



CAJ/50/7

ORIGINAL: English

DATE: March 29, 2005

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE**Fiftieth Session
Geneva, October 18 and 19, 2004**

REPORT

*adopted by the Committee*Opening of the Session

1. The Administrative and Legal Committee (CAJ) held its fiftieth session in Geneva on October 18 and 19, 2004, under the Chairmanship of Ms. Nicole Bustin (France).
2. The list of participants is reproduced in Annex I to this report.
3. The session was opened by the Chair, who welcomed the participants. The Chair informed the CAJ that Dr. Arpad Bogsch, the former Secretary -General of UPOV, passed away on September 19, 2004. The CAJ paid tribute to Dr. Bogsch's important contribution to the work of UPOV during his mandate as Secretary -General from 1973 to 1997 by observing a minute of silence.
4. The Chair extended a particular welcome to the Delegations of Singapore and Uzbekistan. She informed the CAJ that Singapore had become a member of UPOV on July 30, 2004, and that Jordan and Uzbekistan would become members of UPOV on October 24, 2004, and November 14, 2004, respectively.
5. The Delegations of Singapore and Uzbekistan expressed their gratitude to the Office of the Union and the members of the Union for the assistance given to them in the process of their accession to the UPOV Convention. The declarations of the Delegations of Singapore and Uzbekistan are reproduced in Annexes II and III to this report, respectively.

6. The Chair confirmed that the report of the forty -ninth session of the CAJ had been adopted by correspondence (document CAJ/49/5).

Adoption of the Agenda

7. The CAJ adopted the agenda as presented in document CAJ/50/1, after having decided to discuss item 5 immediately after the adoption of the agenda.

Draft Explanatory Notes on Article 15(1)(i) and (2) of the 1991 Act of the UPOV Convention: Acts Done Privately and for Non -Commercial Purposes and Provisions on Farm -Saved Seed

8. The Vice Secretary -General introduced document CAJ/50/3.

Article 15(1)(i) of the 1991 Act

9. The Chair invited comments in relation to the draft explanatory notes on Article 15(1)(i) of the 1991 Act contained in the Annex to document CAJ/50/3.

10. The representative of the European Community sought clarification in relation to the terms “consumed entirely by himself” which appeared in paragraph 4 of the Annex. He wondered whether the expression covered consumption by that person’s cattle and family.

11. The Vice Secretary -General considered that, in the present context, if the cattle were for commercial production then food for the cattle would not be covered by non -commercial purposes, but if the cattle served only the nutritional needs of the family, then it could be encompassed by the notion “consumed entirely by himself”. He added that the word “family” should be understood as the family living on the holding.

12. The Chair recalled the difficulty during the Diplomatic Conference of 1991 of reaching consensus on definitions such as the notion of “family”, “subsistence farming”, and “amateur gardener”.

13. The representative of the International Seed Federation (ISF) welcomed the contents of the document and, in relation to these two sentences in paragraph 4 of the Annex, agreed with the opinion that the family living on the holding and feeding cattle for the subsistence of the family could be considered as falling within the exception under Article 15(1)(i) of the 1991 Act.

14. The Delegation of Argentina expressed the view that it was important to define “farmer” and to consider whether “cooperative farming” could fall within the exception under Article 15(1)(i) of the 1991 Act.

15. The Chair replied that it would be difficult to define “farmer” because it would depend on the circumstances of each country.

16. The representative of the Food and Agriculture Organization of the United Nations (FAO) confirmed that a general definition of “farmer” or “subsistence farming” was impossible and a definition could only be undertaken on a case -by case basis. He was pleased

with paragraphs 4, 8, 21 and 22 of the Annex. He expressed agreement with the content of paragraph 4 of the Annex in relation to “subsistence farmers” and said that the contents of paragraph 8 of the Annex provided a flexible and dynamic solution for the implementation of the exception under Article 15(2) of the 1991 Act. He also referred to paragraph 21 of the Annex and to the difficulties in the implementation of legislation related to commercialization within a farmers’ cooperative. In relation to paragraph 22 of the Annex, he affirmed that FAO supported innovation in both developing and developed countries through the protection of plant varieties. Each country required that their problems be studied on a case-by-case basis. FAO welcomed the opportunity to work with UPOV on those matters and he mentioned that, very often, developing countries requested help in that particular field.

17. The Chair clarified that the scope of Article 15(1)(i) of the 1991 Act was of a private nature and should not go beyond the family environment. For example, if cattle are sold, there was a commercial use, because savings made in the cost of feeding animals constituted a commercial use.

18. The Delegation of Bolivia referred to the importance of defining the notion of “subsistence farming” and noted that, in Bolivia, there were 600,000 potato farmers, the majority of which, even providing for some possibility of selling the crop or animals fed by the crop, would not reach the minimum required for their food security.

19. The Chair appreciated the explanations given by the Delegation of Bolivia referring to situations concerning food security, but recalled that any commercial use of the crop was problematic within the current wording of the 1991 Act.

20. The Delegation of Kenya agreed with the Delegation of Bolivia that it was difficult to define “subsistence farmer” as the size of the land was not always a deciding factor. It considered that it was important that the definition did not exclude the farmer’s family or animals.

21. The representative of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit -Tree Varieties (CIOPORA) referred to the difference between the 1978 Act and the 1991 Act in relation to the scope and exceptions to the breeder’s right. He recalled the recommendation adopted by the 1991 Diplomatic Conference that appeared in paragraph 10 of the Annex, which provided that the farmer’s privileges should not, in principle, extend to ornamentals.

