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

**COUNCIL**

**Thirty-third Ordinary Session**  
**Geneva, October 20, 1999**

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 XIX (in the alphabetical order of the names of the States in French): South Africa, Germany, Argentina, Austria, Belgium, Canada, Denmark, Estonia, Russian Federation, Ireland, Italy, Norway, New Zealand, Panama, Netherlands, Poland, Slovenia, Sweden, Ukraine.

[Nineteen 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 during April 1996. There were some concerns regarding ratification of the 1991 Convention but these were resolved in the meantime and South Africa's instrument of ratification should be deposited in the near future.

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 20 new genera and species (13 ornamentals) and another 2 are in the process of being protected.

Plant breeders' rights fees were increased by about 10% on October 16, 1998.

Cooperation in Examination

There have not been any further developments in the request from the Chinese Special Administrative Region of Hong Kong for a bilateral agreement.

Situation in the Administrative Field

From October 1, 1998, to August 31, 1999, 172 applications for plant breeders' rights were received and 215 breeders' rights were granted. As at August 31, 1999, there were 359 applications under consideration and 1535 rights in force. Further details are given below.

	Agricultural Crops	Vegetable Crops	Ornamental Plants	Fruit Crops	Total
Applications Received	46	27	81	18	172
Plant Breeders' Rights Granted	54	20	130	11	215
Valid Plant Breeders' Rights	464	222	630	219	1,535
Applications Under Consideration	71	49	122	117	359

The Directorate of Plant and Quality Control was restructured from April 1, 1999, and the name of the new Directorate is now Genetic Resources. The Directorate has five divisions, namely:

- Division of Variety Control – Handles all plant breeders' rights and variety listing matters;
- Division of Seed Quality Control – Handles all seed testing matters;
- Division of Genetic Control – Handles all matters concerning genetically modified organisms and the GMO Act;

- Division of Plant Genetic Promotion – Handles all plant genetic education programmes, especially amongst small-scale and subsistence farmers; and
- Division of Plant Genetic Auditing – Handles all auditing of imported/exported/local plant genetic resources.

South Africa is experiencing a few other problems.

(a) Varieties are submitted for PBR which appear to be outside the four or six year novelty requirement. Applicants always claim that although it seems that the variety is too “old”, sales only started some years after the date on which the rights were granted. It would seem that a simple solution to the problem would be to alter the novelty requirement to a certain number of years after the first rights were granted, irrespective of whether sales transpired or not, as this would be a fixed date without any arguments. The matter is further complicated by the fact that certain countries allow sales as soon as an application has been submitted. Obtaining proof of commencement of sales is the big problem.

(b) It is required from an applicant to furnish written authorization allowing him to apply for variety listing or PBR when he is not the breeder or owner of the variety. Applicants often cannot supply the necessary authorization, claiming that they cannot trace the owner. In the case of PBR, the application is not accepted, but in the case of variety listing it is a problem. In terms of the Convention on Biological Diversity (CBD), each country has sovereign rights over its own resources and someone will have to give authorization for the use of the material. Will it be necessary, therefore, to get authorization from the authority in such a country or how is the problem handled in other countries?

#### Situation in the Technical Field

Differences between varieties are still South Africa’s biggest problem and because of this more and more problems are encountered annually to distinguish between varieties. This problem is aggravated by the fact that no fees are charged for keeping a variety on the variety list and companies therefore tend to keep varieties on the list even though they are no longer marketed. Certain farming communities that insist on planting “old”, “trustworthy” varieties cause the problem. Some of these varieties have been in existence for many years and some seed companies keep on producing seed of them. As they do not belong to anybody, the Department is at a loss when having to decide whom to hold responsible for the payment of maintenance fees on the variety list.

