20, 2011**

REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS  
ON THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS

*Document prepared by the Office of the Union*

1. According to the practice introduced on the occasion of the twenty-sixth ordinary session of the Council, the reports from the representatives of members and observers on the situation in the legislative, administrative and technical fields of plant variety protection and related areas are requested to be submitted in writing, in advance, to increase the ability of the Council to carry out its tasks effectively.

2. Written reports were requested by the Office of the Union in the invitation circular relating to this session and a model format was proposed. The following reports were submitted (in alphabetical order of the names in French):

Members: Annexes I to XIV: South Africa, Australia, Austria, Belgium, Canada, Latvia, Lithuania, New Zealand, Poland, Republic of Moldova, Czech Republic, Tunisia, Ukraine and Viet Nam

Observers: Annex XV: Serbia

3. Reports received after September 9, 2011, will be included as an addendum to this document, which will be published after the Council session.

[Annexes follow]

## ANNEX I

## SOUTH AFRICA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

## 1.1 Amendments of the law and the implementing regulations

Nothing to report.

## 1.2 Case law

Nothing to report.

## 1.3 Extension of protection to further genera and species

Protection was extended to a further 10 taxa as of June 17, 2011.

2. Cooperation in examination

Nothing to report.

3. Situation in the administrative field

By August 31, 2011, the total number of valid plant breeders' rights was 2,376.

	Agricultural Crops	Vegetable Crops	Ornamental Crops	Fruit Crops	Total
Valid PBR	779	246	891	460	2376

4. Situation in the technical field (see under 3)

Nothing to report.

5. Activities for the promotion of plant variety protection

- A national Plant Breeders' Rights policy was approved by Cabinet on June 8, 2011.
- Publications

All matters related to Plant Breeders' Rights are published in the quarterly South African Plant Variety Journal which appears on the web-site of the Department of Agriculture, Forestry and Fisheries ([www.daff.gov.za](http://www.daff.gov.za)).

[Annex II follows]

ANNEX II

AUSTRALIA

The format of this report follows that specified in previous years and briefly records information for the financial year ending 30 June 2011

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 The *Plant Breeder's Rights Act 1994* (the PBR Act) was amended by way of the *Statute Law Revision Act 2011* (No. 5), 22 March 2011, to include the correct cross reference in section 51(1)(b) relating to an order given by a court to the Registrar. A current compilation of the PBR Act is available from <http://www.comlaw.gov.au/Series/C2004A04783>

1.2 PBR case law. *Elders Rural Services Australia Limited v Registrar of Plant Breeder's Rights* [2011] FCA 384. The action related to the statutory construction of the transitional arrangements between the previous *Plant Variety Rights Act 1987* (the PVR Act) and the current *Plant Breeder's Rights Act 1994*, specifically whether the duration of a grant of rights made under the PBR Act in respect of an application made under the PVR Act but not fully processed at the time the current Act came into force, enjoys a term of 20 years from the date of acceptance or 20 years from the date of grant. The case was complicated by the imprecise wording of the transitional provisions. However, Lander J found in favor of the Registrar in that the duration of protection should be calculated in accordance with the provisions of the PVR Act (i.e. 20 years from the date of acceptance).

An appeal to the Full Bench of the Federal Court was heard on 17 August 2011, with the decision reserved.

2. Cooperation with examination

Arrangements have been further refined with New Zealand regarding access to reports. Under the auspices of the Single Economic Market initiative between Australia and New Zealand, preliminary investigations to assess the feasibility of further cooperation were progressed.

3&4. Situation in administrative and technical fields

The Australian PBR office maintained accreditation for 35 establishments to act as Centralised Test Centres (CTCs) for DUS testing for one or more of the following 53 plant types: Potato, Sugar Cane, Canola, Wheat, Oats, Clematis, *Mandevilla*, *Diascia*, *Argyranthemum*, *Pelargonium*, Perennial Ryegrass, Tall Fescue, Tall Wheat Grass, White Clover, Persian Clover, *Bracteantha*, *Aglaonema*, *New Guinea Impatiens*, *Bougainvillea*, *Verbena*, *Agapanthus*, *Camellia*, *Lavandula*, *Osmanthus*, *Ceratopetalum*, *Rosa*, *Euphorbia*,

*Linonium, Raphiolepis, Eriostemon, Lonicera, Jasminum, Angelonia, Cuphea, Cynodon, Zoysia, Petunia, Calibrachoa, Hordeum, Leptospermum, Rhododendron, Osteospermum, Antirrhinum, Dahlia, Anubias, Ananas, Dianella, Plectranthus, Zingiber, Zantedeschia, Prunus, Mangifera, Vaccinium, Kalenchoe and Lens.*

IP Australia also maintains and updates weekly a Homepage ([www.ipaustralia.gov.au/pbr/index.shtml](http://www.ipaustralia.gov.au/pbr/index.shtml)) that includes PBR information, downloadable forms, and a searchable database including information on current applications, variety descriptions, images and grants.

Year	Applications Received	Applications Completed	Applications Pending
Ending 30/6/2011	338	345	
Total 1988 to 2011*	6,835	5,611	1,224

\*= as at 30 June 2011.

The Government's response to the Advisory Council on Intellectual Property (ACIP) final report into the Enforcement of PBR was released in May 2010 ([http://www.acip.gov.au/library/pbr\\_enforcement\\_response.pdf](http://www.acip.gov.au/library/pbr_enforcement_response.pdf)). The Government accepted the majority of the 23 recommendations made by ACIP, however it did not accept a recommendation to introduce a new "purchase right" for plant taxa specifically declared in Regulations. A summary of the response is available (<http://www.davies.com.au/pub/detail/456/plant-breeder-s-rights-review-federal-government-accepts-majority-of-acip-s-recommendations>).

##### 5. Activities for the promotion of plant variety protection

IP Australia has been involved in the following promotional activities:

- "Plant Variety Protection according to the UPOV Convention", WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 23 July 2010.
- "The Impact of Plant Variety Protection under the UPOV Convention", WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 23 July 2010.
- "The UPOV Convention and Other International Treaties", WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 23 July 2010.
- "International Cooperation in examination, procedures and operational status in Australia", Third Workshop for Cooperation in Harmonization of Technical Guidelines (TG) and DUS Testing, Kuala Lumpur, Malaysia, 26 August 2010.