22. The representative of the European Community noted that the definition of subsistence farming fell outside the scope of the UPOV Convention. If there was an act of commercialization, then that act would fall outside Article 15(1)(i) of the 1991 Act.

23. The Chair recalled that the text of Article 15(1)(i) of the 1991 Act did not refer to commercial acts, but to acts done for non-commercial purposes, and that this aspect should be borne in mind in relation to the scope of the other terms, such as family and animals.

24. The Delegation of Argentina agreed that it was difficult to define the term “subsistence farming” and that it was important to focus on what was meant by commercial purposes and what was considered to be private in the sense that it was not exposed to the public.

25. The Chair drew attention to the difficulties of differentiating between cases where a sale was essential to ensure the food security of the family and cases where a sale was for profit.

26. The Vice Secretary-General explained the need for paragraph 4 of the Annex to adhere closely to the text of the 1991 Act and to avoid any definition of family or subsistence farmers. The objective was to focus on the framework of the draft explanatory notes and to clarify that consumption of those members of the family based on the holding and feeding cattle for private and non-commercial purposes would fall within the exception under Article 15(1)(i) of the 1991 Act. In relation to a comment made by CIOPORA on the different scope under the 1991 Act and the 1978 Act concerning that matter, the task of the draft explanatory notes was to provide clarification on the scope of the 1991 Act.

27. The representative of FAO proposed that, in order to assist in the preparation of the document and to broaden the view on what was meant by food security and non-commercial purposes in different countries, he could provide information received by FAO on those matters.

28. The Chair and the Vice Secretary-General welcomed the initiative of the FAO representative to provide relevant documentation in the spirit of cooperation among organizations.

Article 15(2) of the 1991 Act

29. The Delegation of Australia requested the introduction of “some possible” instead of “the” before the word “mechanisms” in the last sentence of paragraph 9 of the Annex.

30. The Chair concluded that that was a linguistic matter as the introduction of the proposal of the Delegation of Australia would not modify the text in the French and Spanish versions of the document.

31. The representative of ISF pointed to the importance of paragraph 7 of the Annex and, in particular, its last sentence.

32. The Delegation of Argentina expressed its support for the contents of paragraphs 5 to 9 of the Annex and, in particular, the need to evaluate each situation on a case-by-case basis, with regard to different crops and situations. It explained that Argentina was revising its provisions concerning the farmer's privilege and, for that purpose, a discussion group had been established to facilitate consultations with breeders' and farmers' associations.

33. The Delegation of the United States of America was concerned with the approach and form that the document was taking. Despite the fact that the first paragraph of the document stated its non-binding and exemplary nature, the wording concerning the exception under Article 15(1)(i) of the 1991 Act and, to a lesser extent, the sections covering the farmer's privilege contained binding language. The United States of America believed that the document should, at most, only provide examples of existing laws that met the criteria set forth in the 1991 Act and which could be used as guidance for legislative amendments in order to be consistent with the 1991 Act. It was often the role of the competent courts to determine consistency with treaty provisions or legal infringement in light of concrete facts and circumstances. The document went beyond existing examples and attempted to explain the scope of treaty provisions with the risk of potentially removing the flexibility which resulted from a carefully negotiated diplomatic conference.

34. The Chair recalled that current and future members of UPOV, which were in the process of revising their legislation, had requested detailed explanations and additional

elements that could facilitate the understanding and the contents of those exceptions and their implementation. The document under discussion was a reply to such requests. Nevertheless, it would be appropriate to revise the document in order to ensure that the drafting style did not confer a binding nature to its content, in particular with regard to paragraphs 6 to 22 of the Annex.

35. The Delegation of Canada supported the views of the Delegation of the United States of America explaining that Canada was discussing amendments concerning its farmer's privilege and that it considered that the explanations provided in that document were too narrow.

36. The Delegation of Japan recalled that conditions concerning those exceptions might differ from country to country, depending on the crops. Whilst it considered it useful and beneficial to have examples and guidelines, it would be important to avoid wording that could go beyond what was provided in the 1991 Act.

37. The Delegation of France was in favor of drafting explanatory notes and recalled that the matter concerning farm-saved seed was an optional exception.

38. The Delegation of the Republic of Korea informed the CAJ that its country was drafting specific regulations on that matter and the assistance that could be provided through the document was most welcome.

39. The Delegation of Germany noted that the provisions of Article 15 of the 1991 Act were complex and considered that, in order to facilitate their interpretation and implementation, complementary information on how different countries interpret those provisions in their legislations was useful.

40. The representative of the European Community noted, in relation to the comments raised by the Delegation of the United States of America, that the present document already provided examples of legislation. In that regard, certain elements of the relevant Regulation of the European Community were already reflected in the document.

41. The Delegation of Ukraine welcomed the document and considered it useful for Ukraine.

42. The representative of ISF recalled the delicate nature of the document. He explained that, if there was no protection for breeders and, as a consequence, breeders did not receive remuneration for their work, that could endanger the UPOV system of protection. If the protection offered by the UPOV system was insufficient, breeders would use other intellectual property systems or technical means to obtain protection for their work.

