



C/31/13

ORIGINAL: French

DATE: October 23, 1997

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

**COUNCIL**

**Thirty-First Ordinary Session**  
**Geneva, October 29, 1997**

REPORTS BY REPRESENTATIVES OF STATES AND ORGANIZATIONS  
ON THE SITUATION IN 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, it is recommended that the reports from the representatives of States (member States and observer States) and intergovernmental organizations on the situation in the legislative, administrative and technical fields of plant variety protection and related areas be submitted in writing, in advance, to increase the ability of the Council to effectively carry out its tasks.
2. Written reports have been requested by the Office of the Union in the invitation circulars relating to this session and a model format has been proposed for the purpose. The reports submitted by the following States are reproduced in Annexes I to XXIV (in the alphabetical order of the names of the States in French): South Africa, Germany, Argentina, Austria, Canada, Colombia, Denmark, Estonia, United States of America, Finland, Ireland, Japan, Morocco, Norway, New Zealand, Netherlands, Poland, Czech Republic, United Kingdom, Slovakia, Slovenia, Sweden, Ukraine and Uruguay.

[Twenty-four annexes follow]

## ANNEX I

## SOUTH AFRICA

Situation in the Legislative Field

The revised Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976) came into operation in April 1996. South Africa's instrument of ratification is in the process of being finalized and should be deposited with the Secretary-General of UPOV in the near future.

The appeal against the granting of a plant breeder's right to the grape variety 'Sugraone' was rejected in the beginning of 1997. Details of the decision appeared in *Plant Variety Protection* No. 81.

Requests for the extension of protection to further genera and species are still received from time to time. During the year under review, protection has been extended to 12 new genera and species and another four are in the process of being protected.

Cooperation in Examination

A bilateral agreement with the Netherlands is being finalized.

A request for a bilateral agreement has been received from the Chinese Special Administrative Region of Hong Kong.

Situation in the Administrative Field

From October 1, 1996, to August 31, 1997, 122 applications for plant breeders' rights were received and 141 plant breeders' rights were granted. As at August 31, 1997, there were 359 applications under consideration and 1,171 plant breeders' rights in force. Further details are given below.

	Agricultural Crops	Vegetable Crops	Ornamental Plants	Fruit Crops	Total
Applications Received	46	13	40	23	122
Plant Breeders' Rights Granted	47	19	60	15	141
Valid Plant Breeders' Rights	372	184	432	183	1,171
Applications Under Consideration	100	19	145	95	359

Activities for the Promotion of Plant Variety Protection

Seminars, workshops and courses have been organized during the year for various groups of people having interests in plant breeders' rights. The main topics discussed were the changes to the Act and especially the "farmer's privilege." Discussions are presently

being held amongst various groups and the Government to amend the clause in the Act which deals with the “farmer’s privilege,” especially as far as vegetatively propagated varieties are concerned.

#### Developments in Related Fields of Activity

The Genetically Modified Organisms Act has been approved by Parliament and ratified by the President of South Africa. Provisional Regulations to the Act have already been drafted.

The South African Committee for Genetic Experimentation (SAGENE) is currently responsible for the provision of control measures and risk analyses in cooperation with the National Department of Agriculture and Health. SAGENE is a national advisory body consisting of private citizens appointed, nominated or invited to serve on a voluntary basis by virtue of their affiliations, skills or experience.

There has been a steady increase in GMO-related work over the past six years (from one to four trials per year in the early 1990’s to 10 in 1996). The trials concerned all agriculturally related plants with only one medical application. This steady increase is expected to continue with more plant applications, as well as more medical/pharmaceutical applications in the years to come.

The first three genetically modified varieties have just been released in South Africa.

[Annex II follows]

ANNEX II

GERMANY

Situation in the Legislative Field

The Law of July 17, 1997, Amending the Plant Variety Protection Law brought national legislation into line with the 1991 Act of the Convention. The law on the ratification of the 1991 Act and an ordinance on the amendment of the tariff of fees of the Federal Office of Plant Varieties (BSA) are in preparation.

Cooperation in Examination

It has been agreed with the National Institute for Agricultural Quality Control (OMMI) of Hungary that the BSA would examine fodder beet for the OMMI, that the OMMI would examine poppy for the BSA and that both institutes would exchange test results for gherkin.

A memorandum has been signed with the Seeds and Seedlings Division of the Ministry of Agriculture, Forestry and Fisheries of Japan with a view to exchanging test results for all plant species.

Situation in the Administrative Field

On July 1, 1997, Mr. Rolf Jördens took over the position of President of the BSA.

Activities for the Promotion of Plant Variety Protection

Technical training has been given to staff members of the variety offices of the successor States of the former Soviet Union. Several delegations from non-member States have been received at the BSA.

Developments in Related Fields of Activity

*National List*

A draft law amending the Seed Trade Law, with a view to adapt some of the latter's provisions to the new Plant Variety Protection Law, is in preparation. There were intensive discussions with the interested circles on the simplification of seed certification.