- “Examination using DUS Test Reports – the Australian method”, Third Workshop for Cooperation in Harmonization of Technical Guidelines (TG) and DUS Testing, Kuala Lumpur, Malaysia, 26 August 2010.
- “Plant Breeder’s Rights: Workshops for Qualified Persons (QPs)”, Canberra, Brisbane, Sydney, Melbourne, Hobart, Adelaide and Perth Australia, 28 February to 16 March 2011.

[Annex III follows]

I. PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

1.1 Amendments of the law and the implementing regulations: currently none.

- Adaptation to the 1991 Act of the Convention: already done through Plant Variety Protection Law BGBl. I, Nr.109/2001.
- other amendments, including in respect of fees: currently none.

1.2 Extension of protection to further genera and species (made or planned):

Extension of the possibility of plant variety protection to all plant genera and species has been achieved by means of the List of Species for Plant Variety Protection BGBl. Nr. 412/2006

2. Cooperation in Examination

Nothing to report.

3. Situation in the Administrative Field

Nothing to report.

4. Situation in the Technical Field

Nothing to report.

5. Activities for the promotion of plant variety protection

Nothing to report.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

ANNEX IV

BELGIUM

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

Adaptation to the 1991 Act of the Convention

The Law on Plant Variety Protection, of January 10, 2011, was published in the *Moniteur belge* of February 25, 2011. This Law adapts the plant variety protection regime to the 1991 UPOV Convention and it shall enter into force on the date set by the King.

Access to plant variety protection under the 1991 Act is nevertheless still possible on Belgian territory, through the Community Plant Variety Office, in accordance with the European regulations in force on the subject.

2. Cooperation in examination

No change

3. Situation in the administrative field

- Changes in the administrative structure

No change.

- Volume of activity – status as at August 31, 2011

Since the entry into force of the legislation on the protection of plant varieties in Belgium, and up to August 31, 2011, 2,251 applications for protection have been registered and 1,804 certificates issued, of which 154 are still in force

II. DEVELOPMENTS IN RELATED FIELDS OF ACTIVITY OF INTEREST TO UPOV

*National catalogues of varieties*

Transposition of Directive 2010/46/EU

- Ministerial Order of November 8, 2010, replacing Annexes I and II of the Order of the Walloon Government of May 27, 2004, on testing for the inclusion of varieties of agricultural plant and vegetable species in the national catalogue.

- *Ministerial Decree of December 2, 2010 amending Annexes I and II of the Decree of the Flemish Government of April 27, 2007 concerning the Minimum Characteristics to be Taken into Account and the Minimum Conditions to be Satisfied for the Examination of Certain Varieties of Species of Agricultural and Vegetable Plants*

#### *Control of seeds and seedlings – certification*

#### Transposition of Directive 2009/145/EC

- Order of the Walloon Government of November 18, 2010, introducing certain derogations for acceptance of vegetable varieties traditionally cultivated in specific regions or without commercial value, as well as for the marketing of the seeds of these varieties.
- *Ministerial Decree of December 20, 2010 introducing certain exceptions for the admission of primitive breeds and varieties of vegetables traditionally cultivated in specific localities and regions and threatened with genetic erosion, and varieties of vegetables with no intrinsic value for commercial production but created with a view to satisfying specific growing conditions, and also for the commercialization of seeds of these primitive breeds and varieties.*

#### Changes to the regulations on fees

- *Decree of the Flemish Government of January 21, 2011 amending various provisions of the Decree of the Flemish Government of January 19, 2007 fixing the remuneration for the entry of varieties in the national catalogues of varieties, the exercise of certain professions in the plant propagation material sector and the verification of such material.*

#### Regulations on seed potato inspection

- *Ministerial Decree of July 1, 2011 establishing regulations for the verification and certification of the production of potato plants*

#### *Legislation on the Release and Marketing of GMOs*

-

#### *Legal Protection of Biotechnological Inventions*

-

#### *Other Matters*

The Law implementing the Patent Law Treaty and the Act revising the Convention on the Grant of European Patents, and amending various provisions on patents of January 10, 2011, was published in the *Moniteur belge* of February 16, 2011. The main aim of this Law is to amend the Act of March 28, 1984 on Patents, in accordance with the requirements under both the Patent Law Treaty (PLT), adopted on June 1, 2000 under the auspices of the World Intellectual Property Organization (WIPO), and the new European Patent Convention



(EPC 2000), adopted by the Diplomatic Conference of the European Patent Office on November 29, 2000. The Law shall enter into force on the date set by the King.

[Annex V follows]

## ANNEX V

## CANADA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

## 1.1 Amendments of the law and the implementing regulations

Nothing to report.

## 1.2 Extension of protection to further genera and species (made or planned)

Canada's legislation already provides for plant variety protection for varieties of all species of plants but does not allow for protection of bacteria, fungi or algae.

## 1.3 Case law

Nothing to report.

2. Cooperation in examination

Nothing to report.

3.&4. Situation in the administrative and technical fields

The Canadian Plant Breeders' Rights Office maintains a webpage that is updated monthly and provides information on the PBR system, guidance documents for applicants, downloadable forms and information on all varieties for which applications have been filed, including variety descriptions and color photographs of all varieties which have been examined since 2006. A project is currently underway to load the variety descriptions of all varieties examined prior to 2006 into the PBR database, so that all variety descriptions would be freely available on the website.