43. The Delegation of the United States of America welcomed the fact that the document reflected some provisions of the European Community system, but requested that the document also take into account other systems that might reflect the flexibilities provided within the Treaty to allow member states to adopt solutions for their particular situations. It agreed with the Delegation of Canada that the document should not limit the flexibility contained in the 1991 Act. As an example, the term "sold" in the fifth sentence of paragraph 3 of the Annex could have different connotations in different jurisdictions. Small-scale marketing might be considered "commercial" in some jurisdictions and yet it might be considered "non-commercial" in others. It appreciated the suggestion made by the Delegation of Germany of examining how different countries interpret those provisions in their legislation.

44. The Chair referred to the comment made about the “barter” system and agreed that, depending on the circumstances and countries, the notion of “barter” might or might not be considered as a commercial act. She further added that the documents should not define terms but should provide a wide range of examples or reflections.
45. The Delegation of New Zealand considered that the contents of paragraph 10 of the Annex and following paragraphs provided useful guidance, and suggested that the implementation costs should be borne in mind.
46. The Delegation of Finland suggested obtaining more information on the problems encountered in the implementation of the provisions and the collection of written comments from members and various organizations.
47. The Chair noted that undertaking a survey would be time-consuming and would entail a delay in the preparation of the document.
48. The Delegation of Argentina supported the intervention of the representative of ISF. It considered it to be important that the document included examples of the exceptions under Article 15(2) of the 1991 Act. The Delegation informed the CAJ that Argentina had administrative jurisprudence in that field.
49. The representative of ISF considered that it would be important to know from the countries that had implemented the farmer’s privilege: which type of solutions had been adopted to provide reasonable limits and to safeguard the legitimate interests of the breeder; and whether those solutions were enforceable. He added that, while it was true that the exception under Article 15(2) of the 1991 Act was an optional exception, once the optional exception existed in a particular legal system, it “must” be introduced within reasonable limits and subject to the safeguarding of the legitimate interests of the breeder and proposed that the second sentence of paragraph 11 of the Annex should be amended accordingly.
50. In relation to paragraphs 10 and 11 of the Annex, the Chair proposed that a possible solution was to delete the second sentence of paragraph 11 of the Annex as that matter would be dealt with in paragraph 15 and following of the Annex.
51. The representative of CIOPORA supported the intervention made by the representative of ISF concerning the use of “must” instead of “could” in the second sentence of paragraph 11 of the Annex.
52. The Delegation of Spain emphasized that the importance of the document was not only for future members, but also for existing members, such as Spain, which was in the process of ratifying the 1991 Act. The Delegation did not have objections to the principles reflected in paragraphs 10 and 11 of the Annex.
53. The Delegation of France also agreed with the principles in paragraphs 10 and 11 of the Annex.
54. The Delegation of Bolivia supported the comments made by the Delegations of Argentina, France and Spain on the importance of the document and also mentioned that it did not have objections in relation to paragraphs 10 and 11 of the Annex.

55. The Delegation of Uruguay expressed its support of the document and its availability to collaborate with further drafting.

56. The representative of ISF considered that it was important to clarify in the document that the repeated use of parent lines for the production of hybrids would be excluded from the farmer's privilege. He added that such a clarification would be useful in relation to farm-saved seed.

57. The Chair invited the representative of ISF to examine paragraph 14 of the Annex which already provided for the situation where authorities might decide not to extend the farmer's privilege to hybrid varieties or synthetic varieties. If the new version of that document had the objective of introducing more examples, then the case of France could be mentioned, which did not permit the extension of the farmer's privilege to hybrid varieties.

58. The Chair noted that there were no substantive objections to the contents of paragraphs 12, 13 and 14 of the Annex.

59. The representative of ISF recalled that there were two conditions in the implementation of the farmer's privilege under Article 15(2) of the 1991 Act. To implement it within reasonable limits was not enough and it was also necessary to implement it whilst safeguarding the legitimate interests of the breeder. While the document covered the first element "reasonable limits", paragraph 22 of the Annex did not adequately cover the second element concerning "the safeguarding of the legitimate interests of the breeder".

60. The Chair suggested that the structure of paragraph 17 of the Annex be modified in order to reflect the concern expressed by the representative of ISF, and that would then provide a clear basis for considering the contents of paragraph 22 of the Annex. She further explained that the contents of paragraph 16 of the Annex, in particular the notion of "small farmer", had been inspired by the legislation of Bolivia and the European Community.

61. The Delegation of Argentina explained that the notion of "safeguarding of the legitimate interests of the breeder" not only covered the cases of collection of remuneration by breeders, but also the different enforcement measures available to breeders to facilitate the appropriate implementation of those exceptions.

62. The Chair recalled that the text of the Convention was the only binding legal source. The document would be revised in order to provide more examples and to clarify its non-binding nature.

63. The Vice Secretary-General observed that the interest expressed in the document was a reflection of its importance not only for future members, but also for present members, and confirmed that the document would be redrafted for the April session of 2005 to take into account the discussions.

64. The Chair concluded that there was a good level of agreement on the need to finalize the document.

Draft Recommendations Concerning Information, Documents or Material Furnished for Examination Purposes

65. The Vice Secretary -General introduced document CAJ/50/2.

Introduction and General Obligations

66. The Chair invited comments in relation to paragraphs 1 and 2 of the draft recommendations concerning information, documents or material furnished for examination purposes, contained in the Annex to document CAJ/50/2.

67. The representative of ISF stated that public inspection and exchange between authorities should not involve the material of varieties furnished for examination purposes. Any use, or disclosure to third parties, of material supplied by the breeder should be subject to the breeder's prior informed consent, and that prior informed consent should not be regarded as automatically granted by the mere fact that an application for a plant breeder's right had been filed or a certificate had been issued.