The Federal Office of Plant Varieties is examining genetically modified varieties, in coordination with the competent authority, for the purposes of plant variety protection and national listing.

*Genetic Resources*

There were intensive discussions with the interested circles on the creation of a system for the commercialization of "seeds of genetic resources."

[Annex III follows]

## ANNEX III

## ARGENTINA

Situation in the Legislative Field

Regular meetings were held with officials of the National Industrial Property Institute with a view to harmonize the rules of interpretation with respect to the protection of biotechnological innovations. It is foreseen to conclude an “agreement on cooperation” under which each Institute undertakes to provide the technical assistance and information that is required by the other for the accomplishment of its tasks.

Situation in the Administrative Field

The table below summarizes the volume of activity of the National Seed Institute with respect to entries in the National Register of Cultivars and grants of titles of ownership.

	1996		1997 (until September 18)	
	Register	Ownership	Register	Ownership
Cereals	43	34	83	37
Oil Crops	30	19	51	19
Industrial Plants	2	3	2	1
Fodder Crops	28	15	54	36
Fruit Crops	18	5	34	4
Vegetables	130	7	247	9
Ornamental Plants	-	-	7	7
Total	251	83	478	113

Activities for the Promotion of Plant Variety Protection

In October 1996, at the Fifteenth Pan-American Seed Seminar held in Gramado (Brazil), a presentation was made on the various techniques for the identification of cultivars, starting from the well-established ones, such as electrophoresis on polyacrylamid gel (PAGE), and ending with the most recent ones, such as those based on molecular markers (AFLP, RFLP, microsatellites), and on their respective scope of application.

In December 1996, technical assistance was provided to the Regional Seed Office of Santa Cruz de la Sierra (Bolivia) in respect of the implementation and operation of the Register of Varieties.

Also in December 1996, a catalogue on the “Identification of Wheat Varieties by Polyacrylamid Gel Eletrophoresis (Gliadins)” was published. The catalogue contains the electrophoretic patterns of all varieties entered in the National Register.

In April 1997, the new “Molecular Markers Laboratory” was inaugurated. It has 250m<sup>2</sup> and is equipped for the development of techniques such as AFLP, RAPD and microsatellites. It is planned to continue with the establishment of catalogues for species such as barley, cotton and oats.

In May 1997, the Argentine Delegation to the seventh session of the (FAO) Commission on Genetic Resources for Food and Agriculture included a person involved in plant variety protection and national listing.

Participation was secured at the fifth meeting of the Working Group on Intellectual Property Rights of the Free-Trade Area of the Americas held in Washington, D.C., from July 8 to 11, 1997, at a Colloquium on the Management of Natural Resources and Security in Biotechnology held in September 1997, and at a meeting on “Ethics and Equity in the Conservation and Use of Genetic Resources” held in Brazil.

#### Genetically Modified Organisms

Three titles of ownership were issued in 1997 in respect of transgenic soya beans resistant to glyphosate.

The release of genetically modified organisms into the environment is regulated in Argentina by the National Commission of Agricultural Biotechnology (CONABIA). The National Seed Institute is represented in it alongside other public and private bodies.

The tests carried out in the 1997/98 agricultural campaign pertain to 36 applications relating to cotton, maize, potato, sunflower and wheat and to tolerance to herbicides, resistance to insects, tolerance to fungi and viruses, and modification of proteins.

[Annex IV follows]

ANNEX IV

AUSTRIA

Situation in the Legislative Field

No date has been fixed yet for the adaptation of the Plant Variety Protection Law to the 1991 Act of the Convention.

The Law has been amended on some minor points in connection with the Seed Law (BGBl. No. 72/1997).

The application and examination fees were increased by way of Ordinance (BGBl. No. 207/1997).

Cooperation in Examination

Two agreements on cooperation in examination are in preparation (with France and Slovenia).

Situation in the Administrative Field

In 1997, up to August 31, a total of 20 applications were filed and 16 titles of protection were issued, bringing the total number of titles in force to 174.

Developments in Related Fields of Activity

*Seed Law*

On July 1, 1997, the Seed Law 1997 entered into force, together with amendments to other laws, including the Plant Variety Protection Law. The implementing regulations will be issued as soon as possible.

*Genetic Engineering*

The implementing regulations to the Genetic Engineering Law have been published. Those relating to the release of genetically modified organisms and to consultations entered into force on March 1, 1997.

No authorization for release has been given yet in Austria.

[Annex V follows]

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ANNEX V

CANADA

Situation in the Legislative Field

Regulations are in place for 39 species. Regulations should be in place for all species by early 1998. Discussions on the 1991 Act of the Convention have been initiated with members of the industry affected by this legislation.

Situation in the Administrative Field

Canada has been receiving applications for plant breeders' rights since November 6, 1991. As of October 6, 1997, the Office received 1,158 applications and granted 396 rights.