#### Activities for the Promotion of Plant Variety Protection

Seminars, workshops and courses are still being organized on an ongoing basis throughout the year to people who are interested in plant breeders’ rights. The main topic is still the changes to the new Act and especially Farmers’ Privilege and Farmers’ Rights. Discussions are presently being held amongst various groups and the Government to amend the clause in the Act that deals with Farmers’ Privilege, especially as far as vegetatively propagated varieties are concerned. The strategy of the Department is to remove farmers’ privilege from the Plant Breeders’ Rights Act and to include a new section in the Plant Improvement Act which will allow farmers to only harvest seed of varieties which are not protected by means of intellectual property rights or covered by compulsory certification schemes.

Tremendous pressure is still being put on the Department to include a section on Farmers' Rights in the Plant Breeders' Rights Act. The Plant Breeders' Rights Act as well as the Plant Improvement Act have been placed on the list of Acts which will be reviewed by Parliament in 2000 and by that time the section on Farmers' Rights would have to be finalized.

#### Related Fields of Activities

The Genetically Modified Organisms Act (GMO Act) was approved by Parliament and ratified by the President of South Africa in 1997. The National Department of Agriculture is presently in the process of putting the National Biosafety Framework together, ready for operation on December 1, 1999, the projected date for implementation.

Under the current dispensation the South African Committee for Genetic Experimentation (SAGENE) provides the Government with a set of recommendations for the containment of GMOs which are field-trialled in South Africa. These recommendations are based on the scientific assessment of each individual application submitted to the Department.

SAGENE was reconstituted by the Department of Arts, Culture, Science and Technology as the National Advisory Body on the Genetic Modification of Organisms. The notice with SAGENE's terms of reference was published in the Government Gazette No. 48 of January 14, 1994.

[Annex II follows]

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ANNEX II

GERMANY

Situation in the Legislative Field

The Ordinance on the Amendment of the Tariff of Fees of the Federal Office of Plant Varieties entered into force in October 14, 1998.

Activities for the Promotion of Plant Variety Protection

The Office received delegations from Egypt, Estonia and the Republic of Korea during the period covered by this report.

Developments in Related Fields of Activity

*Variety List*

A Law on the Amendment of the Seed Trade Law is under preparation with a view to harmonizing the latter with Community law.

*Genetic Engineering*

The Office is currently examining 22 applications for variety approval in the framework of the authorizations to release genetically modified organisms under the Law on Genetic Engineering.

[Annex III follows]

ANNEX III

ARGENTINA

Situation in the Legislative Field

The adaptation of the national law to the 1991 Act of the UPOV Convention is still under study.

Cooperation in Examination

In the framework of cooperation under the arrangements recommended by UPOV, results are taken over from France, Germany and the Netherlands.

Situation in the Administrative Field

During 1998, a total of 159 ownership titles were issued (out of those 66% were for cereals, oilseed plants and fodder plants, with the share of the ornamental, fruit and industrial plants showing an increase over the preceding year).

A total of 1256 varieties have been protected since the opening of the National Register of Cultivar Ownership.

In December 1998, an agreement on cooperation and coordination was signed between the National Seed Institute (INASE) of Argentina and the Agriculture and Livestock Service (SAG) of Chile; the agreement covers among other things plant variety protection.

Situation in the Technical Field

The Directorate of the Variety Register has six technical staff in charge of DUS examinations, with two post-graduate students assisting them in the management of the reference collections and the observations.

The reference collections of wheat, soybean and oilseed rape have been grown out since 1994. Those of barley, oats and rye have been grown out for the first time. All of them were grown out at the Testing Station of the Agricultural Faculty of the University of Morón, with which INASE has an agreement.

The checking of the DUS tests undertaken by breeders for maize (inbred lines), soybean and sunflower (inbred lines) has been pursued.

Activities for the Promotion of Plant Variety Protection

Members of the INASE staff participated in various meetings in Argentina and also in Costa Rica and Mexico to promote plant variety protection.

On August 10 and 11, 1999, INASE organized in cooperation with UPOV a seminar on the 1991 Act of the UPOV Convention that attracted a wide audience.