The home page of the PBR Office can be found at:

<http://www.inspection.gc.ca/english/plaveg/pbrpov/pbrpove.shtml>

For the period January 1, 2010 to December 31, 2010, the statistics regarding applications and grants of rights are as follows:

<i>Numbers of Varieties</i>	<i>Agricultural Crops</i>	<i>Ornamental Crops</i>	<i>Fruit Crops</i>	<i>Vegetable Crops</i>	<i>TOTAL</i>
Applications filed	78	259	19	5	361
Rights granted	60	220	16	4	300

5. Activities for the promotion of plant variety protection

- The office hosted a meeting of the Intellectual Property Working Group of the Canadian Seed Trade Association (CSTA) in January 2011. A representative from the PBR office attended and participated in the CSTA annual meeting in Niagara Falls, Ontario, July 17-19, 2011. Details of the 1991 UPOV Convention were clarified for the industry delegates. Since then, the PBR office has provided technical assistance to the CSTA executive as they solicit support from farm organizations for legislative amendments to enable ratification of the 1991 Convention.
- Two presentations “Management of Variety Collections – the Canadian Experience”, and “Use of Variety Descriptions Provided by Breeders”, were made at the UPOV Seminar on DUS Testing, March 19 and 20, 2010.
- A presentation “Plant Breeders’ Rights System in Canada”, was given to members of the Ornamental Working Group of the Canadian Nursery Landscape Association, Ottawa, April 7, 2010.
- A presentation entitled “Canadian DUS Testing Experiences”, was delivered to the International Seminar on Plant Breeders’ Rights, Cuernavaca, Mexico, September 26, 2010.
- A presentation regarding the UPOV system of plant variety protection was made at a seminar for breeders, hosted by the Agriculture and Agri-Food Canada’s Research Station in Ste Hyacinthe, Québec, April 27, 2011. The seminar was designed to provide information on various forms of IP protection that are available to researchers.
- A presentation explaining Canada’s plant breeders’ rights law and its implications for growers of ornamental plants was delivered to the Russell Horticultural Society, May 16, 2011.
- A one day workshop on Plant Breeders’ Rights was conducted for breeders of fruit, vegetable and ornamental crops at the Vineland Research and Innovations Centre, Vineland, Ontario, on August 18, 2011. The presentations detailed the Canadian process for obtaining rights, guidance for the conduct of DUS trials, common issues regarding variety denominations as well as the determination of novelty, and restrictions associated with PBR protected varieties.
- Consultations are ongoing with the Government of Canada’s Interdepartmental Committee on Access and Benefit Sharing, to investigate the effect that the Nagoya Protocol of the Convention on Biological Diversity may have on existing government programs, particularly intellectual property systems, in the event that a decision is made for Canada to sign the protocol.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

None to report.

[Annex VI follows]

ANNEX VI

LATVIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations:

Amendments to the Plant Varieties Protection Law which came into force on July 1, 2010 and December 31, 2010.

1.2 Extension of protection to further genera and species (made or planned)

No changes have been made.

1.3 Case law: nothing to report.

2. Cooperation in examination

No changes have been made.

3. Situation in the administrative field

- Changes in the administrative structure  
No changes have taken place.
- Changes in office procedure and systems  
No changes.

4. Situation in the technical field

DUS test was carried out for Estonian fruit varieties:

- *Malus domestica* Borkh. – 3 varieties;
- *Prunus domestica* L. - 5 varieties;
- *Prunus avium* L. – 7 varieties;
- *Pyrus communis* L - 2 varieties.

DUS test was carried out for Latvia:

- *Rhododendron* L. – 5 varieties;
- *Rosa* L. - 3 varieties;
- *Malus* Mill.- 1 variety;
- *Malus domestica* Borkh. – 7 varieties;
- *Pyrus communis* L - 6 varieties;
- *Rubus idaeus* L. - 2 varieties;
- *Ribes nigrum* L. -1 variety;
- *Ribes uva-crispa* L. - 1 variety;
- *Chaenomeles japonica* L. -3 varieties.

2. Activities for the promotion of plant variety protection

During the last year Latvia participated in the following events:

- On March 10 and 11, 2010, at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Brussels, Belgium;
- On March 12, 2010, at the Working Party of the Agricultural Questions of the Council of the European Union in Brussels, Belgium;
- On March 18 to 20, 2010, at the Seminar on DUS testing of the International Union for the Protection of New Varieties of Plants (UPOV) in Geneva, Switzerland;
- On June 10 and 11, 2010, at the Ornamental experts meeting (CPVO) in Roelofarendsveen, Netherlands;
- On October 19 to 21, 2010, at the meetings of the sessions of the Council, Consultative Committee, Administrative and Legal Committee of the International Union for the Protection of New Varieties of Plants (UPOV) in Geneva, Switzerland;
- On October 26 and 27, 2010, at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France;
- On November 4 and 5, 2010, at the Fruit experts meeting (CPVO) in Angers, France;
- On December 1 and 2, 2010, at the Annual meeting between the CPVO and its Examination Offices in Angers, France.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex VII follows]

ANNEX VII

LITHUANIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations:

- Law on Plant Variety Protection of the Republic of Lithuania (Official Journal, 2001, No 104–3701) as last amended on 19th of October, 2006 (Official Journal, 2006, No 118–4453);
- Regulation No 1458 of the Government of the Republic of Lithuania of the 15<sup>th</sup> of December, 2000, regarding Fees Rates (Official Journal, 2002, No 93–3987; 2005, No 81–2958);
- Order No A1-50 of the Director of the State Plant Service under the Ministry of Agriculture of the 8th of August, 2010, on the Approval of Application Form for Plant Variety Protection (Official Journal, 2010, No 96–5008);
- Order No 3 D–371 of the Minister of Agriculture of the Republic of Lithuania of the 23rd of June, 2004, regarding remuneration.

1.2. Extension of protection to further genera and species (made or planned):

- the List of Genera and Species for which Protection is Applicable in the Republic of Lithuania has been approved by the Order No 288 by the Minister of Agriculture of the Republic of Lithuania on the 1st of August, 2002 (Official Journal, 2002, No 79-3354, 2009, No 80–3353);
- the new Draft Amendment of the Law on Plant Variety Protection of the Republic of Lithuania concerning the protection of the whole plant kingdom has been submitted to the Parliament of the Republic of Lithuania.

2. Cooperation in examination

- Bilateral agreement of the 11th of August, 2000, with the Polish Research Centre for Cultivar Testing regarding performing DUS tests will be amended in 2011;
- Agreement No 10 with Bundessortenamt (Federal Office of Plant Varieties), Germany, regarding transmission of the results on technical examination for DUS tests of the 30<sup>th</sup> of June, 2006, has been amended on the 18th of October, 2010, by the agreement No 19T-98.