68. The Chair replied that those matters would be dealt with in the following section of the document concerning public accessibility and providing information, documents and material to the authorities.

69. The representative of CIOPORA requested the deletion of the words "in general" in the fourth sentence of paragraph 2 of the Annex.

70. The Delegation of Germany supported the proposal made by the representative of CIOPORA.

71. The Delegation of the Netherlands explained that the term "in general" would cover some rare situations where, due to a public prosecution, information owned by a public institution could be requested.

72. The Chair clarified that relations between the authorities and the courts went beyond the competence of UPOV, and they might need to take place even without the authorization of the breeder.

73. The Delegation of France suggested to change the title of paragraph 2 of the Annex and to remove the words "for example" in the same paragraph. One possible title would be "Obligations of the authorities responsible of the examination".

74. The Delegation of the United States of America noted that the words "in general" could cover situations such as the one in the United States of America whereby the material of the variety was returned to the breeder or destroyed if the application had been withdrawn or rejected.

75. The representative of the European Community recalled that paragraph 2 of the Annex had a broader scope than the examination of the application of the candidate variety because it also included the activities concerning the examination of other applications. He pointed out that the concern expressed by the breeder and the need for the breeder's consent related mainly to the material of the variety.

76. The Chair recalled that the concerns of the breeders related not only to the material, but also to other information such as the formulae concerning hybrids.

77. The representative of ISF supported the intervention made by the representative of the European Community concerning the examination of other applications and also the comment made by the Chair on hybrid formulae.

78. The Delegation of Australia considered that “in general” should be retained to cover requests from the court on cases concerning essentially derived varieties. The request from the court might not concern the candidate variety, but the initial variety.

79. The Chair proposed to change the words “For example” to “In particular” in the third sentence of paragraph 2 of the Annex.

80. The Vice Secretary -General confirmed that the change of “For example” to “In particular” would also be made in the other languages.

81. The Delegation of Sweden requested that, as the draft recommendations were not of a binding nature, a general reference in paragraph 1 of the Annex should be made to national and regional law, such as “without prejudice to applicable law”, to clarify that the recommendations were not intended to change the existing legislation.

82. The representative of ISF added that, in addition to national laws, a reference should be made to relevant international treaties.

83. The Chair summarized that the result of the discussions on paragraphs 1 and 2 of the Annex was that the proposed text was accepted in principle, with minor modifications and a change to the title to correspond to paragraph 2.

Public Accessibility

84. The Chair invited comments in relation to paragraphs 3, 4 and 5 of the Annex.

85. The Delegation of the Russian Federation requested to change “should” to “may” in paragraph 5 of the Annex.

86. The Delegation of the United States of America proposed to change “shall” to “should” in paragraph 5 of the Annex and, subject to that change, expressed its agreement with paragraphs 4 and 5.

87. The Delegation of the United Kingdom expressed its support for the document and considered that it would be more consistent to use the term “should” rather than “shall” throughout the document.

88. The Delegation of Mexico referred to the terms “*inspección por el público*” in the Spanish version of the document, explaining that the word “*inspección*” referred to a supervision act from the authority and that it would be more appropriate in the Spanish version to refer to access by the public or consultation by the public.

89. The Chair mentioned that the comment was relevant only for the Spanish version of the document and that the terms used in the English and French versions could remain as they were.

90. The representative of ISF stated that hybrid formulae should be considered to be confidential information and should not be accessible to the public.

91. The Chair recalled that a particular section of the Technical Questionnaire was reserved for confidential information and, although the case of a hybrid formula was not specifically mentioned, that question was already covered by paragraph 5(b)(ii) of the Annex.

92. The Delegation of Spain mentioned that different legislation had different criteria on accessibility. In the case of Spain, only persons with a legitimate interest had access to the information in the Register.

93. The Chair proposed to keep paragraph 5(b)(ii) of the Annex unchanged, because its contents were of general nature.

94. The representative of the European Community mentioned that the legislation of the European Community made a specific reference to the situation of hybrid formulae and expressed its agreement with the proposal from the representative of ISF.

95. The Chair explained that paragraph 5 of the Annex dealt with questions of a general nature, but the particular situation of parent lines of hybrid varieties was specifically covered in paragraph 12(b) of the Annex.

96. The Delegation of the Russian Federation expressed a preference to retain the general character of paragraph 5 of the Annex. It considered that, if the hybrid formulae were not published, that would provide a form of double protection for breeders and considered that the public needed to know the hybrid formulae.

97. The representative of the European Community agreed that paragraph 5 of the Annex should be kept unchanged, due to its general nature, and proposed to leave the reference to hybrid formulae in paragraph 12 of the Annex.

98. The representative of ISF was in favor of opening files where that was necessary for dealing with infringement cases, but he expressed concern about access of the public to confidential information.

99. The Chair clarified that the concern expressed by the representative of ISF was better covered in paragraph 12 of the Annex because that paragraph referred not only to the access by the public, but to any access that might take place.

100. The representative of CIOPORA expressed his support of the intervention made by the representative of ISF that information concerning hybrid formulas should not be made available.

101. The representative of the European Community, referring to paragraph 5(b)(iii) of the Annex, noted that the information on growing trials did not provide a clear recommendation and kept open different possibilities. He wondered if it was possible to provide more clear recommendations such as a checklist for drafting legislation.