[Annex IV follows]

ANNEX IV

AUSTRIA

Situation in the Legislative Field

The Federal Ministry of Agriculture and Forestry has started with the transposition of the 1991 Act of the UPOV Convention into national law.

An Ordinance on the extension of protection to further genera and species entered into force on February 1, 1999.

Cooperation in Examination

Two agreements on cooperation in examination have been signed, with Denmark and the Netherlands.

Situation in the Administrative Field

The activities between October 1, 1998, and August 31, 1999, were as follows:

– Applications:	13
– Grants:	8
– Titles having ceased to be in force:	30
– Titles in force at August 31, 1999:	156

Activities for the Promotion of Plant Variety Protection

The Plant Variety Protection Office received delegations from Croatia and the Czech Republic.

Developments in Related Fields of Activity

*Seed*

The Ordinance on the Labelling of Genetically Modified Varieties and Seeds entered into force on March 15, 1999.

The Ordinance on the Accreditation of Persons and Technical Facilities for the Execution of Specific Tasks under the Seed Law of 1997 entered into force on July 1, 1999.

The Federal Ministry of Agriculture and Forestry has started work on the transposition of the EC Directive 98/95 on large-volume seed packaging.

*Patents*

The Austrian Patent Office has started preparations for the transposition of the EC Directive 98/44 on the legal protection of biotechnological inventions.

[Annex V follows]

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ANNEX V

BELGIUM

Situation in the Legislative Field

The draft law amending the law currently in force and adapting it to the 1991 Act of the UPOV Convention is being finalized. It is hoped that the new law will be adopted in 2000.

Cooperation in Examination

Two agreements – with Denmark and France – are still awaiting signature.

Situation in the Administrative Field

The computerization of the Service for the Protection of New Plant Varieties has been completed. Belgium will be able to regularly submit data for the UPOV-ROM as from the next issue.

From the entry into force of the plant variety protection system to August 31, 1999, a total of 2168 applications were received and 1608 certificates granted, of which 407 are still in force.

Evolution in Related Fields of Activity

Various legislative texts on varieties, seeds, genetically modified organisms and patent protection for biotechnological inventions are awaiting publication or being prepared.

[Annex VI follows]



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ANNEX VI

CANADA

Situation in the Legislative Field

Amendments to the Plant Breeders' Rights Act to conform to the 1991 Convention were introduced for first reading in Parliament on April 22, 1999. It is difficult to predict when the legislation will receive final approval.

Situation in the Administrative Field

Canada has been receiving applications for Plant Breeders' Rights since November 6, 1991. As of September 15, 1999, 1780 applications for rights have been received and 665 rights granted.

[Annex VII follow]

ANNEX VII

DENMARK

Situation in the Administrative Field

In 1998, a total of 31 applications for plant breeders' rights were received (agricultural crops: 26; fruit: 1; ornamentals: 4); this is 9% less than in 1997. The number of titles of protection issued was 56 (agricultural crops: 37; fruit: 2; vegetables: 1; ornamentals: 16).

In the period from January 1 to September 1, 1999, 38 applications for protection were received and 18 titles of protection were issued.

Cooperation in Examination

Bilateral agreements on cooperation in examination were signed with: Austria in December 1998; Finland and Switzerland in March 1999; New Zealand in August 1999.

[Annex VIII follows]

ANNEX VIII

ESTONIA

Situation on the Legislative Field

Work on the amendment of the Plant Variety Rights Act has been continued. An official of the Union visited Tallinn in December 1998 to provide advice. The law on the accession to the 1991 Act of the UPOV Convention should be in Parliament in November 1999.

Activities for the Promotion of Plant Variety Protection

A Roving Seminar on the Protection of Plant Varieties under the UPOV Convention, the Patent System and the TRIPS Agreement organized by UPOV and WIPO in cooperation with the Ministry of Agriculture of Estonia took place in Tallinn on June 15, 1999.

Developments in Related Fields of Activity

The Seed and Plant Propagating Material Act entered into force on July 1, 1998. A number of implementing regulations were issued in March, April and June 1999.