3. Situation in the administrative field

- The Lithuanian State Plant Varieties Testing Center has been reorganized from the 1<sup>st</sup> of July, 2010. The new institution, called as the State Plant Service under the Ministry of Agriculture of Republic of Lithuania started to work from the 1st of July, 2010. The Division of Plant Varieties of the State Plant Service under the Ministry of

Agriculture of the Republic of Lithuania is responsible for plant varieties testing, listing and as well legal protection;

- The Commission for Evaluation of Applications for Variety Protection have been approved by the Order No. A1-141 of the Director of the State Plant Service under the Ministry of Agriculture on the 6th of May, 2011;
- The granting of the plant variety protection shall be approved by the order of the Director of the State Plant Service under the Ministry of Agriculture;
- Procedures and the system of the plant varieties protection are defined by the Law on Plant Variety Protection of the Republic of Lithuania.

4. Situation in the technical field

- DUS tests are performed by the Polish Research Centre for Cultivar Testing according to the bilateral agreement of the 11th of August, 2000, or in other competent authority of the European Union by the breeders' request.

5. Activities for the promotion of plant variety protection

- On the 10th and 11th of March, 2010, Lithuania participated at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Brussels, Belgium;
- On the 12th of March, 2010, Lithuania participated at the European Council meeting in Brussels, Belgium;
- On the 26th of October, 2010, Lithuania participated at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France;
- Information Bulletin on Plant Breeder's Rights and National List No 1 (13) of the Lithuanian State Plant Variety Testing Center was published on the 8th of January, 2010, and No 2 (14) – on the 9th of June, 2010.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

- The Lithuanian National List of Plant Varieties 2010 has been approved by the order No A1-6 of the Director of the Lithuanian State Plant Varieties Center on the 9th of March, 2010. Propagating material of each registered variety from each plant species can be certified according to the Mandatory Requirements, prepared respectively by the EU directives.

[Annex VIII follows]

ANNEX VIII

NEW ZEALAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Plant Variety Rights Amendment Bill was drafted in 2006 and is currently on hold. The proposed amendments to the current Act are essentially in conformity with the 1991 Act of the Convention. The Plant Variety Rights Act 1987 remains in force, conforming to the 1978 Act of the Convention.

The Waitangi Tribunal's report into claims concerning New Zealand Law and Policy affecting Maori culture and identity, known as Wai 262, was released in July 2011. The report includes comments on current Intellectual Property policy, including Plant Variety Protection and how this affects Maori and puts forward recommendations for future change. A formal response by Government has yet to be considered.

2. Cooperation in examination

As part of the Single Economic Market (SEM) agenda agreed by the Prime Ministers of New Zealand and Australia in August 2009, the Plant Variety Rights Office and IP Australia are progressing towards greater cooperation and harmonization between the two authorities. The report on the existing compatibility of variety decisions showed that for varieties protected in both territories, 98% of the grant decisions were the same. The program recognizes that legislative changes in both jurisdictions will be necessary for longer term options and in the short to medium term, the focus is on operational activities.

New Zealand continues to purchase test reports from and supply to member States, for certain species on an as requested basis, under the general provisions of the Convention.

3. Situation in the administrative field

During the financial year ended June 30, 2011, 159 applications for plant variety rights were accepted (6 fewer than the previous year), 87 grants were issued (27 fewer than the previous year) and 91 grants were terminated (27 fewer than the previous year). At June 30, 2010, there were 1,255 valid grants (4 fewer than the previous year).

The Office has carried out documentation of processes and practices in preparation for the introduction of a new information technology system, scheduled for introduction in the middle of 2012. The system will include document storage and management, system generated actions and database operations. The development also includes on-line applications and related activity.



4. Situation in the technical field

As part of the broader cooperation and harmonization program with IP Australia discussion has taken place regarding the harmonization of DUS testing in the region.

Associated with the formal recording of Office processes and practices, the testing practice for specific genera has been documented. DUS testing practice for apple is now available on the website.

The DUS testing for *Actinidia* (kiwifruit) has been significantly disrupted by the outbreak of *Pseudomonas syringae pv actinidiae* (PSA) disease. Current testing for most varieties has ceased due to plant destruction at the test centre. The establishment of alternative trials is underway but is hindered by phytosanitary controls on the national movement of plant material.

A series of training workshops in late 2010 and early 2011 were provided for persons who carry out DUS testing evaluations for the Plant Variety Rights Office in order to increase their skill levels and update methodology and practice.

5. Activities for the promotion of plant variety protection

New Zealand hosted two staff of the Korean Rural Development Agency and Extension Service for several days in December 2010. The visitors were provided with information on plant variety protection in New Zealand and growing trials for agricultural species were visited.

The Plant Variety Rights Office continues to provide assistance by correspondence to Chinese experts in the drafting of UPOV test guidelines for ornamental species.

[Annex IX follows]

ANNEX IX

POLAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Act of June 26, 2003 on the Legal Protection of Plant Varieties (POJ No 137/2003, item 1300; as amended) constitutes the legal basis for the national PBR protection system in Poland.

The Polish Plant Variety Protection Law is based on the 1991 Act of the UPOV Convention. Poland acceded to the 1991 Act of the UPOV Convention as the twenty-fourth State, on August 15, 2003.

Since November 1, 2000 all plant genera and species are eligible for PBR protection in Poland.

2. Cooperation in examination

The Research Centre for Cultivar Testing (COBORU) in Słupia Wielka continues its cooperation in the field of DUS examination with different countries.

Poland has bilateral agreements on DUS testing with the Czech Republic, Hungary and Slovakia. Unilateral agreements with Latvia, Lithuania, Estonia, Romania, Belarus, Slovenia, Russia and Ukraine are in force.

In the reporting period, Poland carried out DUS tests for the Latvian, Lithuanian, Estonian, Croatian, German and French authorities as well as for the CPVO. These tests were done for different species of agricultural, vegetable, ornamental and fruit plants.

As in previous years, some authorities, namely the CPVO, Russia, Estonia, Romania, Croatia, Lithuania, Serbia, Belarus, Sweden and Turkey, took the technical examination results over from COBORU, in order to base their decisions for their own procedures.

Poland actively participated in the work on the elaboration of the technical protocols during the meetings organized by the CPVO.

3. and 4. Situation in the administrative and technical fields

As from April 1, 2011, Mr. Marcin Król has been appointed as the Head of DUS Testing Department, replacing Ms Julia Borys who had retired from COBORU, however has started a one-year contract within the UPOV, on the position of Senior Technical Counsellor.

