

Council**C/52/15 Add.****Fifty-Second Ordinary Session
Geneva, November 2, 2018****Original:** English/español
Date: November 28, 2018

**ADDENDUM
REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS ON THE SITUATION IN THE
LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

The following reports were received after the deadline of September 18, 2018 (in the alphabetical order of the names in French):

Members: Annexes I to IV: Australia, Brazil, Colombia and Japan

[Annexes follow]

ANNEX I

AUSTRALIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

- 1.1 Amendments of the law and the implementing regulations
- other amendments, including in respect of fees

The Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Bill 2018 passed through the Australian Parliament and received royal assent on 24 August 2018. This Bill contains a number of amendments to the Plant Breeder's Rights Act, 1994 (PBR Act). Administrative and clarification amendments commenced following royal assent. The latest version of the PBR Act is at: <https://www.legislation.gov.au/Details/C2018C00361>

Several other amendments, including the following, were also passed but will not commence until 24 February 2019 (six months after royal assent):

- declaration of essentially derived varieties to include non PBR varieties
- power to award further damages in infringement cases
- recognition of exclusive licensees

2. Cooperation in examination

Nothing to report

3. Situation in the administrative field

None to report

4. Situation in the technical field

None to report

5. Activities for the promotion of plant variety protection

Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
22 August 2018	Melbourne, Australia	Australian Seed Federation	Explanation of UPOV PRISMA	Australia and New Zealand Seed Industry organizations

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

None to report

[Annex II follows]

ANNEX II

BRAZIL

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

- Law 13.606/18

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

- After the end of 2017 up to now, the protection was extended to *Begonia boliviensis* A. DC., *Begonia pendula* Ridl., *Begonia x semperflorens-cultorum* hort, *Begonia x tuberhybrida* Voss, *Begonia boliviensis* A. DC. X *Begonia pendula* Ridl., *Bougainvillea* (Comm. Ex Juss.), *Cocos nucifera* L., *Agave*, *Cicer arietinum* L., *Lagenaria siceraria* (Molina) Standl., *Pelargonium grandiflorum* (Andrews) Willd., *P. x domesticum* L.H. Bailey, *P. crispum* (P.J. Bergius) L'Hér. e *P. crispum* x *P. x domesticum* and *Psidium guajava* L.
- Planned DUS Guidelines revisions: sugarcane, wheat

1.3 Case law

Nothing to report.

2. Cooperation in examination

Nothing to report.

3. Situation in the administrative field

The PVP office upgraded its PVP Application System (CultivarWeb) to a fully online application system (paperless), with the following features:

- Electronic filling of applications;
- Electronic exchange of additional information;
- One-click button to request withdraw of applications/give up of protections
- Management of fees (better management of fees for the breeders; ease to create the fee collection form; automatic input data and compensation, etc.)

4. Situation in the technical field

Nothing to report.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1. General course on IP	February 6 to April 8, 2018	Distance learning course	INPI (Patent and trademark office of Brazil) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions
2. General course on IP	May 2 to June 29, 2018	Distance learning course	INPI (Patent and trademark office) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions
3. General course on IP	July 23 to September 20, 2018	Distance learning course	INPI (Patent and trademark office) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions
4. Training on the new PVP App System (CultivarWeb)	September 5, 2018	Brasília/ Brazil	SNPC (PVP Office)	Train the Agents with more applications in the new version of the Application System Platform	Around 20 Agents	
5. General course on IP	October 22 to December 6, 2018 (in course)	Distance learning course	INPI (Patent and trademark office) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex III follows]

ANNEX III

COLOMBIA
PERIOD: OCTOBER 2017 – SEPTEMBER 2018

Legislative developments

During the period covered by the report, there were no amendments to our legislation on plant breeders' rights. Colombia continues to apply the legislation in force to protect plant breeders' rights, based on Decision No. 345 of 1993.