102. The following paragraphs 103 to 116 report on discussions which took place on the nature of the document.

103. The Vice Secretary -General explained that the nature of the document reflected the discussion which had taken place in the CAJ. He noted that even a simple checklist of matters to be considered when organizing, for example, access by the public might be useful for authorities.

104. The Delegation of Spain referred to the nature of Test Guidelines which, although not binding, members of UPOV tried to follow as far as possible. The Delegation expressed its wish that the document provide clear guidelines to further harmonization. It agreed on the need to provide for a degree of flexibility, but considered that the objectives should be to reach an optimum level of harmonization and not to leave all possibilities open.

105. The representative of ISF stated that, if the document did not provide a clear direction, it could give a permissive signal leading to a result contrary to that intended. In that case, it was better to rely only on existing laws and treaties, and on Article 12 of the 1991 Act.

106. The Delegation of France, referring to paragraph 5(b)(iii) of the Annex, recommended the coding of varieties in growing trials.

107. The Delegation of Sweden referred to the proposal of coding made by the Delegation of France and considered that, if that were to be a new element, it would make it more difficult to agree the document.

108. The representative of the European Community considered that creating a checklist that could provide some guidance to authorities was better than nothing. The proposal of the Delegation of France concerning coding would be of interest only if a decision was taken to reach a more precise and complete level of harmonization through those recommendations. If that was not the case, it would be better not to include new elements such as coding.

109. The Delegation of Argentina preferred a clear document that would reinforce the UPOV system of plant variety protection.

110. The Delegation of the Netherlands recalled that the document discussed items which were subject to national law and considered that it would be preferable to develop a checklist which could be a useful tool for new and old members of the Union.

111. The Delegation of Spain agreed with the Delegation of Argentina and confirmed the need to develop a clear document and to aspire to greater harmonization.

112. The Chair noted that the clarity of the document could also rely on the elaboration of a list of elements that could be taken into consideration in drafting legislation.

113. The Delegation of Switzerland considered that the document would be useful for the legislative work of members. It agreed to continued discussions and favored a document which would result in greater harmonization.

114. The Delegation of the United States of America, whilst understanding the concerns expressed by the representative of ISF and the wish mentioned by the Delegations of Argentina and Spain that the goal should be greater harmonization, reminded the CAJ of the

history of the document and the fact that members did not wish to develop model agreements that could be contrary to national laws. The Delegation agreed with the interventions made by the Delegations of the Netherlands and Switzerland and considered that the document could be valuable for acceding countries.

115. The Delegation of Sweden supported the comments made by the Delegations of the Netherlands, Switzerland and the United States of America.

116. The Chair concluded that the nature of the document should consist of recommendations and should aim at harmonization through a checklist or control list.

117. During the discussions of paragraph 5(b)(iv) of the Annex, the representative of ISF recalled that Article 30(1)(iii) of the 1991 Act only required the publication of applications for, and grants of, breeders' rights and proposed and approved denominations. The Chair clarified that Article 30(1)(iii) provided for the minimum publication requirements, but members could decide to publish beyond that minimum in their laws. For clarity purposes, drafting improvements were proposed in the French version of paragraph 5(b)(iv) of the Annex: deletion of the words " *en un* " in the second sentence and the substitution of " *pour le public* " by " *à la demande du public* " in the third sentence. Both drafting improvements were also applicable to the Spanish version of the document.

118. The Delegation of Austria referred to its coding system which protected the confidentiality of material in a way that only the person entitled to have the code could have access to the results.

119. The Delegation of Spain pointed to some linguistic difficulties in paragraph 5(b)(vi) of the Annex and wondered whether, in the second sentence, the word "not" should be added before "allow". It was agreed that the new version of the document would clarify that matter.

120. The Delegation of Argentina suggested to change " *inspección por el público* " by " *consulta por el público* " in the Spanish version of the document.

121. The Delegation of Germany explained that, in Germany, access by the public to material of varieties was restricted to cases where objections had been made by third parties.

122. The representative of ISF differentiated between plant material contained in variety collections comprising varieties of common knowledge and plant material which was submitted for examination. For the latter, material should only be accessible in exceptional cases and, as a general rule, the public should not have access to the material.

123. The Delegation of Argentina confirmed that material concerning pending applications was accessible to the public only in cases of objections and only to third parties which were directly concerned by the examination.

124. In relation to paragraph 5(b)(vi) of the Annex, the Delegation of France suggested to change the title to refer only to plant material of protected varieties. It also added that material was not consulted, but accessible and, therefore, in relation to plant material, using the term "consultation" was not appropriate.

125. The Delegations of Argentina, Germany and Uruguay and the representative of CIOPORA proposed to delete paragraph 5(b)(vi) of the Annex in order to avoid confusion.

126. The representative of ISF proposed two options: the first being that the material should not be available unless legally requested and, the second being to delete paragraph 5(b)(vi) of the Annex. He preferred the first solution because it would make the situation clear for acceding countries.

127. The Chair concluded that the new version of paragraph 5(b)(vi) of the Annex should propose two options: deletion of the paragraph; and a new paragraph specifying certain restrictions.

Providing Information, Documents and Material to other Authorities

128. The Chair invited comments on paragraphs 6 to 9 of the Annex. In relation to paragraph 6, the Chair observed that the directive style reflected the obligations in the relevant Articles of the UPOV Convention.

129. In response to a request from the Delegation of the Netherlands, the Chair clarified that the term "authorities" referred to the authorities responsible for plant breeders' rights.