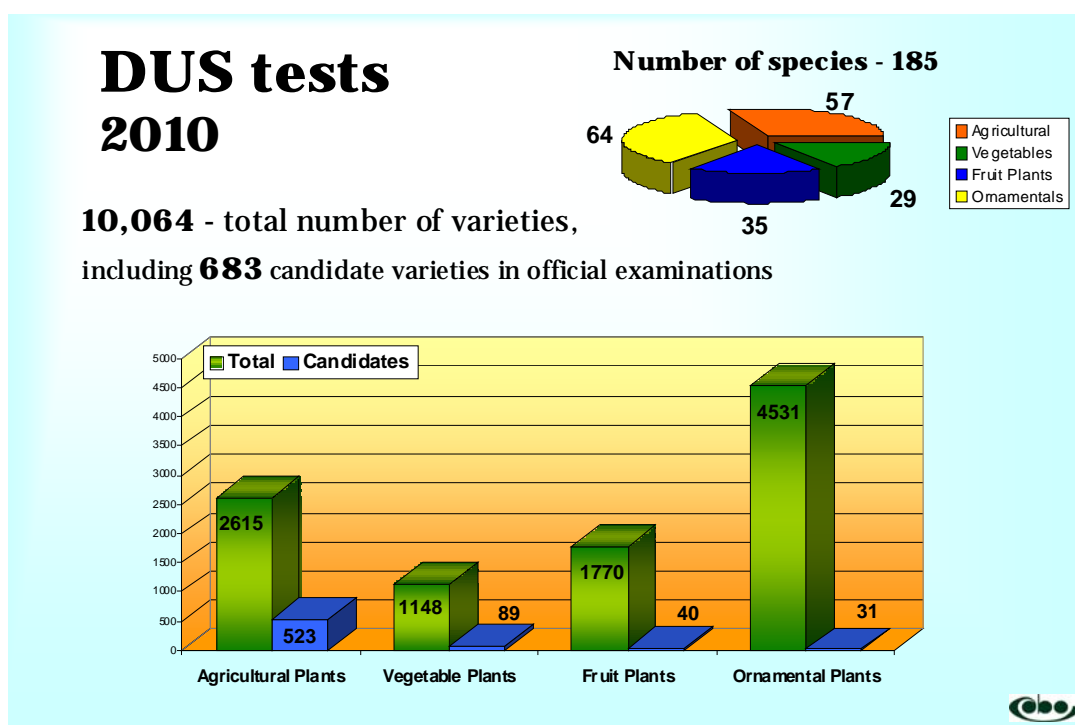
COBORU variety testing activities in the field of DUS are done in 13 Experimental Stations for Variety Testing located all over the country and in case of fruit plants additionally

in the Research Institute of Horticulture (formerly the Research Institute of Pomology and Floriculture) in Skierniewice.

In 2010, 10,064 varieties within 185 plant species were tested (which included 9,381 varieties in reference collections and 683 candidate varieties).

The number of varieties tested in Poland, per plant sector, is shown in the graph below.

Number of varieties in DUS testing in 2010



In 2010, COBORU received 79 applications for national PBR protection in total, which in comparison with the previous year (56) represents an increase.

From January 1 to September 1, 2011, 50 new applications, including 28 domestic and 22 foreign, have been submitted for national PBR. This number is lower by 14 applications than that observed in the previous reporting period (64).

In 2010, COBORU granted 84 titles of national protection. At the end of 2010, there were 1,331 national PBR titles in force, which comparing to the previous year represents a decrease by 47 varieties.

In the reporting period (from January 1 to September 1, 2011), 61 titles of PBR protection have been granted. In total, 1,312 varieties are protected in Poland (as on Sept. 1, 2011).

Details on statistics are given in the following table. In the column “Titles having ceased”, 3 fruit plant varieties for which - within the reported period - national PBR expired have also been included.

Species	Applications for PBR 1.01. – 1.09.2011			Grants of PBR 1.01. – 1.09.2011			Titles having ceased	Titles in force as on 1.09.2011
	domestic	foreign	together	domestic	foreign	together		
Agricultural	22	13	35	31	5	36	30	637
Vegetables	2	-	2	2	3	5	10	275
Ornamentals	4	7	11	10	6	16	28	274
Fruit plants	-	2	2	4	-	4	12	125
Miscellaneous	-	-	-	-	-	-	-	1
<b>Total</b>	<b>28</b>	<b>22</b>	<b>50</b>	<b>47</b>	<b>14</b>	<b>61</b>	<b>80</b>	<b>1312</b>

#### 5. Activities for the promotion of plant variety protection

Poland participates in the sessions of the UPOV organs and in the Technical Working Parties as well as in the Standing Committee on CPVR meetings, DG SANCO, Brussels and in the CPVO Administrative Council.

Ten experts and examiners from Poland have successfully completed the UPOV Distance Learning Course "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention".

##### *Meetings, seminars, etc.*

From September 5 to October 2, 2010, one Polish representative from COBORU participated in the Internship for DUS Experts in Roelofarendsveen, the Netherlands.

From April 13 to 15, 2011, two COBORU representatives participated in the Oilseed Rape Experts Meeting at NIAB, Great Britain, organized by the CPVO. During this meeting the new version of the protocol for DUS tests of Oilseed Rape was discussed.

From June 8 to 10, 2011, COBORU organized a workshop for six experts from the Ukrainian Institute for Plant Variety Examination. Its aim was a training in the organization of the official variety assessment and the systems of national listing and granting PBR protection in Poland. The Ukrainian colleagues visited COBORU headquarters in Słupia Wielka as well as our Experimental Station in Słupia Wielka. Moreover, they were acquainted with the COBORU databases, including its part related to the results from trials, the software used by us as well as the methods of data processing.

##### *Visits*

From September 6 to 7, 2010, COBORU hosted three Serbian experts from the Plant Protection Directorate of the Ministry of Agriculture, Forestry and Water Management. It was a study tour mainly on plant variety protection, connected with the near Serbian accession to the UPOV. The guests have been acquainted with the operation of the Polish plant variety

protection system and with the rules of conducting of the technical examinations in our country. Additionally, they visited the Experimental Station for Variety Testing in Słupia Wielka, including an inspection of experiments. Moreover, they were also informed about registration procedure, VCU assessment, post-registration trials as well as variety recommendation in our country.