[Annex VI follows]



ANNEX VI

COLOMBIA

Situation in the Legislative Field

Plant Variety Protection is governed in Colombia by Decree No. 533 of 1994, as amended, which implements Decision No. 345 of the Junta of the Cartagena Agreement. The Colombian Institute of Agriculture and Livestock (ICA), in its capacity as execution agency, declared the National Register of Protected Varieties open by Resolution No. 1893 of June 29, 1995, and laid down the procedure for the issue of breeders' certificates.

Protection extends in Colombia to all cultivated varieties of botanical genera and species, provided that the cultivation, possession or use thereof is not prohibited on grounds of human, animal or plant health.

Cooperation in Examination

It is planned to conclude agreements on cooperation in examination in particular with Germany, the Netherlands and the United Kingdom.

Situation in the Administrative Field

One application was filed in 1995. In 1996, until July 29, the day on which the transitional provision ceased to be applicable, 287 applications were filed; five applications were filed thereafter, bringing the total to 292 in 1996.

In 1997, up to September 30, a total of 21 applications were filed and 159 breeders' certificates were issued.

From the total of 314 applications, 302 were filed by foreigners and 12 by nationals, the breakdown of species being as follows: rose: 174 (55.5%); carnation: 62 (20%); chrysanthemum: 42 (13.5%); other species: 36 (11.5%). The system is being used in respect of 17 species in total, with ornamental plants being clearly in the lead.

The first Gazette was published in June 1997; it aroused much interest among farmers and producers.

Situation in the Technical Field

The Institute currently has two laboratories equipped for variety testing. Tests are under way for two tobacco varieties.

Activities for the Promotion of Plant Variety Protection

Colombia has participated, as one among the 11 members of the Latin-American Integration Association, in the work on the draft Agreement, between a number of member States of ALADI, on the Harmonization of the Norms and Policies Relating to the Rights of Breeders of Plant Varieties.

Seminars, meetings and conferences were held in the country with a view to promote plant variety protection.

Decision No. 345 of the Junta of the Cartagena Agreement established a Subregional Committee for the Protection of Plant Varieties. The member States have unanimously decided to elect the representative of Colombia as the president of the Committee.

[Annex VII follows]

## ANNEX VII

## DENMARK

Cooperation in Examination

It has been planned for some time to revise the agreements on cooperation in examination of plant varieties for distinctness, uniformity and stability concluded with other member States. Due to special circumstances, the matter could not be pursued and is still pending.

Situation in the Administrative Field

In 1996, 53 applications for plant breeder's rights were received, as follows:

Agricultural crops	30
Ornamentals	23
<i>Total</i>	<i>53</i>

In 1996, the number of titles of protection issued was 116:

Agricultural crops	42
Fruit	1
Vegetables	2
Ornamentals	73
<i>Total</i>	<i>118</i>

In the period from January 1 to August 31, 1997, 28 applications for protection were received and 20 titles of protection were issued.

The number of applications filed in 1996 was some 50% lower than the number for 1995. The reduction is considered to be the result of the introduction of the Community plant variety rights system.

Situation in the Technical Field — Variety Testing on Behalf of the Community Plant Variety Office

Nineteen varieties of *Euphorbia pulcherrima* were tested on behalf of the Community Plant Variety Office in 1996. This number has increased to 30 in 1997.

Development in Related Fields of Activity*Genetically Modified Plants*

Agricultural risk assessments were carried out in 1996 for five applications regarding the placing on the market of genetically modified plants in the European Union. The

applications concerned maize (three), leaf chicory and oilseed rape. In the period from January 1 to August 31, 1997, risk assessments were carried out on a further six applications relating to oilseed rape (two), fodder beet, carnation, maize and potato.

In addition, a total of 223 notifications concerning experimental releases of genetically modified plants in the European Union were reviewed in 1996. A further 194 notifications were reviewed in the period from January 1 to August 31, 1997.

#### *Genetic Resources*

The Plant Directorate, Division of Gene Technology and Variety Testing, was represented at the seventh session of the FAO Commission on Genetic Resources for Food and Agriculture held from May 15 to 23, 1997, in Rome.

[Annex VIII follows]

ANNEX VIII

ESTONIA

Situation in the Legislative Field

The Plant Variety Protection Law of the Estonian Republic was passed in the *Riigikogu* on March 9, 1994, and entered into force on April 10, 1994; it is being adapted to the 1991 Act of the Convention and Regulation No. 2100/94 of the Council of the European Union. The new law will provide protection for all species, give foreigners access to protection, create a “farmer’s privilege” and amend the administrative procedures.

Estonia wishes to become a member of UPOV as soon as possible after adoption of the new law.

Cooperation in Examination

Estonia is exploring the possibilities for cooperation in examination in view of the large number of species that are eligible for protection and the limited means for maintaining reference collections.

Estonia, Latvia and Lithuania are trying to organize a cooperative system; the negotiations to that effect are under way.

Cooperation has been established with Finland.

Activities for the Promotion of Plant Variety Protection

Estonia wishes to acknowledge the assistance received from Denmark, Finland and Germany through training courses.

Developments in Related Fields of Activities

Estonia has a national listing system conforming to the system in place in other European countries. The seed certification system has been completed, with post-control being carried out since 1995.