130. The representative of ISF stated that, as a minimum rule, the breeder should be informed of the exchange of material between authorities. He preferred that the authorization of the breeders should be obtained prior to the exchange.

131. The Chair clarified that, in paragraph 7 of the Annex, the exchange took place in relation to varieties whose existence was a matter of common knowledge and drew attention to the exceptions under paragraph 12(b) of the Annex.

132. The Delegation of France recalled the importance of exchanging material in a secure manner and noted that a variety which was the subject of an application might also be part of an exchange to determine whether the variety was distinct and also was a variety which could potentially become a matter of common knowledge.

133. In relation to the second sentence of paragraph 7 of the Annex, the representative of ISF requested to change "may" to "shall". At the request of the Chair, the Technical Director offered, as another alternative, to use the word "should" and the representative of ISF agreed with that change.

134. The Delegation of the Netherlands considered that, with the exception of inbred lines, there was no reason to establish secrecy in the exchange of material between authorities. It further expressed its agreement with paragraph 7 of the Annex.

135. The Delegation of Australia noted that paragraph 7 of the Annex was broader in scope than just the exchange of material, and also addressed exchange of information and documents. It pointed out that the exchange between authorities sometimes took place by telephone or by electronic mail, and a requirement for formal agreements on those exchanges would increase the cost.

136. The Delegation of the Netherlands wondered why there was a need for special agreements when the material was already on the market. The Chair noted that agreements could be useful to manage the stock of the material. The representative of ISF clarified that many varieties which were protected were not on the market.

137. The representative of CIOPORA had some reluctance in relation to the exchanges of material with the United States of America pending the resolution of the problematic situation concerning the patent Law novelty requirement under Section 102(d) of title 35 of the United States Code.

138. The Delegation of the Netherlands favored retaining “may” in the second sentence of paragraph 7 of the Annex but, in order to reach consensus, agreed with the change to “should”.

139. The Delegation of Belgium proposed to delete “or to the entering of the variety in the official register of varieties, as the case may be.” from the last sentence of paragraph 8 of the Annex.

140. The Chair observed that the proposal from the Delegation of Belgium made sense as those recommendations were addressed to the authorities in relation to applications that led to the granting of breeders’ rights.

141. The representative of CIOPORA stated that the material should not be accessible but that, if access was required, the breeder should be informed accordingly. In reply to the concern expressed by the representative of CIOPORA, the Chair referred to document CAJ/49/3 which dealt with that matter.

142. The Chair proposed to add the last sentence of paragraph 7 of the Annex at the end of paragraph 8. The representative of ISF explained that, in relation to the proposal by the Chair, there was some internal debate within ISF as to whether that inclusion might encourage the exchange of material.

143. The Delegation of Argentina expressed its agreement with the position of ISF. It considered that, until the breeder’s right had been granted, the material should be kept confidential and, if the exchange of the material was necessary, it should be included within agreements between authorities and the breeders should be notified accordingly.

144. The Delegation of the United States of America expressed its sympathy for the comments made by the representatives of ISF and CIOPORA and proposed to delete the last sentence of paragraph 8 of the Annex.

145. The Delegation of Mexico agreed with the inclusion of the reference to agreements between authorities concerning material of pending applications, but did not agree with the proposal to delete the last sentence of paragraph 8 of the Annex as it considered it useful for reference purposes.

146. The Delegation of France expressed its agreement with the proposal by the Delegation of Belgium and with the inclusion of the last sentence of paragraph 7 of the Annex in paragraph 8.

147. The representative of ISF, whilst expressing its sympathies for the proposal of the Delegation of the United States of America, considered that, although the situation was clear in the United States of America, that was not the case in other countries. He considered that maintaining the last sentence, as modified by the Delegation of Belgium, with the addition of the last sentence of paragraph 7 of the Annex in paragraph 8, could be an appropriate solution.

148. The Delegation of Argentina was of the opinion that the matters dealt with in paragraph 9 of the Annex should be decided by the breeder and should not involve the authority.

149. The representative of ISF agreed with the intervention by the Delegation of Argentina and said that, if the right was not granted, the material of the variety should be destroyed or returned to the breeder.

150. The Delegation of the Netherlands made a distinction between different reasons for the rejection of the application. In those cases where the rejection was based on lack of distinctness, uniformity and stability, the authority was not interested in keeping material as the variety did not exist; but if the variety existed and it was rejected due to other causes, such as lack of novelty, the material should be kept in the reference collection. It further added that, in cases where the application had been withdrawn, the breeder could collect the material or the authority would destroy it. In cases of rejection, the exchange of information with other authorities could be useful.

151. The Delegation of Spain expressed its support of the intervention made by the Delegation of the Netherlands, and reported that the legislation in Spain provided an obligation to retain the files concerning rejection and withdrawal of applications and those concerning breeders' rights which had been granted. The Chair clarified that there was a difference between retaining a file and exchanging information.

152. The Delegation of Argentina stated that, in cases where the application had been withdrawn, information could be communicated to other authorities, but material should not be provided.

153. The representative of ISF expressed its agreement with the intervention made by the Delegation of the Netherlands.

154. In reply to a proposal made by the representative of CIOPORA to treat the recommendations referring to documents, information and material separately, the Chair explained that the CAJ had already considered that suggestion and observed that several of the proposed recommendations concerned not only material, but also information and documents used for examination purposes.

155. The representative of ISF suggested to draft a separate paragraph dealing with withdrawn applications.

156. The representative of the European Community pointed out that if the rejection of the application was due to lack of novelty, then the existence of the variety was a matter of common knowledge and that case was already covered by the recommendation under paragraph 7 of the Annex.

