



Disclaimer: unless otherwise agreed by the Council of UPOV, only documents that have been adopted by the Council of UPOV and that have not been superseded can represent UPOV policies or guidance.

This document has been scanned from a paper copy and may have some discrepancies from the original document.

Avertissement: sauf si le Conseil de l'UPOV en décide autrement, seuls les documents adoptés par le Conseil de l'UPOV n'ayant pas été remplacés peuvent représenter les principes ou les orientations de l'UPOV.

Ce document a été numérisé à partir d'une copie papier et peut contenir des différences avec le document original.

Allgemeiner Haftungsausschluß: Sofern nicht anders vom Rat der UPOV vereinbart, geben nur Dokumente, die vom Rat der UPOV angenommen und nicht ersetzt wurden, Grundsätze oder eine Anleitung der UPOV wieder.

Dieses Dokument wurde von einer Papierkopie gescannt und könnte Abweichungen vom Originaldokument aufweisen.

Descargo de responsabilidad: salvo que el Consejo de la UPOV decida de otro modo, solo se considerarán documentos de políticas u orientaciones de la UPOV los que hayan sido aprobados por el Consejo de la UPOV y no hayan sido reemplazados.

Este documento ha sido escaneado a partir de una copia en papel y puede que existan divergencias en relación con el documento original.

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Sixteenth Ordinary Session
Geneva, October 13 to 15, 1982**

ANNUAL REPORT OF THE SECRETARY-GENERAL FOR 1981

(Thirteenth Year)

I. STATE OF THE UNION

1. In 1981, four States deposited their instruments of ratification of the Revised Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants (hereinafter referred to as "the 1978 Act"), namely: Ireland, on May 19; Switzerland, on June 17; South Africa, on July 21; Denmark on October 8. Those four instruments plus the instruments deposited in 1980 by New Zealand and the United States of America fulfilled the conditions for the entry into force of the 1978 Act and, pursuant to Article 33(1) thereof, that Act entered into force on November 8, 1981. On that date Ireland, New Zealand and the United States of America became member States of the Union. The entry into force of the 1978 Act means that States may no longer accede to the UPOV Convention of December 2, 1961, as amended by the Additional Act of November 10, 1972.

2. The Union currently comprises the following 15 member States: Belgium, Denmark, France, Germany (Federal Republic of), Ireland, Israel, Italy, Netherlands, New Zealand, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America.

3. The table appearing in the Annex to this report summarizes the position of the various States vis-à-vis the various Acts of the Convention.

II. SESSIONS

4. During 1981, the various bodies of UPOV met as described below. Unless otherwise specified, the sessions took place in Geneva.

5. The Council held its fifteenth ordinary session from November 10 to 12, 1981, under the chairmanship of Dr. W. Gfeller (Switzerland). All member States except Israel and Italy were represented. The session was also attended by observers from a number of interested non-member States, namely: Austria, Egypt, Hungary, Iran, Japan, Kenya, Mexico, Poland, Portugal. The Commission of the European Communities (CEC) and the European Free Trade Association (EFTA) were also represented by observers.

6. The first day of the session was devoted, for the second year running, to a symposium. The subject of the 1981 Symposium was "Plant Breeding Activities of Government Institutes, International Centers and the Private Sector." The following lectures were given:

(i) "Plant Breeding at the French National Institute of Agronomic Research" by Mr. Jacques Huet, Head of the Department of Genetics and Plant Breeding of the French National Institute of Agricultural Research (INRA);

(ii) "CIMMYT's Crop Improvement Programs" by Dr. Ripusudan Lal Paliwal, Associate Director (Maize Program) of the International Center for the Improvement of Maize and Wheat (CIMMYT) in Mexico, and Dr. Arthur R. Klatt, Associate Director (Wheat Program) of the same Center;

(iii) "The Significance of Plant Breeding by the Private Sector" by Dr. Cornelis Mastenbroek, President of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL);

(iv) "The Rice Improvement Program of the International Rice Research Institute (IRRI)" by Dr. Gurdev S. Khush, Head of the Plant Breeding Department of the International Rice Research Institute (IRRI) in Manila (Philippines).