The Baltic Seed Bank project is continuing, and a working group is preparing a database.

[Annex IX follows]

ANNEX IX

UNITED STATES OF AMERICA

Situation in the Legislative Field

An amendment to the Plant Variety Protection Act, which waived the eligibility restriction for varieties of potatoes that have been marketed for more than four years in another country, expired on April 4, 1997. The provision was implemented in 1996 because tuber-propagated crops had not previously been eligible for protection. Less than ten applications were received under this provision.

The Administration awaits the advice and consent of the Senate for ratification of the 1991 Act of the Convention. Action is not expected until next year.

The Plant Variety Protection Act and its Regulations and Rules of Practice were reprinted in July 1997. Copies are available from the Plant Variety Protection Office (PVPO).

Situation in the Administrative Field

In July of 1997, the Patent and Trademark Office issued its 10,000th plant patent. A presentation ceremony was held at the Botanical Garden in Washington, D.C.

The Plant Variety Protection Office (PVPO) received over 400 applications in fiscal year 1997. The number of applications has increased by 25% since the law was amended to conform to the 1991 Act of the Convention.

On June 9, 1997, Mr. Lon Hatamiya, Administrator of the Agricultural Marketing Service of the United States Department of Agriculture, met with the Vice Secretary-General of UPOV.

Activities for the Promotion of Plant Variety Protection

From June 4 to 6, 1997, national and foreign representatives of public and private-sector plant breeding, seed industry, variety examiners and related legal professions participated in the "Intellectual Property Rights III—Global Genetic Resources: Access and Property Rights" Workshop sponsored by the American Society of Horticultural Science and the Crop Science Society of America. Participants reviewed factors affecting global access to plant genetic resources, especially the current types of intellectual property rights for plant material and the impact of recent international treaties and agreements. All participants attended a plenary session on June 4 and were provided additional background material. On June 5 and 6, selected working groups discussed one of five main topics: (1) plant genetic resources for food and agriculture; (2) harmonization and standardization of laws; (3) feasibility and legality of tracking plant genetic resources; (4) education; and (5) benefit sharing and farmers' rights. Each working group developed a summary of its discussions and recommendations, which will be published as part of the proceedings of the conference.

The Plant Variety Protection Office has hosted various international delegations to inform them about the national system of plant breeders' rights [China (November 1996); Ukraine (January 1997); Kazakhstan, Kyrgyzstan and Uzbekistan (February 1997); Kenya and Morocco (August 1997); Asian and Pacific Seed Association (September 1997)].

[Annex X follows]

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ANNEX X

FINLAND

Situation in the Legislative Field

Work with a view to adjusting the law to the 1991 Act of the Convention is in progress, and the discussions between the interested parties on farm-saved seed continue in a spirit of mutual understanding.

Cooperation in Examination

The administrative agreement concluded with the Federal Office of Plant Varieties of Germany has been extended. The latter will examine on behalf of the Plant Variety Board of Finland the varieties of *Vaccinium angustifolium* Ait. (common lowbush blueberry) and *Vaccinium brittonii* Porter ex Bickn (black lowbush blueberry).

Situation in the Administrative Field

From September 13, 1996, to September 17, 1997, 22 applications were received and 25 titles were issued.

[Annex XI follows]

ANNEX XI

IRELAND

Situation in the Legislative Field

The Memorandum for the Government to amend the Plant Varieties (Proprietary Rights) Act, 1980 was finalized and submitted to Government in December 1996. Legislation is currently being prepared and will be presented to the *Dail* (Parliament) in November/December 1997. It is anticipated that the Act will become law in 1998.

Situation in the Administrative Field

Following the introduction of the European Community protection scheme in April 1995, the number of applications for national rights dropped considerably. Many existing national rights for “newer varieties” were also converted into Community rights. The situation in 1997 is similar to that in 1996, with relatively few applications for national rights.

Developments in Related Fields of Activity

The Advisory Committee established by the Minister for Agriculture and Food in 1996 continues to function and provided funding for six projects in 1997 relating to animal and plant genetic resources.

An IPGRI technical working group on *Malus* and *Pyrus* met in Ireland in May 1997 and was partially funded by the Department of Agriculture and Food.

[Annex XII follows]



ANNEX XII

JAPAN

Situation in the Legislative Field

Preparatory work is being undertaken with a view to making the amendments to the Seeds and Seedlings Law that are necessary for its adaptation to the 1991 Act of the Convention. The Ministry of Agriculture, Forestry and Fisheries has decided to introduce a Bill into the Diet early in 1998.

Cooperation in Examination

The Japanese Government has signed a bilateral agreement with the United Kingdom, which came into force on June 30, 1997, and in which the authorities have agreed to take over each other's examination reports. It has signed an almost identical bilateral agreement with Germany, which came into force on August 1, 1997. It has also communicated with the Governments of Denmark and the Netherlands for the establishment of agreements on cooperation in examination.