Colombian legislation also includes ICA Decision No. 1893 of 1995, Law No. 243 of 1995, "approving the International Convention for the Protection of New Varieties of Plants, UPOV, of December 2, 1961, as revised in Geneva on November 10, 1972 and October 23, 1978", Decree No. 2687 of 2002, modifying Article 7 of Decree No. 533 of 1994, now consolidated into Decree 1071 of May 26, 2015, Law No. 1032 of 2006, Criminal Code, Law No. 1564 of 2012, judicial functions of the Colombian Institute of Agriculture in proceedings concerning the infringement of plant breeders' rights.

In Colombia, the breeder's right is applicable to varieties of all botanical genera and species, provided that their cultivation, possession or use are not prohibited for reasons of human, animal or plant health. It should be noted that, as regards the applicable regulations, Colombia is now a party to the UPOV Convention through the adoption of the 1978 Act, and that Colombia's accession to the 1991 Act of the UPOV Convention would not substantially change its plant variety protection regime, since in practice the integration of all the provisions referred to above means that Colombia is applying the provisions laid down in the 1991 Act, given that the legal regime applied in Colombia is in compliance with the 1991 Act of the Convention.

Technical and administrative developments

As shown in Figure 1, for the period from October 2017 to September 2018, 138 requests from different countries were received, examined and processed. The varieties that were applied for included species of Rose, Chrysanthemum, Blueberry, Carnation, Peruvian Lily and Rice. Thirteen distinctness, uniformity and stability (DUS) tests were established for coffee and oil palm. Ninety-seven breeder's certificates were issued for different nationalities, as shown in Figure 2.

The ICA acted as the competent national authority in the field of plant breeders' rights and as the designated technical expert for the identification of protected plant varieties in various legal proceedings concerning the infringement of plant breeders' rights. Thus, in its capacity as both expert and technical expert, the ICA provided judicial assistance, defining various concepts and offering expert opinions on the infringement of plant breeders' rights. The 20th issue of the Gazette of Protected Plant Varieties was prepared and published.