[Annex IX follows]

ANNEX IX

RUSSIAN FEDERATION

Situation in the Legislative Field

Protection is extended to further genera and species almost annually. An extension to four species and a group of species is planned for the very near future.

Situation in the Technical Field

The State Commission of the Russian Federation for Selection Achievements Testing and Protection has established national methods for DUS testing for 10 plant and seven animal species.

Activities for the Promotion of Plant Variety Protection

National seminars were held in seven cities. Articles from staff of the Commission were published in 25 magazines and journals. A website ([www.angelfire.com/sui/soundsbyte/index.html](http://www.angelfire.com/sui/soundsbyte/index.html), accessible through the UPOV website) has been established.

Staff of the Commission went on study tours in France (five staff), Germany (three) and the Netherlands (three).

The Commission received visits from delegations from Azerbaijan, Georgia, Kyrgyzstan and Uzbekistan.

Developments in Related Fields of Activity

Implementing regulations to the Federal Law on Seed Production (adopted in December 1997) and the Federal Law on Genetic Engineering (adopted in June 1996) are being prepared.

An Inter-Department Commission on Genetic Engineering Activities was set up in April 1997.

Applications for genetically modified varieties are only accepted upon receipt of a preliminary decision of admission for use from the Inter-Department Commission, which carries out an examination for biological, food and ecological safety. Such varieties are only entered into the State List upon a final decision from the Inter-Department Commission.

[Annex X follows]

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ANNEX X

IRELAND

Situation in the Legislative Field

The Plant Varieties (Proprietary Rights) (Amendment) Act was passed into law on November 25, 1998, bringing Irish plant breeders' rights law fully into line with the 1991 Act of the UPOV Convention. Implementing legislation will be adopted later this year.

Situation in the Administrative Field

Since 1981, a total of 496 applications for plant breeders' rights have been received, 368 rights have been issued and as of August 26, 1999, 117 rights are in force.

Developments in Related Fields of Activity

The area of plant genetic resources continues to be very active. In 1999, a total of 10 plant-related conservation projects were approved for funding.

[Annex XI follows]

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ANNEX XI

ITALY

Situation in the Legislative Field

The Legislative Decree No. 455 of November 3, 1998, which makes amendments to national legislation in accordance with the 1991 Act of the UPOV Convention, was published in the Official Gazette of December 30, 1998.

Situation in the Administrative Field

On September 14, 1999, the Ministry for Agricultural Policies changed its name to Ministry of Agricultural and Forestry Policies.

[Annex XII follows]

## ANNEX XII

## NORWAY

Cooperation in Examination

Norway has received 53 DUS reports from other member States.

Situation in the Administrative Field

In 1998, 57 applications were received; 53 titles were issued, as follows:

Alstroemeria	1	Petunia	2	Rose	15
Barley	1	Poinsettia	6	Rye	2
Elatior begonia	8	Rape	1	St. John's wort	1
Meadow foxtail	1	Reed Canary grass	1	Strawberry	2
Pea	1	Red clover	1	Wheat	4
Pelargonium	4	Rhododendron	1	Triticale	1

In total, 159 titles were in force on September 1, 1999.

[Annex XIII follows]

ANNEX XIII

NEW ZEALAND

Situation in the Legislative Field

It is disappointing to report again that during the period covered by this report there has been no real progress made towards amending the Plant Variety Rights Act 1987 to bring it into conformity with the 1991 Act of the Convention.

On July 1, 1999, the Plant Variety Rights (Fees) Order 1999 came into force. This Order made significant changes to the fees schedule. On the same date the Plant Variety Rights Amendment Regulations 1999 came into force. These Regulations made some changes to the quantities of seed required to be supplied with applications for agricultural and vegetable varieties.

The main changes resulting from the new Order and Regulations are as follows:

(a) Trial fees for wheat, barley, oat, garden pea, forage *Brassica*, potato, grass and white clover varieties were introduced. On July 1, 1999, it became obligatory that all such varieties be tested in central trials conducted by the PVR Office. This completed the move for the crops concerned from the breeder testing system of the past to a system of central testing by the PVR Office.