7. In addition to the representatives of member and non-member States, CEC and EFTA, the Symposium was attended by 21 representatives of institutions active in and competent for plant breeding in various member States, representatives of intergovernmental organizations (European Cooperative Programme for the Conservation and Exchange of Crop Genetic Resources (ECP/GR), Food and Agriculture Organization of the United Nations (FAO)), representatives of international non-governmental organizations (European Association for Research on Plant Breeding (EUCARPIA), International Association for the Protection of Industrial Property (AIPPI), International Association of Horticultural Producers (AIPH), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Federation of the Seed Trade (FIS)) and representatives of international breeding centers supported by the Consultative Group on International Agricultural Research (CGIAR) (International Center for Agricultural Research in the Dry Areas (ICARDA) in Beirut (Lebanon) and CIMMYT and IRRI, the centers which provided lecturers).

8. The Symposium was concluded by a panel discussion. The presence of a number of experts from CGIAR-supported international breeding centers provided a valuable opportunity to expand the dialogue between those experts and representatives of UPOV member States regarding the policies to be adopted by the centers on the one hand and by UPOV and the plant variety protection offices of UPOV member States on the other hand. The Records of the proceedings of the Symposium are reproduced in UPOV publication 339 which appears in English, French, German and Spanish.

9. The main decisions taken by the Council at its fifteenth ordinary session were:

(i) the report of the Secretary-General on the activities of the Union in 1980 and the first ten months of 1981, the report on his management and the financial situation of the Union in 1980, and the accounts of the Union for 1980, were approved;

(ii) the program and budget for 1982 were established;

(iii) the reports on the progress made by the various committees and technical working parties, including their plans for future work, were approved; in that connection, the recommendation of the Technical Committee that the Technical Working Party for Forest Trees be incorporated in the Technical Working Party for Ornamental Plants was adopted;

(iv) the recommendation of the Consultative Committee that an information meeting be held in 1982 with international non-governmental organizations was adopted;

(v) the recommendation of the Consultative Committee that the 1982 Symposium be devoted to the technical and legal aspects of genetic engineering and of cell, meristem and tissue cultures was adopted;

(vi) the following officers were elected, for a term of three years expiring at the end of the eighteenth ordinary session of the Council (1984):

- (a) Mr. J. Rigot (Belgium) was elected Vice-President of the Council;
- (b) Dr. G. Fuchs (Federal Republic of Germany) was elected Chairman of the Technical Working Party for Agricultural Crops;
- (c) Dr. G.S. Bredell (South Africa) was elected Chairman of the Technical Working Party for Fruit Crops;
- (d) Mrs. U. Löscher (Federal Republic of Germany) was elected Chairman of the Technical Working Party for Ornamental Plants and Forest Trees;
- (e) Mr. F. Schneider (Netherlands) was elected Chairman of the Technical Working Party for Vegetables.

10. The Consultative Committee held its twenty-third session on May 6 and 8, 1981, and its twenty-fourth session on November 9 and 12, 1981, both under the chairmanship of Dr. W. Gfeller (Switzerland). All member States were represented at the twenty-third session and all except Israel and Italy at the twenty-fourth session. The sessions were devoted mainly to the preparation of the fifteenth ordinary session of the Council.

11. The Administrative and Legal Committee held its seventh session on May 6 and 7, 1981, and its eighth session from October 12 to 14, 1981, both under the chairmanship of Mr. P.W. Murphy (United Kingdom). All member States were represented at the seventh session and, with the exception of Italy, at the eighth session. Both sessions were attended by observers from Ireland, Japan, the United States of America and the Commission of the European Communities; in addition, observers from Canada and New Zealand attended the eighth session.