Two days, from September 14 to 15, 2010 lasted an audit commissioned by the CPVO and performed by the company Ernst & Young that concerned calculation of the DUS testing costs in Poland.

On May 26, 2011, two experts from the State Inspection for Testing and Protection of Plant Varieties from the Republic of Belarus visited COBORU. The main subject of this visit was an exchange of views and information on changes and transformation related to the varieties examination, registration and legal protection which were recently done in Poland and Belarus as well as the prospective plans, including these connected with the perspective of mutual cooperation.

From July 6 to 7, 2011, the expert from the CPVO was hosted by us. He inspected DUS tests and scrutinized the reference collection with ornamental as well as fruit and berry plants in two COBORU Experimental Stations (Śrem and Zybiszów). The problems connected with the issue of DUS testing and the guidelines for testing were discussed.

#### *Publications*

Every two months COBORU issues the *Polish Gazette for Plant Breeders' Rights and National List* (Diariusz), which contains detailed information referring to PBR protection and national listing systems.

The list of varieties protected by national Plant Breeders' Rights (including provisional PBR's), valid as on June 30, 2011, has been published in the third number of the *Polish Gazette for Plant Breeders' Rights and National List* /No 3(104)2011/.

The Official Gazette is also being published on our website, in section: Publications.

Additionally, the Research Centre for Cultivar Testing maintains and updates every two weeks a Homepage [www.coboru.pl](http://www.coboru.pl), that contains official information on PVP matters in Poland.

## II. RELATED FIELDS OF ACTIVITIES

The *Polish National List of Agricultural Plant Varieties*, the *Polish National List of Vegetable Plant Varieties* as well as the *Polish National List of Fruit Plant Varieties* were issued in April and May 2011. Updated lists are also available at [www.coboru.pl](http://www.coboru.pl)

[Annex X follows]

ANNEX X

REPUBLIC OF MOLDOVA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments to the law and the implementing regulations

In order to fulfill the Republic of Moldova's commitment under the Partnership and Cooperation Agreement between the Republic of Moldova and the European Union, and for the purpose of harmonization of the national system in the field of plant varieties protection according to the European legislation provisions, a new Law on the Protection of Plant Varieties in compliance with the UPOV Convention and European directives and regulations in the field, has been elaborated.

On February 29, 2008, the Parliament of the Republic of Moldova adopted the Law No.39-XVI/2008 on the Protection of Plant Varieties, which entered into force on September 6, 2008.

Also, a new Regulation for the implementation of the Law No. 39-XVI/2008 on the Protection of Plant Varieties has been approved by the Republic of Moldova Governmental Decision No. 295 of 16.04.2009.

1.2 Extension of protection to further genera and species

According to the Law No.39-XVI/2008 on the Protection of Plant Varieties, the protection is extended to varieties of all botanical genera and species, including hybrids between genera and species.

1.3 Case law

There is no precedent with regards to the protection of breeders' rights.

2. Cooperation in examination

There are no bilateral agreements of cooperation in the examination of plant varieties.

3. Situation in the administrative field

No changes.

*Changes in the Procedural and Protection System*

No changes.

*Statistics*

In the period from January 1, 2010 to December 31, 2010:

– 18 national applications have been received, as follows:

Sunflower – 1  
Wheat – 1  
Maize – 10  
Barley -1  
Soybean – 1  
Fodder Beet – 1  
Bean – 1  
Coriandrum - 1  
Salvia - 1

– 19 national and 1 foreign patents for plant varieties have been granted, as follows:

Wheat – 3  
Bean – 3  
Sugar Beet – 2  
Apple – 1  
Cowpea – 2  
Sour Cherry – 1 (DE)  
Galega – 1  
Lavender – 3  
Arachis – 2  
Dill – 1  
Hairy Vetch - 1

On December 31, 2010, 74 patents for plant varieties were in force.

4. Situation in the technical field

No changes.

5. Activities for the promotion of plant varieties protection

*Meetings, seminars*

In the period under review, for implementation purpose of the provisions and requirements of the Law No.39-XVI/2008 on the protection of plant varieties of the Republic of Moldova, the AGEPI continued to organize seminars and workshops for representatives in industrial property, interested persons, including scientists and breeders, held within the AGEPI conference hall, the Agricultural University of Moldova as well as in the territory.

*Publications*

On a regular basis, AGEPI maintains the web site: [www.agepi.md](http://www.agepi.md), where the national legislation in the field of plant varieties protection can be accessed, as well as the application form for a plant variety patent, and useful related information for applicants and breeders, available in Romanian, Russian and English languages.

Moreover, recently, the updated versions (in Russian and Romanian languages) of the booklets “How to obtain a plant variety patent in the Republic of Moldova” have been published, as well as a digest of regulatory acts in the field of industrial property concerning the protection of plant varieties.

[Annex XI follows]



ANNEX XI

CZECH REPUBLIC

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

Nothing to report.

2. Cooperation in examination

The bilateral agreement on cooperation in examination with the Netherlands was amended; the bilateral agreements with Austria, Denmark, Hungary, Poland, Romania, Slovakia, and Slovenia continue unchanged.

In October 2010, the CPVO Administrative Council entrusted the Central Institute for Supervision and Testing in Agriculture for examination work in certain species.

3. Changes in the administrative field

Nothing to report.

4. Situation in the technical field

Within the period from September, 2010, to August 31, 2011, 74 applications were received and 80 titles issued. At the later date, 683 titles were in force and 162 applications pending.

In the beginning of 2011, a practical application of image analysis was introduced in DUS tests of oilseed rape and pea.

5. Activities for promotion of plant variety protection

During the reporting period, the Central Institute for Supervision and Testing in Agriculture received delegations from Croatia and Serbia.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

– National List of varieties

The Act No. 219/2003 Coll., on the marketing of seed and planting material, and the implementing Decree No. 499/2006 Coll., on methods of tests of distinctness, uniformity, stability, and value for use, were amended due transposition of EU directives 2008/90/EC, 2009/145/EC, and 2010/46/EU.

[Annex XII follows]

ANNEX XII

TUNISIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The number of species eligible for protection in Tunisia is 79.

2. Cooperation in examination

Requests for protection through equivalence via the transfer of DUS files to the plant protection services of the Community Plant Variety Office, the United States of America, Chile and Italy.