Activities for the Promotion of the Protection of Plant Varieties

The Japanese Government has contributed to the UPOV regional seminar on plant variety protection for countries in the Central Asian region which was held in Kyrgyzstan from November 11 to 16, 1996.

A workshop for the countries of the Asia and Pacific region was held in Australia on September 22, 1997, and national seminars will be held in the near future in India and Sri Lanka. Furthermore, a training workshop for Asian countries is to be held in the United Kingdom next year with financial support from the Japanese Government.

[Annex XIII follows]

ANNEX XIII

MOROCCO

Situation in the Legislative Field

The Law No. 9-94 on the Protection of New Plant Varieties was promulgated by *dahir* No. 1-96-255 of January 21, 1997, published in the Official Journal No. 4482 of May 15, 1997.

The law was examined by the Council of UPOV at its extraordinary session of April 29, 1997. The Council gave a positive advice on the conformity of the law with the provisions of the 1991 Act of the Convention.

The implementing regulations are at their final stage of preparation and will shortly be submitted for approval.

Situation in the Administrative and Technical Fields

The infrastructure for the implementation of the law is being put in place, with the acquisition of office supplies and computers, the setting-up of a local computer network, the drawing-up of the application and other forms, and the training of five senior officers in the United States of America, from July 28 to August 13, 1997, in intellectual property, biosecurity and plant variety protection.

Activities for the Promotion of Plant Variety Protection

With a view to promoting the law on the protection of new plant varieties, the Ministry of Agriculture, Equipment and Environment organized in Rabat, on March 24 and 25, 1997, in cooperation with USAID, the Michigan State University and the Agricultural Biotechnology for Sustainable Productivity Project (ABSP) of the United States of America, a colloquium on plant variety protection. A colloquium on biosecurity was organized on March 26. Over 250 persons attended these meetings.

[Annex XIV follows]

## ANNEX XIV

## NORWAY

Situation in the Legislative Field

The Regulations Concerning the Plant Breeder's Right were revised with effect from July 16, 1997. Section 2 now provides that, in addition to variety owners who are resident or have their registered office in, or are nationals of, a State which is a member of UPOV, variety owners who are resident or have their registered office in, or are nationals of, a State which is a member of the World Trade Organization, may also be granted a plant breeder's right. In respect of plant varieties of particular significance to Norwegian plant production, or when warranted by other considerations, the Plant Variety Board may grant a plant breeder's right to an applicant from a country which is not a member State of UPOV or the World Trade Organization.

Cooperation in Examination

Norway received 27 DUS reports from other member States.

Situation in the Administrative Field

From January 1 to December 31, 1996, 26 applications were received and 30 titles were issued. The grants were as follows:

Cherry rootstock	1	Potato	1	Triticale	1
Oat	1	Rose	11	Turnip rape	1
Pelargonium	8	Strawberry	1	Wheat	3
Poinsettia	2				

Ninety-one titles were in force on August 1, 1997.

[Annex XV follows]

ANNEX XV

NEW ZEALAND

Situation in the Legislative Field

During the period covered by this report there has been no real progress towards amending the Plant Variety Rights Act 1987 to bring it into conformity with the 1991 Act of the Convention. The reasons for the lack of progress are:

- Other legislative priorities.
- A commitment given by the Government to Maori in 1994 to consult over proposed intellectual property law changes. The consultation has continued since then without as yet reaching a conclusion.
- A claim under the Treaty of Waitangi of 1840, yet to be heard, in which Maori have *inter alia* asserted rights of sovereignty over indigenous flora.

The Plant Variety Rights Amendment Regulations 1997 came into force on May 19, 1997. They require that a color photograph be supplied at the time of application for all fruit, ornamental and tree varieties.

Cooperation in Examination

A possible bilateral agreement with Denmark remains under discussion.

At the request of its authorities, a possible agreement with the Chinese Special Administrative Region of Hong Kong is under discussion.

Activities for the Promotion of Plant Variety Protection

The Commissioner of Plant Variety Rights participated in a meeting of a special working group to discuss intellectual property rights issues that was held at the South Pacific Forum Secretariat, Suva, Fiji, from May 5 to 7, 1997. Amongst other matters, the working group discussed the introduction of a system of plant variety protection for the South Pacific island countries. The conclusions of the working group were to be presented to the South Pacific Commission and Pacific Regional Agricultural Programme member countries at a meeting of PHALPS (Permanent Heads of Agriculture and Livestock Production Services) and RAB (Regional Advisory Board - comprising the national directors of agriculture).

[Annex XVI follows]

ANNEX XVI

NETHERLANDS

Situation in the Legislative Field

The Council of State has advised on a draft general administrative order on the rules concerning the “farmer’s privilege.” The Ministry of Agriculture, Nature Management and Fisheries is preparing a revised draft that is due to be published before the end of this year.

Furthermore, a reduced annual fee (25% of the normal fee) for plant varieties covered both by a Dutch right and a Community right was introduced by a general administrative order of August 27, 1997.