12. As in 1980, the Committee gave priority to the matter of harmonization of national legislation and practice. At its seventh session, the Committee noted the intentions of member States as regards amendment of their legislation, both in relation to ratification of the 1978 Act and in general. At its eighth session, it examined three specific items of plant variety protection law:

(i) having examined the question of extending the scope of protection beyond the minimum provided for in Article 5(1) of the Convention, the Committee felt that, apart from the case of plantlets, extension of protection should be envisaged only for ornamental plants and fruit crops and that the aim of the extension was to safeguard the interests both of breeders and of those producers who paid royalties and suffered the competition of products not having to bear royalties; it was generally agreed that protection should be extended to the propagation of plants intended for the commercial production of the final product (cut flowers or fruit), but some delegations expressed reservations as to the protection of the final product itself in the case of ornamental plants; the Committee invited the small number of member States that had based their domestic legislation on an interpretation of Article 5(1) of the Convention reducing considerably the extent of protection, particularly as regards "adult" plants sold to the final user, to re-examine their point of view;

(ii) having examined the optional provision contained in the second sentence of Article 5(4) of the Convention, whereby member States granting a more extensive right--extending in particular to the marketed product--may limit the benefit of it to the nationals of member States of the Union granting an identical right and to natural and legal persons resident or having their registered office in any of those States, the Committee noted the drawbacks that could arise from the use of that provision;

(iii) having been informed that one member State was considering the need to exclude parent (or intermediate) hybrids from protection, the Committee noted that the fact giving rise to such consideration was that a person could block or disturb the creation and marketing of a certain number of commercial hybrids by obtaining protection for the parent hybrids necessary for the production of seed of the commercial hybrids.

13. At both sessions, the Committee investigated ways of revising and improving the much discussed Guidelines for Variety Denominations, adopted by the Council at its seventh ordinary session (1973). The Committee began to give consideration to replacing the Guidelines by a set of recommendations on the interpretation of the revised version of Article 13 of the Convention, now in force for member States bound by the 1978 Act. Such recommendations would be illustrated by examples of designations which are or are not suitable as variety denominations. At its eighth session, the Committee reached agreement on two principles:

(i) combinations of letters and figures--in that order--should be accepted in the case of species, such as maize and sorghum, for which this type of denomination is an established international practice; this should also apply to series of denominations including the same alphabetical component, but it should be understood that no breeder would have an exclusive right to such a component;

(ii) in the case of a series of denominations based on a fancy name and applied to a family of varieties developed generally as a result of mutations, any new denomination in the series should not represent a simplification of the earlier denominations.

14. Finally, the Committee discussed, at its seventh session, two questions of relevance to cooperation in examination. The first was the question of the contacts with the applicant or the breeder in cases where examination was carried out by an authority in one member State (Authority A) at the request of an authority in a second member State (Authority B); it decided that the following rules should apply:

(i) Authority A would normally only have contacts with Authority B.

(ii) Where it was urgent that the applicant or the breeder should visit the trial culture (for example, when an anomaly occurred which was observable for a short period of time only), Authority A would be able to contact him directly, on condition that Authority B be informed at the same time.

(iii) In all other cases in which Authority A felt the need to contact the applicant or the breeder, it should first get in touch with Authority B.

15. The second question was whether breeders should be given access to tests of varieties for distinctness, homogeneity and stability. This matter, which is also relevant in the absence of cooperation, was pursued in 1982 on the basis of the views received from the international professional organizations concerned.

16. In last year's report (see paragraph 12 of document C/XV/2), reference was made to the intention of the Committee to examine the possibility of developing a system of more far-reaching cooperation. At its eighth session, the Committee confirmed its intention to resume, at the appropriate time, its study of a system going beyond the bounds of variety examination.

17. The Technical Committee held its seventeenth session from October 14 to 16, 1981, under the chairmanship of Mr. C. Hutin (France). All member States except Italy were represented. The session was also attended by observers from Canada, Ireland, Japan and New Zealand.