(b) The fees schedule was simplified and the fees were substantially reduced. For example:

(i) The former grant fee was abolished. In the case of ornamental and fruit varieties, its value was incorporated into the application fee;

(ii) New reduced annual fees were introduced.

Cooperation in Examination

An administrative agreement on cooperation in examination was concluded with Denmark in August 1999. Discussion continues on a similar agreement with Japan.

Situation in the Administrative Field

During the financial year ended June 30, 1999, 155 applications were received (15 less than the previous year), 172 grants were issued (41 more), 68 grants were terminated (12 less) and 1059 grants were renewed (104 more).

Activities for the Promotion of Plant Variety Protection

The Commissioner of Plant Variety Rights participated in the UPOV/WIPO/WTO Joint Regional Workshop on the Protection of Plant Varieties under Article 27.3(b) of the TRIPS Agreement held in Bangkok on March, 18 and 19, 1999.



He participated on behalf of UPOV in a “Regional Meeting on Seed Policy and Programmes for Asia and the Pacific” held in Bangkok from May 3 to 6, 1999, and organised by the Asia and Pacific Seed Association (APSA) in collaboration with the Thai Department of Agricultural Extension on behalf of and with financial support from FAO.

He participated in an “International Seminar on Technological Innovation and the National Implementation for the Protection of New Varieties of Plants” held in Kunming and Beijing, China, from May 16 to 21, 1999.

[Annex XIV follows]

ANNEX XIV

NETHERLANDS

Cooperation in Examination

A bilateral administrative agreement was signed in December 1998 by the competent authorities of Austria and the Netherlands.

Situation in the Administrative Field

The total number of applications rose slightly in 1998 to 893. The number of applications for Community Plant Variety Rights submitted through the Dutch Board declined by about a third in 1998, to 80. In 1999, the number of applications was 501 as of September 1.

In 1998, 201 tests were placed with UPOV partners. The Board sent 620 reports.

Situation in the Technical Field

The study on the feasibility of a system of certification regarding DUS examinations, designed to achieve free competition between research institutes, is in progress. The results of the study have been discussed with the European Commission and the Community Plant Variety Office. At European level, there is a policy aiming at specialisation in the examination. A system of free competition between research institutes is contrary to that policy. The Netherlands has decided that the introduction of a system of free competition is not desirable at this point in time.

Since the summer of 1999, the CPRO is no longer a governmental organisation, but an independent one carrying out tasks for the Ministry of Agriculture, Nature Management and Fisheries in the field of research for the plant breeders' rights system and in other fields.

Activities for the Promotion of Plant Variety Protection

Two Chinese delegations visited the Ministry of Agriculture, Nature Management and Fisheries and the CPRO in September 1999. They were particularly interested in the Dutch plant breeders' rights system and the system of certification of seeds and planting material.

In September 1999, training was given by the CPRO in Indonesia and the Philippines about the practical and legal aspects of a system of plant breeders' rights. A delegation of the CPRO and the Dutch Board for Plant Breeders' Rights will go to China in October 1999 in order to facilitate the setting up of an infrastructure for the granting of plant breeders' rights.

A course on plant variety protection, attended by 20 participants from 15 countries, was organised in May 1999. The course was again very successful. The course, organised together with the IAC (International Agricultural Centre), covered the legal, institutional and technical aspects of plant variety protection and touched upon other intellectual property rights systems for plants.

[Annex XV follows]

ANNEX XV

PANAMA

Situation in the Legislative Field

Plant variety protection is provided in Panama under Title V of Law No. 23 of July 23, 1997, Approving Panama's Accession to the Marrakesh Agreement Establishing the World Trade Organization, and in accordance with the 1978 Act of the UPOV Convention. The implementing provisions to Title V were promulgated by Executive Decree No. 13 of March 19, 1999.