Figure 1. Applications received by species, October 2017 to September 2018

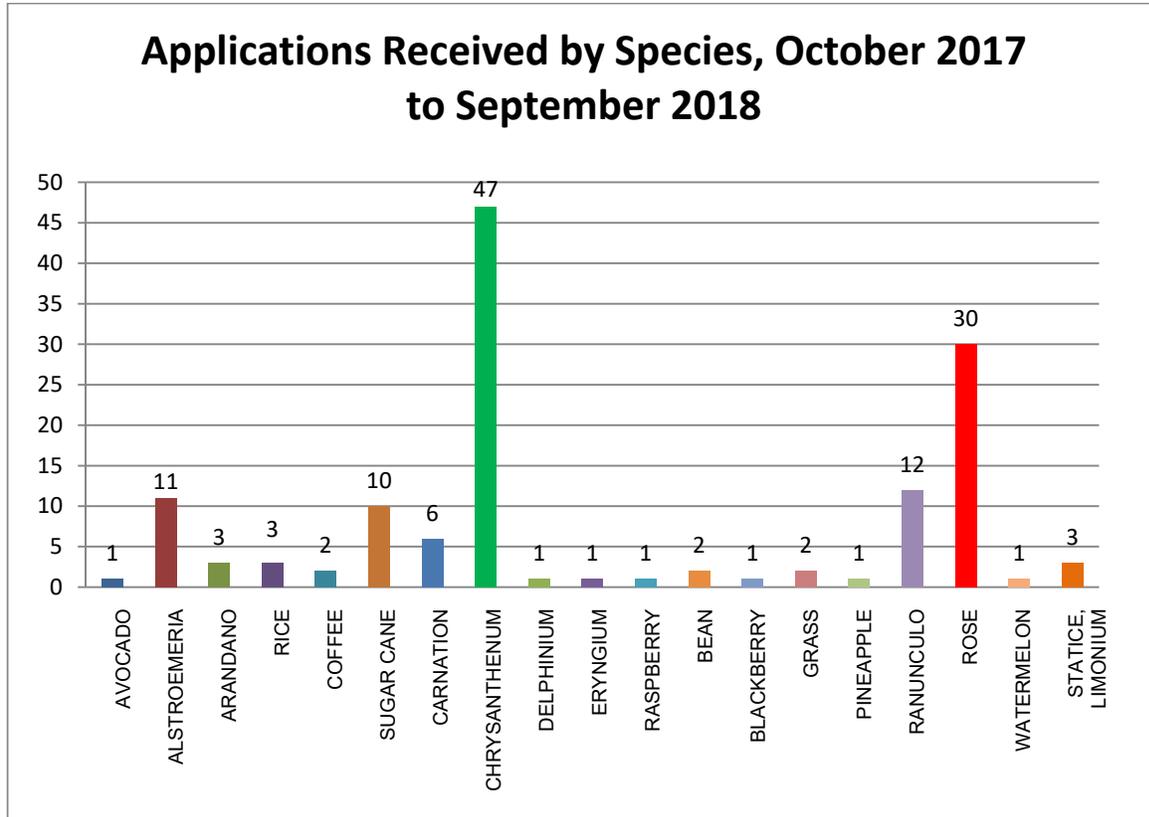
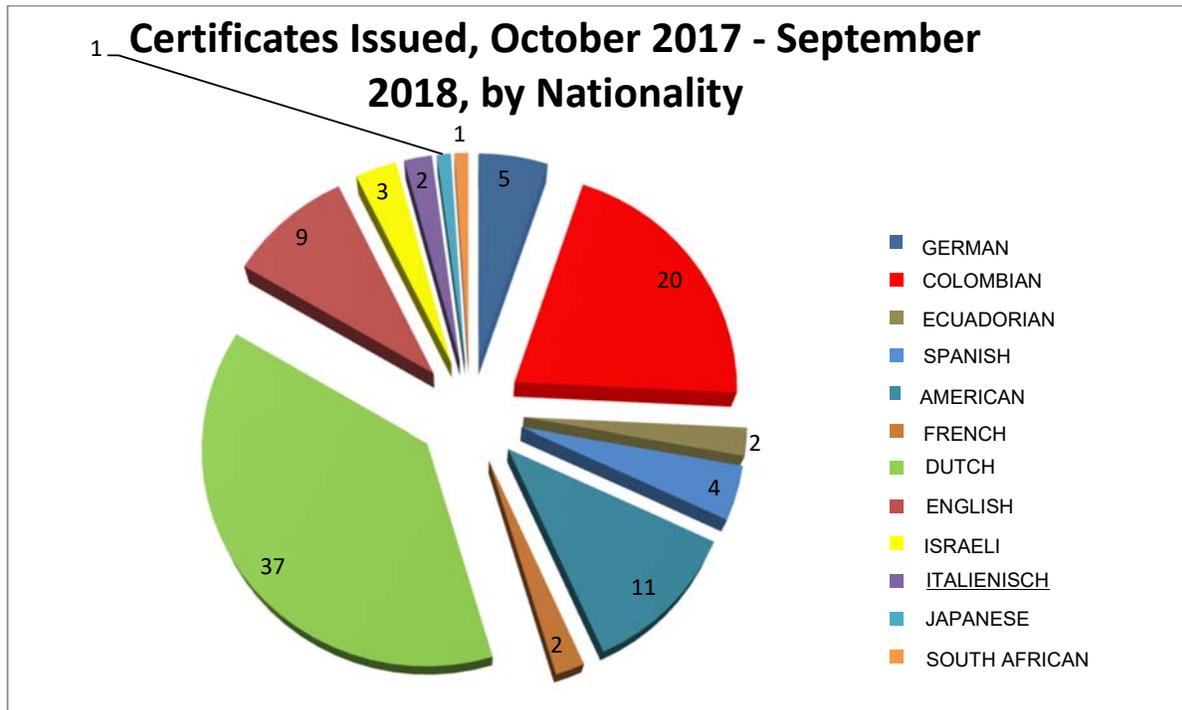


Figure 2. Certificates issued, October 2017 to September 2018



ANNEX IV

JAPAN

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

The Ordinance for Enforcement of the Plant Variety Protection and Seed Act (Ordinance of the Ministry of Agriculture, Forestry and Fisheries (MAFF), No.83 of 3 December, 1998) was amended and came into effect on 23 March 2018 to narrow the vegetatively propagating plant genera and species which are available for farm saved seeds.