The main results of the session were as follows:

(i) The Committee adopted seven revised Test Guidelines submitted:

- (a) by the Technical Working Party for Agricultural Crops - for Wheat (TG/3/8), for Barley (TG/19/7) and for Oats (TG/20/7);
- (b) by the Technical Working Party for Ornamental Plants - for Euphorbia fulgens (TG/10/4) and for Poinsettia (TG/24/5);
- (c) by the Technical Working Party for Vegetables - for Peas (TG/7/4), revised in conjunction with the Technical Working Party for Agricultural Crops, and for Lettuce (TG/13/4).

(ii) The Committee noted some problems that had arisen in connection with the examination of new varieties, especially in species in which mutations occurred rather easily. It discussed in detail the standards that should be applied in examining new varieties for distinctness. It recalled in this respect that a variety had--according to the Convention and the national laws based on it--to be clearly distinguishable by one or more important characteristics from any other variety commonly known at the time when protection was applied for. It underlined the fact that the examination for distinctness conducted by the plant variety protection authorities of member States had to go beyond checking merely whether two samples were identical or not and the fact that methods used for identification purposes--that is to say, for determining the variety to which a sample belonged--were not always sufficient for the examination for distinctness. To be used for identification purposes, a method had to fulfil several technical requirements. It had to be capable of standardization and had to lead to the establishment of significant differences which were consistent and repeatable. Such a method might not, however, be acceptable on its own for establishing distinctness. Account had to be taken of the fact that the variety had to be distinguishable by the expression of an important characteristic, and that it had to be clearly distinguishable. It was the Committee's view that decisions in this area should be taken species by species, bearing in mind the state of development of breeding. They should not be taken in the light of technical aspects alone. The Committee thought that this line of thinking should in particular be followed when deciding whether characteristics which could only be observed by certain sophisticated methods such as electrophoresis or various other chemical analyses were acceptable. The same would be true for the acceptance of certain disease resistances as characteristics for distinctness purposes.

(iii) As far as the question of minimum distances between varieties is concerned--a question closely connected with the above mentioned problem of the standards of examination for distinctness--the Committee took the view that, before any decision was taken, a discussion should be held with representatives of breeders and growers.

(iv) The Committee agreed on a procedure for the exchange between Offices of member States of lists of varieties under test.

18. As in previous years, the Committee supervised the work of the Technical Working Parties, giving guidance on a number of questions raised by them and instructing them on the main aspects of their future work.

19. The Technical Working Party for Agricultural Crops held its tenth session in Edinburgh (United Kingdom) from June 23 to 25, 1981, under the chairmanship of Miss Jutta Rasmussen (Denmark). In addition to its work on the revised Test Guidelines adopted by the Technical Committee, the Working Party completed the preparation of first drafts of Test Guidelines for Soya Bean and for Sunflower for submission to the professional organizations for comment.

20. The Technical Working Party for Vegetables held its fourteenth session in Wädenswil (Switzerland) from September 8 to 10, 1981, under the chairmanship of Mr. J. Brossier (France). In addition to its work on the revised Test Guidelines adopted by the Technical Committee, the Working Party completed the preparation of first drafts of revised Test Guidelines for French Bean and of Test Guidelines for Celery for submission to the professional organizations for comment.

21. The Technical Working Party for Fruit Crops held its twelfth session in Wageningen (Netherlands) from September 23 to 25, 1981, under the chairmanship of Mr. A. Berning (Federal Republic of Germany). It prepared first drafts of Test Guidelines for Citrus and for Japanese Plum and of revised Test Guidelines for Apple for submission to the professional organizations for comment.