Panama deposited its instrument of accession to the 1978 Act on April 22, 1999, and became a member of UPOV through Law No. 12 of May 3, 1999.

Cooperation in Examination

The possibilities for cooperation in examination and exchange of information are being studied with countries such as Argentina, Chile, Colombia, Ecuador, Mexico, Paraguay, Uruguay, and also the European Union.

Activities for the Promotion of Plant Variety Protection

Officials from the Directorate General of the Industrial Property Registry (DIGERPI), from the Institute for Agricultural and Livestock Research of Panama (IDIAP) and from the National Seed Committee (CNS) participated in various seminars and workshops organized in the region.

[Annex XVI follows]

## ANNEX XVI

## POLAND

Situation in the Legislative Field

The Seed Industry Law is based upon the 1991 Act of the UPOV Convention and currently applies to 302 taxa. A draft law to amend the Law has been submitted to Parliament and currently is with the Subcommittee on Agriculture and Food Economy. It is expected that the new law will enter into force in the first half of 2000.

The Law provides, inter alia, for:

- an extension of protection to all plant genera and species.
- an extension of the duration of protection to 30 years for varieties of potato, grapevine, and trees and their rootstocks, and 25 years for other varieties.
- a limitation of the farmer's privilege.

Cooperation in Examination

Poland has concluded bilateral agreements on cooperation in examination with the Czech Republic, Hungary and Slovakia, and also Latvia.

Poland has participated in two ring tests. The first one involves the Czech Republic, Estonia, Germany, Hungary, Poland and Slovakia and concerns the examination of red clover and oilseed rape. It held its meeting at Scharnhorst (Germany) on April 20, 1999. The second held its meeting in Poland on July 26 and 27, 1999. The meeting was attended by participants from Croatia, the Czech Republic, France, Hungary, Poland, Slovakia and Slovenia. Its next meeting will be held in Slovakia in 2000.

Situation in the Administrative Field

From January 1 to September 15, 1999, 275 applications were received and 219 titles were granted. On September 15, 1999, there were 1147 titles in force. Details are given below.

Group	Applications			Grants			Titles having ceased	Titles in force at 15.09.99
	domestic	foreign	total	domestic	foreign	total		
Agricultural crops	64	29	93	55	31	86	10	331
Vegetables	1	-	1	16	1	17	-	179
Ornamental plants	15	151	166	9	99	108	5	582
Fruit Trees and Berry Plants	7	8	15	5	3	8	-	55
Total	87	188	275	85	134	219	15	1147

Activities for the Promotion of Plant Variety Protection

A training course on variety examination was organized by COBORU on June 21 and 22, 1999. Thirty persons, mostly plant breeding workers and Polish representatives of foreign breeders, participated in the course.

A three member delegation from the State Commission of Ukraine for Testing and Protection of Plant Varieties visited COBORU from July 26 to 31, 1999.

[Annex XVII follows]

ANNEX XVII

SLOVENIA

Situation in the Legislative Field

The Protection of New Varieties of Plants Act was passed by Parliament in December 1998 and entered into force on January 2, 1999. The Act is in conformity with the 1991 Act of the UPOV Convention, which was ratified by Parliament in April 1999. The Government of the Republic of Slovenia deposited its instrument of accession to the 1991 Act on June 29, 1999, and Slovenia became on July 29, 1999, the 44<sup>th</sup> member State of UPOV.

Implementing regulations on the technical examination (DUS testing) of varieties, a decree on fees and a decree on costs have been adopted. The drafts of two further regulations, on the details of the procedure and on the farmer's privilege, have been prepared.

Cooperation in Examination

In November 1997, an agreement concerning the exchange of DUS reports was signed with the Austrian authorities. Two agreements on cooperation, with the Czech Republic and Slovakia, are under preparation.

Cooperation continues with the Czech Republic, Hungary and Slovakia.