3. Situation in the administrative field

The volume of activities relating to protection of plant varieties up to August 2011 is as follows:

- Total number of protection applications received: 183 applications
- Total number of breeder's certificates issued: 75 certificates

4. Situation in the technical field (see 3)

The DUS study, with a view to awarding a plant breeder's certificate, has been carried out on 23 species out of a total of 79 species acceptable for protection.

II. RELATED FIELDS OF ACTIVITY OF INTEREST TO UPOV

As of December 31, 2010, the service responsible for the protection and registration of plant varieties had received a total of 1,027 applications for registration of varieties and had entered 653 varieties in the Official Catalogue of Plant Varieties.

[Annex XIII follows]

ANNEX XIII

UKRAINE

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1. Changes in legislation and application of legal provisions

Decree of the President of Ukraine of December 9, 2010 No. 1085/2010 “On Optimization of the System of Central Bodies of Executive Power” entrusts the newly founded the State Veterinary and Phytosanitary Service of Ukraine to realize the function of implementation of official policy in the field of rights protection for plant varieties.

1.2. Distribution of right protection for following genera and species (carried out or planned)

According to the Law of Ukraine “On Right Protection for Plant Varieties” all the genera and species are protected in Ukraine (UPOV 1991 Act).

1.3. Case law

Ukraine has Romano-German system of law and, subsequently, there is no such element in Ukraine as the case law.

2. Cooperation in examination

The following agreements are valid for Ukraine:

- Agreement between the Ministry of Agricultural, Aqueous and Processing Industry of Kyrgyz Republic and the Ministry of Agrarian Policy of Ukraine on Cooperation in the Field of Examination and the Protection of Plant Varieties.
- Agreement between the Ministry of Agrarian Policy of Ukraine and the Department of Production of the Highest People’s Committee of the Great Social People’s Libyan Arab Jamahiriya on Cooperation in the Field of Examination and the Protection of Plant Varieties.
- Agreement between the Ministry of Agrarian Policy of Ukraine and the Ministry of Arable Farming and Forestry of the Republic of Bulgaria on Cooperation in the Field of Examination of Plant Varieties on Conformity to the Conditions of Distinctness, Uniformity and Stability and Breeder’s Rights Protection.
- Agreement between the Ministry of Agrarian Policy of Ukraine and the Ministry of Agriculture of Turkmenistan on Cooperation in the Field of Examination and Plant Variety Protection.

- Agreement between the State Service on Right Protection for Plant Varieties and Federal Plant Variety Office of the Federal Republic of Germany.

In 2010, Agreement between the Ministry of Agriculture of Russian Federation and the Ministry of Agrarian Policy of Ukraine on Cooperation in the Field of Examination and the Protection of Rights on Plant Varieties was concluded, as well as Memorandum of Understanding was undersigned between Ukraine and the Ministry of Agriculture and Agrarian Reforms of the Syrian Arab Republic.

As regards practical experience in DUS examination, Ukraine has such experience according to the List of genera and species, varieties of which undergo examination in conformity with the criteria of distinctness, uniformity and stability in the examination entities of the State system on rights protection for plant varieties (Annex 1)\*, as well as the List of botanical taxa, for which there was an exchange of information in DUS examination during 2010 (Annex 2)\*.

### 3. Situation in the administrative field

Decree of the President of Ukraine of December 9, 2010 No. 1085/2010 “On Optimization of the System of Central Bodies of Executive Power” entrusts the newly founded State Veterinary and Phytosanitary Service of Ukraine to realize the function of implementation of official policy in the field of rights protection for plant varieties. The newly created Service is administrated by the Minister of Agrarian Policy and Food of Ukraine.

Due to the administration reform in progress in Ukraine the State system of Plant Variety Protection in Ukraine is at the stage of reorganization.

### 4. Situation in the technical field

During 2010, in accordance with recommendations of UPOV document TGP/7/1 “Development of Guidelines”, approximately 90 Test guidelines on DUS examination were developed and adapted.

### 5. Activities for the promotion of plant variety protection

- Participation in DUS Test Seminar of UPOV (Switzerland, Geneva, March 18 to 21, 2010);
- Participation in the Training on DUS Test of Cereals, Grasses, Rape organized by the Bundessortenamt (Germany, Hanover, June 13 to 19, 2010);
- Participation in the Third Meeting of Joint Russian-Ukrainian Working Party in the Field of Seed Production (Russian Federation, Moscow, June 29 to 30, 2010);

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\* Attachments available upon request.

- Participation in the Seminar on Plant Variety Protection (Poland, Slupia Wielka, June 21 to 25, 2010)
- Visiting Bundessortenamt to get familiar with judicial, administrative and organizational facets of its functioning (Germany, Hanover, July 7 to 9, 2010)
- Participation in the Fourth Meeting of Joint Russian-Ukrainian Working Party in the Field of Seed Production (Russian Federation, Moscow, June 29 to 30, 2010);
- Participation in 62nd Session of Administrative and Legal Committee, 80th Session of Consultative Committee and 44th Ordinary Session of the Council of UPOV (Switzerland, Geneva, October 18 to 22);
- Meeting with representatives of State Inspection on Examination and the Protection of Plant Varieties of the Republic of Belarus.

*Publications of the State Variety Service*

The following publications were issued in the year of 2010:

- State Register of Plant Varieties Suitable for Dissemination in Ukraine in 2010;
- State Register of Seed and Planting Material Producers 2010;
- Official Bulletin “Plant Variety Rights Protection” in 4 Issues (22 Parts);
- List of Spring Crop Varieties Perspective for Dissemination in Ukraine in 2010;
- Research Magazine “Plant Varieties Studying and Protection” (No 11 and No 12);
- Atlas of Morphological Characteristics for Cut Lettuce.

II RELATED FIELDS OF ACTIVITIES OF INTEREST TO UPOV

Statistical data on plant variety protection in Ukraine during 2001-2010 was sent by email to [upov.mail@upov.int](mailto:upov.mail@upov.int).

[Annex XIV follows]

ANNEX XIV

VIET NAM

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

This year Viet Nam are checking the legislation documents on PVP for planning to revise near future. The Legislation documents are including IP Law, Decree, Circulars and related Decisions.

The draft of new Fees Regulation is being discussed within the Ministry of Finance. This regulation stipulates the fees on plant varieties in general with a part of PVP.