Cooperation in Examination

In 1997, a memorandum to facilitate certain aspects of the administrative procedure between Japan and the Netherlands has been signed by the competent Dutch authority and sent to Japan.

It is expected that the agreement between the Netherlands and South Africa (regarding the species *Anthurium* Schott, *Gerbera* Cass. and *Lachenalia* Jacq. f.) will be concluded soon.

Situation in the Administrative Field

In 1996, the number of applications filed for plant breeders’ rights showed a further reduction of 15% in relation to 1995: 1,005 applications were received as against 1,183 in 1995. However, the total amount of national and Community applications, filed by Dutch breeders, was about 1,200, which is equivalent to the number of national applications filed in 1995.

Notwithstanding this reduction in national applications, a considerable workload was caused by requests of the Community Plant Variety Office to provide existing reports (in 1996: 157 reports) or to carry out new tests concerning Community applications (in 1995 and 1996: 473 new tests). In 1996, the Board was able to provide 2 interim reports and 75 final reports. Furthermore, 185 requests for Community protection were filed through the Board.

In 1996, the Board entrusted 309 examinations to foreign authorities (25% of the examinations). The number of requests for examination to be conducted in the Netherlands—coming from non-EC countries—showed an increase from 280 in 1995 to 446 in 1996.

In the period from January 1 to September 1, 1997, 493 applications were received.

In 1996, two officers of the Community Plant Variety Office paid a visit to the Board in order to familiarize themselves with the Dutch system for processing large numbers of applications.

### Situation in the Technical Field

Following questions whether there can be free competition between research institutes, the study on the feasibility of a system of certification regarding DUS-examinations (both for PBR and marketing purposes) is in progress. It is expected that the results will be available by the end of 1997.

### Activities for the Promotion of Plant Variety Protection

The Board received a delegation from Japan and informed them about the implementation of the 1991 Act of the Convention at national level.

Delegations from Egypt and the Republic of Korea were received to be informed about the plant breeders' rights system in the Netherlands.

Furthermore, a very successful course on plant variety protection, attended by 13 participants from 12 countries in five continents, was organized in April 1997, in Wageningen, by the Centre for Plant Breeding and Reproduction Research (CPRO-DLO). The course covered the legal, institutional and technical aspects of plant variety protection and touched upon other intellectual property rights systems in plants. Lecturers came from the Ministry of Agriculture, Nature Management and Fisheries, UPOV, the Community Plant Variety Office, the Board and the seeds and planting material industry. Most participants were sponsored by their own organizations; some have been supported by the private sector. The CPRO-DLO is planning similar courses in the near future, to be organized either in Wageningen or in other regions of the world. A number of institutes from abroad have already asked CPRO-DLO for technical assistance in developing plant variety protection systems for those countries.

[Annex XVII follows]

## ANNEX XVII

## POLAND

Situation in the Legislative Field

Poland has legislation based upon the 1991 Act of the Convention since 1996. Varieties of 302 taxa are eligible for protection.

Poland has decided to accede to the 1991 Act of the Convention. The accession procedure is still in progress and might be completed by mid-1998.

Situation in the Administrative Field

From January 1 to September 30, 1997, 250 applications were filed and 124 titles of protection issued. At present, there are 706 protected varieties. Details are given below:

Group	Applications			Grants			Titles having ceased	Titles in force at 30.09.97
	domestic	foreign	total	domestic	foreign	total		
Agricultural crops	32	19	51	13	9	22	22	226
Vegetables	2	-	2	10	-	10	-	124
Ornamental Plants	24	148	202	2	80	82	26	324
Fruit Trees and Berry Plants	1	3	4	4	6	10	2	32
Total	89	170	259	29	95	124	50	706

Activities for the Promotion of Plant Variety Protection

A training course for 20 specialists from the Russian Federation was organized by COBORU in the period from July 20 to August 3, 1997. The course covered the following subjects: identification of varieties of cultivated plants; organization and carrying out the DUS testing; field and laboratory methods of variety testing.

[Annex XVIII follows]

ANNEX XVIII

CZECH REPUBLIC

Situation in the Legislative Field

Work on the amendment of Act No. 132/1989 Coll. on the Legal Protection of New Plant Varieties and Animal Breeds continued.

An adjustment of the administrative fees has been proposed, but the amendment of the Act on Administrative Fees has not yet been adopted by Parliament.

A proposal to extend protection to 23 species has been made.

Cooperation in Examination

Cooperation in examination with Hungary, Poland and Slovakia has been based upon a formal agreement. The agreement with Slovenia is under way. Its implementation has been delayed because of the need, arising from budget problems, to reassess the spectrum of species tested in the Czech Republic.

Situation in the Administrative Field

Between January 1 and September 15, 1997, 59 applications were received.

Activities for the Promotion of Plant Variety Protection

The Czech Republic had the honor to host a UPOV Seminar on "The Protection of Plant Varieties Under the UPOV Convention" from March 3 to 6, 1997. Besides the lecturers, 35 participants from 18 countries and 30 participants from the Czech Republic took part in the seminar.