157. The Delegation of the Netherlands agreed with the proposal made by the representative of the European Community and suggested that paragraph 9 of the Annex should also cover other cases, such as lack of novelty, non-payment of fees, persons not entitled to obtain protection and non-compliance with the requirements to submit a new denomination.

158. The Delegation of Uruguay agreed with the proposal to deal with cases concerning the rejection of applications and applications which had been withdrawn in separate paragraphs.

In situations where the applications had been rejected, the authority should not provide material, but it could exchange information in order to facilitate the efficient functioning of the protection system.

159. The Chair concluded that the matters dealt with in paragraph 9 of the Annex should be treated in separate paragraphs in the new version of the document. In the case of rejected applications, she specified that it would be advisable to limit possible exchanges between authorities to information and documents, excluding plant material, since the cases of varieties of common knowledge were dealt with in paragraph 7 of the Annex. Subject to the incorporation of the above comments, the Chair concluded that the CAJ had reached a consensus concerning paragraph 9, which would become two paragraphs in the next version of the document. Due to time constraints, the examination of the content of the subsequent paragraphs would be undertaken in a new version of the document to be considered at the next session of the CAJ in April 2005.

160. At the suggestion of the Vice Secretary-General, it was agreed that, in light of the amendments made to paragraphs 1 to 9 of the Annex, the Office of the Union would endeavor to amend paragraphs 10 to 13 and the table for the next version of document.

161. The Chair announced that the remaining items of the agenda would be dealt with at the April 2005 session of the CAJ. In relation to item 6 of the agenda concerning molecular techniques, she presented apologies on behalf of the CAJ for not having had the chance, on that occasion, to provide the advice requested by the Technical Committee.

Program for the Fifty-First Session

162. It was agreed that the program for the fifty-first session would include the following items:

1. Molecular techniques
2. UPOV information databases
3. Draft explanatory notes on Article 15(1)(i) and (2) of the 1991 Act of the UPOV Convention: Acts done privately and for non-commercial purposes and provisions on farm-saved seed
4. Draft recommendations concerning information, documents or material furnished for examination purposes
5. Draft recommendations to ensure the independence of those DUS examination centers which have, or have links to, breeding activities
6. Program for the development of explanatory notes on the 1991 Act of the UPOV Convention
7. Variety denominations
8. Program for the fifty-second session

*163. The present report has been adopted by
correspondence.*

[AnnexIfollows]

ANNEXEI/ ANNEXI/ANLAGEI/ANEXO I

LISTE DES PARTICIPANTS/ LIST OF PARTICIPANTS/
TEILNEHMERLISTE/ LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States/
in alphabetischer Reihenfolge der französischen Namen der Staaten/
por orden alfabético de los nombres en francés de los Estados)

I. MEMBRES/MEMBERS/VERBANDSMITGLIEDER/MIEMBROS

ALLEMAGNE/GERMANY/DEUTSCHLAND/ALEMANIA

Michael KÖLLER, Referatsleiter Recht sangelegenheiten, Bundessortenamt,
Osterfelddamm 80, 30627 Hannover (tel.: +49 511 9566624 fax: +49 511 563362
e-mail: michael.koeller@bundessortenamt.de)

ARGENTINE/ARGENTINA/ARGENTINIEN

Carmen Amelia M. GIANNI (Sra.), Directorade Asuntos Jurídicos, Instituto Nacional de
Semillas (INASE), Paseo Colón 922, 3º piso, of. 302, 1063 Buenos Aires
(tel.: +54 11 43492430 fax: +54 11 43492421 e-mail: cgiann@mecon.gov.ar)

Marcelo LABARTA, Director de Registro de Variedades, Instituto Nacional de
Semillas (INASE), Paseo Colón 922, 3º piso, of. 347, 1063 Buenos Aires
(tel.: +54 11 43492445 fax: +54 11 43492444 e-mail: mlabar@mecon.gov.ar)

AUSTRALIE/AUSTRALIA/AUSTRALIEN

Doug WATERHOUSE, Registrar, Plant Breeder's Rights Office, Australian Government,
Department of Agriculture, Fisheries and Forestry (DAFF), G.P.O. Box 858, Canberra,
ACT 2601 (tel.: +61 2 62723888 fax: +61 2 62723650
e-mail: doug.waterhouse@daff.gov.au)

AUTRICHE/AUSTRIA/ÖSTERREICH

Heinz-Peter ZACH, Leiter des Referates III 9 für Saatgut und Sortenwesen,
Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft,
Stubenring 12, 1010 Wien (tel.: +43 1 711002795 fax: +43 1 5138722
e-mail: heinz-peter.zach@bmlfuw.gv.at)

BELGIQUE/BELGIUM/BELGIE N/BÉLGICA

Camille VANSLEMBROUCK (Mme), Ingénieur, Office de la propriété intellectuelle,
North Gate III, 5ème étage, 16, Blvd. du Roi Albert II, 1000 Bruxelles (tel.: +32 22065158
fax: +32 22065750 e-mail: camille.vanslembrouck@mineco.fgov.be)

BOLIVIE/BOLIVIA/BOLIVIEN

Jorge ROSALES KING, Director, Oficina Regional de Semillas, Ministerio de Agricultura, Ganadería y Desarrollo Rural, Casilla postal 2736, Santa Cruz de la Sierra
(tel.: +591 33523272 fax: +591 33523056 -mail: jrosales@semillas.org)