22. The Technical Working Party for Ornamental Plants held its fourteenth session at Antibes (France) from October 6 to 8, 1981, under the chairmanship of Mr. A.J. George (United Kingdom). In addition to its work on the revised Test Guidelines adopted by the Technical Committee, the Working Party began discussing working papers on Test Guidelines for Narcissi and on revised Test Guidelines for Carnation. In both cases, however, some further discussion will be required during its next session. It also took note of a report on a Chrysanthemum workshop held in Hoddesdon (United Kingdom) on November 4 and 5, 1980.

23. During the year under review, each of the technical working parties discussed several items connected with the examination of varieties and the implementation by the national plant variety protection offices of the various guidelines for the conduct of tests for distinctness, homogeneity and stability. In addition to the questions of standards for distinctness and minimum distances referred to above in the report on the seventeenth session of the Technical Committee, the other principal questions considered were: color characteristics and their measurement; the maximum number of secondary off-types, such as mutations occurring during the examination of a variety, beyond which a variety is to be considered as not being sufficiently homogeneous; the financial and practical problems associated with the maintenance of reference collections for certain species, in particular among the species that are vegetatively propagated; the standardization of tests for resistance to pests and diseases. It is envisaged that the working parties will continue their discussions on the above items in 1982 and will give particular attention to a general revision of the way in which characteristics are selected for inclusion in the various test guidelines.

III. CONTACTS WITH STATES AND ORGANIZATIONS

24. During 1981, the Vice Secretary-General of UPOV established contacts with government representatives of Mexico and paid a visit to the Secretariat for Foreign Relations in Mexico City. He had further contacts with the Kenyan authorities during a visit to Nairobi. The Secretary-General and the Vice Secretary-General visited the new premises of the Bundessortenamt (German Federal Plant Varieties Office), in Hanover, and one of the variety testing stations attached to that Office. The President of the Council and the Vice Secretary-General paid a courtesy call to the newly appointed Director of the Station fédérale de recherches agronomiques de Changins (Swiss Federal Agricultural Research Station).

25. UPOV was represented at a tripartite meeting of experts from UPOV, the International Vine and Wine Office (IWO) and the International Board for Plant Genetic Resources (IBPGR), held in February at Colmar, France, to discuss the preparation of a "Universal List of Characteristics of the Genus Vitis"; at the annual Congresses of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) and of the International Federation of the Seed Trade (FIS), both held in May in Acapulco, Mexico; at the FAO/SIDA Technical Conference on Improved Seed Production, held in June at Nairobi, Kenya; at the Festakt (commemoration) and the lecture and discussion meeting, held in September in Vienna, Austria, to mark the centenary of the Austrian Bundesanstalt für Pflanzenbau und Samenprüfung (Federal Institute for Plant Production and Seed Testing); at the Thirty-Third Congress of the International Association of Horticultural Producers (AIPH) held in September in Taormina, Italy; and at the second meeting of the Governing Board of the European Co-operative Programme for the Conservation and Exchange of Crop Genetic Resources (ECP/GR), held in December 1981 in Geneva, Switzerland.

26. The Office of the Union was informed that a new association, entitled "Japan Association for the Protection and Development of Plant Varieties" (JAPDPV), has been established in Japan, one of the signatory States of the 1978 Act. JAPDPV is mainly concerned with the protection and development of plant varieties and is composed of persons representing business circles, science and technology, and the legal profession.

IV. PUBLICATIONS

27. In 1981, the Office of the Union published the Records of the 1978 Geneva Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants, in English and German (UPOV publications 337(E) and 337(G), respectively); three issues of the UPOV Newsletter (which was renamed at the beginning of 1982 and is now called "Plant Variety Protection - Gazette and Newsletter of the International Union for the Protection of New Varieties of Plants"); a brochure containing the Dutch text of the UPOV Convention of 1961, of the Additional Act of 1972 and of the Revised Act of 1978 (UPOV publication 293(D)); and the Records of the 1980 UPOV Symposium on "The Use of Genetic Resources in the Plant Kingdom," in English, French, German and Spanish (UPOV publications 336(E), (F), (G) and (S), respectively).