1.2 Extension of protection to further genera and species (made or planned)

Planning to expand new species into the List of Protected species when there is request from applicant.

2. Cooperation in examination

Conclusion of new agreements (completed, in progress or planned): Viet Nam has signed an agreement on exchange of DUS Test report with France, Netherlands and CPVO in 2011. So until now Viet Nam has signed MOU on cooperation in examination of DUS Test with Japan, France, the Netherlands and CPVO.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

Viet Nam is now strengthening capacity of DUS Testing System with the assistance of Japan and Netherlands.

5. Activities for the promotion of plant variety protection

*Meetings, seminars, etc.*

In 2011 PVPO has organized three intensive training courses on DUS Test for some selected crops in cooperation with the Netherlands and Japan. According to the plan, two workshops on PVP will be held in November 2011 in cooperation with Japan and the Netherlands.

*Visits to and from non-members States and organizations*

Some visits to the members and non-members for the purpose of studying on the PVP. Those countries are France, CPVO, the Netherlands, Switzerland, Japan and Thailand. Furthermore, a trip to Lao PDR to survey the situation of PVP System in Lao was implemented in July.

*Publications*

Fifteen Test Guidelines of UPOV have been issued into the book to distribute to the relevant persons.

*Technical assistance*

At present Viet Nam PVP system is setting up example varieties for rice and some other species in the coming years with the assistances of Japan.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

A survey trip on the DUS Testing system in whole country has been conducted in cooperation with Japan International Cooperation Agency (JICA). This will be helpful for the orientation of PVP system in Viet Nam in the future.

[Annex XV follows]

ANNEX XV

SERBIA

I. PLANT VARIETY PROTECTION

1.1 Situation in the legislative field

The Law on the Protection of Plant Breeder's Rights ("Official Gazette of the Republic of Serbia", No. 41/09), has been examined for conformity with the provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants by the Council of the International Union for the Protection of New Varieties of Plants at its twenty-eighth extraordinary session held in Geneva on April 8, 2011. The Council took a positive decision on the conformity of the Draft Law on Changes and Amendments of the Law on Protection of Plant Breeders' Rights of the Republic of Serbia with the provisions of the 1991 Act of the UPOV Convention.

The Law on Changes and Amendments of the Law on Protection of Plant Breeders Rights has to be adopted by the Parliament of the Republic of Serbia. That will allow the Republic of Serbia, once the Law on Protection of Plant Breeders Rights of 2009 is amended as presented in the Draft Law, with no additional changes, and the amended Law is in force, to deposit its instrument of accession to the 1991 Act of UPOV Convention, and to initiate the procedure for membership in the International Union for the Protection of New Varieties of Plants (UPOV).

Following the Law on Protection of Plant Breeders Rights (2009) new rulebooks have been adopted:

- Rulebook on methods of testing of distinctness, uniformity and stability of plant variety (Official Gazette of the Republic of Serbia No.30/2011);
- Rulebook on species which are considered closely related (Official Gazette of the Republic of Serbia No.60/2011).

1.2 Extension of protection to further genera and species (made or planned)

Under current national Law on the Protection of Plant Breeders Rights all genera and species are subject to protection.

1.3 Case law

Nothing to report.

2. Cooperation in examination

Nothing to report.



3. Situation in the administrative field

Ministry of Agriculture, Trade, Forestry and Water Management (MATFWM) (previously Ministry of Agriculture, Forestry and Water Management) - the Plant Protection Directorate and within it, the Group for the Plant Variety Protection and Biosafety is in charge for implementation of the Law on Protection of Plant Breeders Rights and for activities in the field of plant variety protection.

According to the decisions made by Expert Council for Protection of Plant Breeders' Rights in accordance with the Law on Protection of Plant Breeder's Rights and based on the results of the examination of varieties, since the entry into force of the Law on the Protection of Plant Breeders Right (2009) in Serbia up to August 31, 2011, for six varieties have been granted plant breeders right:

Variety denomination	Botanical and common name	Expiration date of granted plant breeders' rights
Gi1481	<i>Prunus L</i> <i>cherry rootstock</i>	October 26, 2024
Gisela 5	<i>Prunus cerasus L. x Prunus canescens Bois</i> <i>cherry rootstock</i>	June 24, 2023
PIKU 1	<i>Prunus avium L. x (Prunus canescens Bois x Prunus tomentosa Thunb.)</i> <i>cherry rootstock</i>	January 10, 2027
CIVNI	<i>Malus domestica Borkh.</i> <i>apple</i>	September 23, 2033
CIVG198	<i>Malus domestica Borkh.</i> <i>Apple</i>	July 15, 2041
Red Jonaprince	<i>Malus domestica Borkh.</i> <i>Apple</i>	September 13, 2029

4. Situation in the technical field

Nothing to report.

5. Activities for the promotion of plant variety protection

Training and knowledge improvement of employees of the MATFWM, Plant Protection Directorate in the field of protection of plant varieties have been organized in the framework of Technical Assistance and Information Exchange Instrument (TAIEX) program, managed by the Directorate-General for Enlargement of the European Commission.

Seminar on Seed regulation (including plant variety protection) were organized in cooperation with European Seed Association (ESA), Serbian Seed Association (SAS) and MATFWM, on June 10, 2011 in Belgrade, with the aim to introduce plant breeders, seed producers and representatives of seed companies present situation in the EU and Serbia in the legislative and administrative procedures related to seed and plant breeders' rights.

In the framework of the 2011 Luxembourg Technical Assistance Project for Serbia, in cooperation with Serbian European Integration Office and MATFWM, Plant Protection Directorate, Seminar on Plant Variety Rights in the European Union, with a particular focus on Regulation 2100/94 on Community plant variety rights will be organized in Belgrade, September 21-22, 2011.

The Republic of Serbia is continuing participation in the Multi-beneficiary Program of CPVO, as introduction to the Community plant variety rights system in the EU.

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The Catalogue of Varieties (Register of Plant Varieties) is available on the web site of the Ministry of Agriculture, Trade, Forestry and Water Management of the Republic of Serbia ([www.minpolj.gov.rs](http://www.minpolj.gov.rs) and [www.sorte.minpolj.gov.rs](http://www.sorte.minpolj.gov.rs)) with information regarding procedures for registration of plant varieties.

[End of Annex XV and of document]