Situation in the Administrative Field

The Plant Variety Protection and Registration Office of the Republic of Slovenia has been established as a legal entity within the Ministry of Agriculture, Forestry and Food and began its operations in June 1999.

From October 1998 to September 1999, 17 applications were filed and 44 titles of protection issued. The total number of titles in force is 51 (agricultural crops: 21; vegetables: 4; ornamentals: 26).

Activities for the Promotion of Plant Variety Protection

A lecture on the new plant variety protection law was made at the horticultural exhibition in Celje, in February 1999.

Developments in Related Fields of Activity

The new National List of Varieties, including the list of protected varieties, has been published.

[Annex XVIII follows]

## ANNEX XVIII

## SWEDEN

Situation in the Legislative Field

According to the Swedish Plant Variety Protection Act (1997:306), the provisions on the exceptions from the exclusive right in Article 14 of Council Regulation (EC) No. 2100/94 of July 27, 1994, and the latter's implementing regulations also apply to plant varieties protected under the Swedish Act. The agreement concluded in 1997 between the farmers' organization and the seed industry has been extended to varieties of potato. The agreement now covers varieties of cereals, field bean, field pea, rape, turnip rape, linseed and potato. In average, the royalty level is about 52 per cent of the normal licence fee.

Cooperation in Examination

The agreement on cooperation in examination concluded with the United Kingdom has been extended to 10 further species.

Situation in the Administrative Field*Number of applications received (annual average)*

July 1990 to June 1995	120
July 1995 to June 1999	55

*Number of titles of protection issued*

1995	80	(17 agricultural, 1 vegetable, 2 fruit and 60 ornamentals)
1996	57	(30 agricultural, 4 fruit, 19 ornamentals, 4 trees)
1997	39	(21 agricultural, 5 fruit, 13 ornamentals)
1998	22	(18 agricultural, 2 fruit, 2 ornamentals)

*Number of grants valid as per July 1*

1995	427	(179 agricultural, 25 fruit, 214 ornamentals and 9 trees)
1996	434	(190 agricultural, 3 vegetables, 25 fruit, 203 ornamentals, 13 trees)
1997	326	(201 agricultural, 3 vegetables, 30 fruit, 89 ornamentals, 3 trees)
1999	307	(195 agricultural, 3 vegetables, 30 fruit and 79 ornamentals)

The strong reduction, which is especially pronounced in ornamentals, is mainly a result of the introduction of the Community Plant Variety Rights system.

Situation in the Technical Field – Genetically Modified Organisms

At present, applications are pending for 9 genetically modified varieties, 7 potato varieties (modified starch) and 2 spring rape varieties (herbicide resistance). For one potato variety, the DUS test is completed and the decision is suspended to an EU decision on market release. The DUS test has started in 1999 for the seed rape varieties but not yet for the other potato varieties.

[Annex XIX follows]

ANNEX XIX

UKRAINE

Situation in the Legislative Field

The draft law on the amendment of the Law on the Protection of Plant Variety Rights was adopted in first reading by the Supreme Council. It is currently being prepared for the second reading. The draft law will bring Ukrainian legislation into conformity with the 1991 Act of the UPOV Convention.

By decree of the Cabinet of Ministers of December 28, 1998 (No. 2085), the list of protected plant species was extended to 10 (soft wheat, hard wheat, rye, barley, sunflower, maize, sugar beet, potato, garden beet, white cabbage).

Situation in the Administrative Field

During 1998, 5 applications were received. No right has been granted.

Activities for the Promotion of Plant Variety Protection

In May 1999, members of the State Commission for Testing and Protection of Plant Varieties participated in a practical training course on the principles and organization of varietal seed certification of cereals organized by the *Groupement national interprofessionnel des semences et plants* (GNIS) in France.

Developments in Other Fields of Activity

The Government of Ukraine decided to become a member of the International Seed Testing Association (ISTA). It is currently examining the procedural issues of accession.

The admission of Ukraine to the OECD Schemes for the Varietal Certification of Seed Moving in International Trade is still under discussion.

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