MEMBERSHIP OF THE UNION AND STATE OF SIGNATURE OF THE ACT OF 1978

(as of January 1, 1982)

* State ³	* CONVENTION OF 1961			** ADDITIONAL ACT OF 1972			** ACT OF 1978		
	* Date of Signature	* Date of Deposit * of Instrument ¹	* Date upon which * State became bound	** Date of Signature	* Date of Deposit * of Instrument ¹	* Date upon which * State became bound	** Date of Signature	* Date of Deposit * of Instrument ²	* Date upon which * State became bound
* <u>Belgium</u>	* December 2, 1961	* November 5, 1976	* December 5, 1976	** November 10, 1972	* November 5, 1976	* February 11, 1977	** October 23, 1978	* -	* -
* Canada	* -	* -	* -	** -	* -	* -	** October 31, 1979	* -	* -
* <u>Denmark</u>	* November 26, 1962	* September 6, 1968	* October 6, 1968	** November 10, 1972	* February 8, 1974	* February 11, 1977	** October 23, 1978	* October 8, 1981	* November 8, 1981
* <u>France</u>	* December 2, 1961	* September 3, 1971	* October 3, 1971	** November 10, 1972	* January 22, 1975	* February 11, 1977	** October 23, 1978	* -	* -
* <u>Germany (Federal Republic of)</u>	* December 2, 1961	* July 11, 1968	* August 10, 1968	** November 10, 1972	* July 23, 1976	* February 11, 1977	** October 23, 1978	* -	* -
* <u>Ireland</u>	* -	* -	* -	** -	* -	* -	** September 27, 1979	* May 19, 1981	* November 8, 1981
* <u>Israel</u>	* -	* November 12, 1979	* December 12, 1979	** -	* November 12, 1979	* December 12, 1979	** -	* -	* -
* <u>Italy</u>	* December 2, 1961	* June 1, 1977	* July 1, 1977	** November 10, 1972	* June 1, 1977	* July 1, 1977	** October 23, 1978	* -	* -
* Japan	* -	* -	* -	** -	* -	* -	** October 17, 1979	* -	* -
* Mexico	* -	* -	* -	** -	* -	* -	** July 25, 1979	* -	* -
* <u>Netherlands</u>	* December 2, 1961	* August 8, 1967	* August 10, 1968	** November 10, 1972	* January 12, 1977	* February 11, 1977	** October 23, 1978	* -	* -
* <u>New Zealand</u>	* -	* -	* -	** -	* -	* -	** July 25, 1979	* November 3, 1980	* November 8, 1981
* <u>South Africa</u>	* -	* October 7, 1977	* November 6, 1977	** -	* October 7, 1977	* November 6, 1977	** October 23, 1978	* July 21, 1981	* November 8, 1981
* <u>Spain</u>	* -	* April 18, 1980	* May 18, 1980	** -	* April 18, 1980	* May 18, 1980	** -	* -	* -
* <u>Sweden</u>	* -	* November 17, 1971	* December 17, 1971	** January 11, 1973	* January 11, 1973	* February 11, 1977	** December 6, 1978	* -	* -
* <u>Switzerland</u>	* November 30, 1962	* June 10, 1977	* July 10, 1977	** November 10, 1972	* June 10, 1977	* July 10, 1977	** October 23, 1978	* June 17, 1981	* November 8, 1981
* <u>United Kingdom</u>	* November 26, 1962	* September 17, 1965	* August 10, 1968	** November 10, 1972	* July 1, 1980	* July 31, 1980	** October 23, 1978	* -	* -
* <u>United States of America</u>	* -	* -	* -	** -	* -	* -	** October 23, 1978	* November 12, 1980	* November 8, 1981

¹ of ratification if the State has signed the Convention or the Additional Act, as the case may be; of accession if it has not done so.

² of ratification, approval or acceptance.

³ present member States underlined.

[End of Annex and of document]

0096