Nine experts from the Russian Federation have undergone a practical training in the implementation of DUS tests in July and August 1997. The training focused on major agricultural crops and vegetables.

Developments in Related Fields of Activities

The Act No. 92/1996 Coll. on Varieties, Seeds and Planting Material has entrusted the Central Institute for Supervision and Testing in Agriculture (UKZUZ) with the preparation of a catalogue of varieties authorized for marketing.

Seed certification was carried out for the first time under that Act this season. The norms and administrative and technical rules in this area have been so designed as to be compatible with European Union legislation.

[Annex XIX follows]



ANNEX XIX

UNITED KINGDOM

Situation in the Legislative Field

A Plant Varieties Bill will shortly complete its progress through Parliament, thereby bringing United Kingdom law fully into line with the 1991 UPOV Convention.

There was an increase in fees for plant breeders' rights with effect from April 1, 1997, in line with inflation rates.

Cooperation in Examination

Discussions continue with Norway on a bilateral agreement under which the United Kingdom would test *Campanula*, chrysanthemum, holly and apple varieties on behalf of the Norwegian authorities.

The Chinese Special Administrative Region of Hong Kong has also requested a bilateral agreement.

Situation in the Administrative Field

During the year ended March 31, 1997, 256 applications were received (13.2% decrease over previous year), 264 grants were issued (27.3% decrease), 413 grants were terminated (55.3% increase) and 1,854 grants were renewed (2.6% decrease), out of which 59 were renewed as suspended rights whilst a Community right operates.

Community Plant Variety Rights

The United Kingdom continues to contribute to the development and management of the Community system through membership of the CPVO Administrative Council and working groups.

The British Society of Plant Breeders and the farming organisations have agreed royalty levels on the use of farm-saved seed for Community-protected varieties.

Activities for the Promotion of Plant Variety Protection

The United Kingdom received visitors from Bulgaria, India, the Republic of Korea, the Republic of Moldova, the Russian Federation, Turkmenistan and Ukraine wishing to learn more about the United Kingdom and UPOV systems of plant variety protection.

The Controller of Plant Variety Rights was a speaker at the UPOV national seminars held in Bangladesh, India and Viet Nam during September 1996.

[Annex XX follows]

ANNEX XX

SLOVAKIA

Situation in the Legislative Field

The amendment (No. 22/1996 of the Collection of Laws) of the Law No. 132/1989 Coll. on the Legal Protection of New Plant Varieties and Animal Breeds was adopted by the National Council of the Slovak Republic on December 19, 1995, and came into force on February 1, 1996. The amendment brought the Slovak legislation into conformity with the 1991 Act of the Convention and also with the Council Regulation No. 2100/94 of the Council of the European Union.

The Law is supplemented by two implementing decrees of the Federal Ministry of Agriculture and Food: No. 133/1989 Coll., which elaborates on some provisions of the Law, and No. 134/1989 Coll., which sets out the list of plant and animal species eligible for protection. New decrees were approved by the Ministry of Agriculture on April 22, 1997, and submitted to the Legislative Council of the Government, which will meet in October 1997.

Upon publication of the decrees in the Collection of Laws, Slovakia will be in a position to accede to the 1991 Act of the Convention.

Situation in the Administrative Field

Since 1990, a total of 546 applications have been filed. In 1997, up to June 30, 14 applications were received (5 domestic and 9 foreign applications).

Situation in the Technical Field

Slovakia participated in the "DUS ring tests" meetings on grasses (Svitavy, Czech Republic) and on sunflower (Budapest, Hungary) in the summer of 1997. Further "DUS ring tests" are being planned. Slovakia will participate in the "ring tests" on electrophoresis in sunflower which will be organized by experts from France and will continue participating in the "ring tests" on cucumber, poppy and red clover.

In May 1997, a seminar was organized in Velka Lomnica by the Association of Seed Traders and Breeders and the Ministry of Agriculture to explain the new implementing decrees.

Application of Biochemical, Molecular and Morphometrical Techniques in Seed and Variety Testing

These techniques are applied in official testing, according to the standard ISTA and the recommended UPOV methods, by the ÚKSÚP's Laboratory for Biochemical and Genetic Testing, which standardizes the testing methods, develops new methods and coordinates the testing activities in Slovakia. In the area of DNA-markers, it cooperates with the Research

Institute for Plant Production in Piešťany (VURV) and in the area of isoenzyme analysis with the breeding company Zcainvent Trnava.

### Genetic Resources

The new Genebank has been established. The ÚKSÚP and the Genebank are preparing an agreement on the conservation of the reference collections of protected example varieties.

[Annex XXI follows]

SLOVENIA

Situation in the Legislative Field

A draft of the new Plant Variety Protection Law has been prepared, on the basis of the UPOV Model Law, to conform with the 1991 Act of the Convention. It is now being finalized by the Ministry of Agriculture, Forestry and Food and is expected to be brought before Parliament in 1998.