2. Cooperation in examination

Japan concluded the MOCs for international cooperation on examination for effective PBR registration between 4 member states, i.e. Netherlands, Turkey, Peru, Canada and Singapore in 2017-2018. Total number of the MOCs is 15 as of 1 October 2018.

3. Situation in the administrative field

3.1 Electric Application System

As a national system, MAFF launched an Electric Application System (EAS) for Plant Variety Protection on March 26, 2018 for improving convenience of applicants as well as PBR holders in Japanese PVP system. Under the system, applicants can file applications form as well as pay for an application and registration fee electronically through the Website. For the UPOV PRISMA activities, Japan has contributed to launch Japanese navigation system. MAFF continues to share technical information with the UPOV Office.

4. Situation in the technical field

New national Test Guidelines (TGs) for 15 genera and species were developed in 2017. Existing national TGs, 4 genera and species, were revised to harmonize with the UPOV TGs in 2017.

Naktuinbouw and NCSS have established Calibration Manual for DUS test. Calibration Manuals, which include many photographs explaining how to observe and measure characteristics of varieties will be easy-to-understand reference material for users. This joint activity will result in 11 calibration manuals, i.e. Anthurium, Eggplant, Chrysanthemum, Gerbera, Tomato, Tulip, Capsicum, Rose, Lettuce, Carnation and Watermelon.

Four manuals for Rose (cut-flower type), Carnation, Lettuce and Watermelon were completed and now available on website of NCSS as well as Naktuinbouw: <http://www.naro.affrc.go.jp/english/ncss/index.html>

5. Activities for the promotion of plant variety protection

5.1 East Asia Plant Variety Protection (EAPVP) Forum

5.1.1 Adoption of the 10-Year Strategic Plan and the Rule of Procedure of the EAPVP Forum

The 10th EAPVP Forum Annual Meeting held in Nay Pyi Taw on 11 September 2017 to discuss and prepare EAPVP's Next 10 years strategic plan. Since then, the Forum opened discussion website and discussed the draft 10-Year Strategic Plan and the draft Rule of Procedure. The Forum adopted the Common Direction of "10-Year Strategic Plan of the EAPVP Forum (2018-2027)" and the "Rule of the Procedure for the EAPVP

Forum” at its 11th Forum Annual Meeting held in Muntinlupa, Philippines, on 1 August 2018¹. The documents adopted at the Meeting including meeting Report are available at EAPVP’s official website at <https://plant-online.org/11th-eapvp-forum-meeting/>. The cooperation activities under the Forum will be in line with the Common Direction of the 10-Year Strategic Plan with a view to streamlining the Forum’s cooperation activities.

The 10-Year Strategic Plan consists of the “Common Direction” and the “Individual Implementing Strategy.”

(a) Common Direction

“Long-term direction” is as follows:

Establish effective PVP systems consistent with the 1991 Act of the UPOV Convention among Forum members towards achieving all Forum members’ membership of UPOV, as a foundation for building an efficient and cooperative regional PVP mechanism which encourages the development of new plant varieties in the East Asian region in order to contribute to developing sustainable agriculture and achieving food security.

(b) Individual Implementing Strategy

An Individual Implementing Strategic Plan is a national-level strategy produced by each Forum member, which is reflected the Common Direction and the Objectives. The Forum members can update its Individual Implementing Strategy on their accord periodically, and should share with the Forum member each time it happens.

The 11th Forum Annual Meeting also adopted the Rule of Procedure for the EAPVP Forum (ROP) that provides administrative procedure to operate the Forum. Based on the adopted ROP, Forum member countries are expected to plan and implement cooperation activities based on their Individual Implementing Strategy while placing priorities on those activities in line with the Common Direction of the 10-Year Strategic Plan.