Cooperation in Examination

An agreement concerning the exchange of DUS reports has been signed in 1997 with the United Kingdom authorities. Similar agreements are in preparation with Austria, France and the Netherlands. Cooperation is in place with the Czech Republic, Hungary and Slovakia.

Situation in the Administrative Field

It is expected that the first plant breeders rights will be granted soon (two for potato and two for vegetable varieties).

Developments in Related Fields of Activity

The National Variety List was published in August 1997.

[Annex XXII follows]

ANNEX XXII

SWEDEN

Situation in the Legislative Field

A new Plant Variety Protection Act entered into force on July 1, 1997, and brought the Swedish legislation into conformity with the 1991 Act of the Convention.

The new law makes it possible for Sweden to ratify the 1991 Act of the Convention. Government has been empowered to decide on a suitable ratification date.

Varieties of all genera and species are now eligible for protection. The period of protection has been extended to 25 years for all species except potato, trees and grapevine, for which the period is 30 years.

The provisions under Regulation No. 2100/94 of the Council of the European Union on the use of farm-saved seed have been incorporated into the new Act. An agreement has been concluded between the farmers' organization and the seed industry in respect of cereals, field bean, field pea, linseed, oilseed rape and turnip rape. On average, the royalty level is 54 per cent of the normal license fee.

The fees were increased on January 1, 1997, to the following amounts (SEK): application fee: 2,000 or 2,500; renewal fee: 2,000; annotation fee: 200. Renewal fees equal to 50% of the existing rates have been introduced for varieties protected under a national right and subsequently granted a Community plant variety right.

Situation in the Administrative Field

In 1996, 44 applications for plant breeders' rights were received (38 for agricultural crops and six for ornamentals); the number of titles of protection issued was 57 (30 for agricultural crops, four for fruit, 19 for ornamentals and four for trees).

In the period from January 1 to September 15, 1997, 50 applications for protection were received and 24 titles of protection were issued. The annual average over the five preceding years is 113 applications. The reduction, which is particularly important for ornamentals, is in large part due to the introduction of the Community plant variety rights system.

Situation in the Technical Field – Genetically Modified Organisms

In 1996, the official DUS testing has been finalized for the first genetically modified plant variety, a potato variety with modified starch. In 1997, applications have been submitted for another six genetically modified potato varieties.

[Annex XXIII follows]

ANNEX XXIII

UKRAINE

Situation in the Legislative Field

In July 1997, the draft of the new law on the protection of plant varieties was finalized and submitted to the Supreme Soviet of Ukraine for adoption. The new law will conform with the 1991 Act of the Convention. All genera and species will be eligible for protection.

Situation in the Administrative Field

During 1996, 8 applications for plant breeders' rights have been received (wheat: 7; sunflower: 1).

Activities for the Promotion of Plant Variety Protection

Representatives of the State Commission for Plant Variety Testing and Protection participated in the following:

(a) Regional Seminar on Plant Variety Protection Under the UPOV Convention (Prague, March 1997);

(b) practical training on the protection and registration of plant varieties organized for 21 specialists by the *Groupe national interprofessionnel des semences et plants* (GNIS) (France, April-October 1997);

(c) study program organized for four experts by the United States Department of Agriculture (April 1997);

(d) working group on the official text in the Russian language of the 1991 Act of the Convention (Geneva, April 1997);

(e) Congress of the International Federation of the Seed Trade (FIS) (Sweden, May 1997).

Developments in Other Fields of Activity

The Register of varieties authorized for sale in Ukraine was published in 1997.

Ukraine has applied to the OECD for joining the Schemes for the Varietal Certification of Seed Moving in International Trade and to the International Seed Testing Association (ISTA).

[Annex XXIV follows]

ANNEX XXIV

URUGUAY

Situation in the Legislative Field

No initiative has been taken so far on the adaptation of national legislation to the 1991 Act of the Convention.

Protection now applies to 24 species belonging to 18 genera, and an extension to four further species is planned. There is a need to, and an interest in, applying the protection system to fruit species. This requires initial and on-the-job training of technical staff and, in turn, the assistance of member States. The necessary financial means have been found and the project has entered the implementation phase.

Cooperation in Examination

No initiative has been taken so far, but cooperation is necessary, especially for fruit species.

Situation in the Administrative Field

At the end of June of this year, the National Seed Institute (INASE) started its operations.

INASE is a legal entity under public law, that is not under State control. The new law maintains the competence of the Executive over the definition of the national seed policy on the basis of advice and assistance provided by INASE.

The law has been published in *Plant Variety Protection* No. 82.

Developments in Related Fields of Activities

Work continues on the implementation of special regulations on the release of genetically modified organisms. Risk analyses are being carried out, based upon the national rules governing phytosanitary matters and national listing, with due regard also to the relevant international criteria.

Tests and seed multiplication under strict security measures have been authorized, and also the release of a transgenic soybean variety and material thereof. Field tests are being conducted with soya beans and eucalyptus. There is growing interest for transgenic maize.

The authorities participate actively in all international and regional activities relating to the conservation and the use of, and access to, plant genetic resources.

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