5.1.2 Adoption of the list of Cooperation Activities

The 11th Forum Annual Meeting considered Cooperation Activities from a view of consist with the Common Direction of the 10-Year Strategic Plan in accordance with the provision of the ROP and adopted the list of the Cooperation Activities in 2018 as follows:

(a) National-specific activities to achieve Objective 1

- i. Develop national PVP laws and regulations, with the assistance of the Office of UPOV:
Legal consultation on Harmonisation of the Protection of New Plant Varieties 20XX with UPOV Convention 1991 (Malaysia)
- ii. Establish/strengthen national administrative procedures for implementing PVP system from filing of application to granting rights:
Workshop for formulating the data base for reference varieties of main crops (Rice, Maize and black gram) and DUS Evaluation (Myanmar)
- iii. Capacity building for examination of applications:
Follow-up of the international seminar on the benefits of plant variety protection under the UPOV system and technical training on DUS Evaluation and photo documentation (Philippines)
- iv. Awareness raising on UPOV system for relevant officers, policy makers and stakeholders (better understanding of UPOV system and its benefits, etc.):
Workshop on Awareness of Protection of Plant Variety under UPOV Convention (Lao PDR)

(b) Regional cooperation activities to achieve Objective 2

Pilot project for building regional harmonized PVP mechanism (proposed by Viet Nam and Japan):

The project is aiming at developing a model procedure from filing to the grant of plant breeder’s right as a foundation of regional harmonized mechanism in line with the UPOV Convention in Phase 1 (2018-2021). Current participating countries are Viet Nam and Japan. Myanmar and Malaysia are current provisional participating countries, and the UPOV Office and other UPOV member PVP Offices are resource partners. Participating countries can be expanded to the other UPOV members of the EAPVP Forum, accordingly. The first meeting of the pilot project was held in Hanoi, Viet Nam on 11 October 2018 organized by Viet Nam and Japan.

¹ The documents were adopted with condition of further comments from China and Republic of Korea within 6 months. In the case of any proposed amendments, the documents will be circulated to all Forum members and discussed with a view to a revision of the documents by consensus.

5.2 EAPVP Forum Cooperation Activities (September 2017 - January 2018)

Title of activity	Date	Venue	Purpose of activity	Participating countries/ organizations (number of participants)
1. National Plant Variety Protection System Awareness Seminar	12 Sep, 2017	Nay Pyi Taw, Myanmar	Raising awareness on the PVP system consistent with the UPOV Convention	Myanmar (115), China (3), Republic of Korea (4), Viet Nam (3), UPOV Office (2), CPVO (1), GNIS (1), Naktuinbouw (1), Japan (7)
2. DUS test orientation on Tomato	16-18 Oct, 2017	Phnom Penh, Cambodia	Training for DUS test of Tomato	Cambodia (9), Viet Nam (1), Japan (1)
3. The PVP Study Tour by Myanmar Delegates	7-10 Nov, 2017	Hanoi, Viet Nam	Raising awareness on the PVP system consistent with the UPOV Convention	Myanmar (2), Viet Nam (2)
4. PVP and its impacted to the Socio-Economy	20, Nov, 2017	Tvhai Nguyen City, Viet Nam	Strengthening the capacity of national PVP system consistent with the UPOV Convention	Viet Nam (149), GNIS (1), Japan (1)
5. Seminar on Protection of New Plant Varieties 2018	8-10 Jan, 2018	Hangzhou, China	Strengthening the capacity of national PVP system consistent with the UPOV Convention	China (150), India (1), Viet Nam (1), UPOV Office (1), USPTO (1) and Japan (3)
6. In-country Training Course on TG for Maize	22-26 Jan, 2018	Nay Pyi Taw, Myanmar	Training for DUS test of Maize	Myanmar (30), Viet Nam (1), Japan (2)

5.3 International training course organized by Japan International Cooperation Agency (JICA)

A three months international training course “Plant Variety Protection and Quality Control System of Seeds to Facilitate Distribution of High Quality Seeds” was operated by the JICA cooperation with the Office of the UPOV secretariat, from 18 June to 21 September, 2018 in Japan and Viet Nam with three trainees participated from Argentine, Myanmar and Viet Nam following a similar training course organized in 2016.

[End of Annex IV and of document]