Roberto GALLO ARÉBALO, Responsable Área Técnico, UC Programa Nacional de Semillas, Ministerio de Agricultura, Ganadería y Desarrollo Rural, Avda. 6 de Agosto de 2006, Ed. V Centenario, Piso 1, Casilla 4793, La Paz (tel.: +591 22441608
fax: +591 22441153e -mail: r.gallo@semillas.org)

BRÉSIL/BRAZIL/BRASILIEN/BRASIL

Ariete DUARTE FOLLE (Mrs.), Commissioner, National Plant Variety Protection Service (SNPC), Ministry of Agriculture, Livestock and Food Supply, Esplanadados Ministérios, Bloco D, Anexo A, Térreo, Salas 1 -12, Brasilia, D.F. 70043 -900 (tel.: +5561 2182163 fax: +5561 2242842e -mail: ariete@agricultura.gov.br)

Roberto SANTOS, Agronomist, National Plant Variety Protection Service (SNPC), Ministry of Agriculture, Livestock and Food Supply, Esplanadados Ministérios, Bloco D, Anexo A, Térreo, Salas 1, CEP 70043-900 Brasilia, D.F. (tel.: +5561 2182842 fax: +5561 2242842e -mail: robertolorena@agricultura.gov.br)

Leonardo CLEAVERDEATHAYDE, Second Secretary, Permanent Mission, 71, avenue Louis Casañ, 1216 Geneva, Switzerland (tel.: +41 229290916
fax: +41 227882505e -mail: leonardo.athayde@ties.itu.int)

BULGARIE/BULGARIA/BULGARIEN

Nevena Mincheva IVANOVA (Mrs.), Executive Director, Executive Agency for Variety Testing, Field Inspection and Seed Control (EAVTFISC), Ministry of Agriculture and Forestry, 125, Tzarigradsko Shosse Blvd., Block 1, 1113 Sofia (tel.: +359 28700375
fax: +359 28706517e -mail: iasas@spnet.net)

Panajot DIMITROV, Head, Chemistry, Biotechnology, Plant Varieties and Animal Breeds Department, Patent Office, 52B, Dr. G.M. Dimitrov Blvd., 1040 Sofia (tel.: +359 29701466
fax: +359 28708325e -mail: pdimitrov@bpo.bg)

CANADA/KANADA/CANADÁ

Valerie SISSON (Ms.), Commissioner, Plant Breeders' Rights Office, Plant Production Division, Canadian Food Inspection Agency (CFIA), 59 Camelot Drive, Ottawa, Ontario K1A 0Y9 (tel.: +1 613 225 2342 fax: +1 613 228 6629
e-mail: vsisson@inspection.gc.ca)

Christine IRVING (Mrs.), Examiner, Plant Breeder's Rights Office, Canadian Food Inspection Agency (CFIA), Camelot Court, 59 Camelot Drive, Ottawa, Ontario K1A 0Y9 (tel.: +1 613 225 2342 ext. 4394 fax: +1 613 228 6629e-mail: cirving@inspection.gc.ca)

CHINE/CHINA

CHENFengxiu(Ms.), DeputyDirectorGeneral,DepartmentofResearch,Educationand RuralEnvironment,MinistryofAgriculture,11 NongzhanguanNanli,100026Beijing (tel.:+8610 64193069fax:+861064193082e -mail:chenfengx9829@sina.com)

LIDongsheng,VicePresiden t,OfficefortheProtectionofNewVarietiesofPlants, StateForestryAdministration,18,HepengliEastStreet,Beijing100714 (tel.:+861084238705fax:+861064213084)

ZHOUIjianren,DivisionDirector,OfficefortheProtectionofNewVarietiesofPlants, StateForestryAdministration,18,HepengliEastStreet,Beijing100714 (tel.:+861084239104fax:+861084238883e -mail:webmaster@cnpvp.net)

LINXiangming,DeputyDivisionChef,OfficeforProtectionofNewVarietiesofPlant, DepartmentofSci -TechnologyandEducation,MinistryofAgriculture,11Nongzhanguan Nanli,Beijing100026(tel.:+861064193069fax:+861064193029 e-mail:kjschqchg@agri.gov.cn)

LIYanmei(Mrs.),ProjectAdministrator,DepartmentforInternationalCooperation,State IntellectualPropertyOffice(SIPO),P.O.Box8020,6,XituchengluRoad,HaidianDistrict, Beijing100088(tel.:+861062093288fax:+861062019615 e mail: liyanmei@sipo.gov.cn)

ZHAOYangling(Mrs.),FirstSecretary,PermanentMission,11,chemindeSurville, 1213 Petit-Lancy,Switzerland(tel.:+41228795635fax:+41228795037 e-mail:mission.china@ties.itu.int)

COLOMBIE/COLOMBIA/KOLUMBIEN

RicardoVELEZBENEDETTI,MinistroConsejero,MisiónPermanente,17 -19chemindu Champ-d'Anier,1209Ginebra,Suiza(tel.:+41227984554fax:+41227984555 e-mail:missioncol3@hotmail.com)

ESPAGNE/SPAIN/SPANIEN/ESPAÑA

LuisSALAICES,JefedeÁreadelRegistrodeVariedades,OficinaEspañolade VariedadesVegetales(OEUVV), MinisteriodeAgricultura,PescayAlimentación(MAPA), CalleAlfonsoXII,No.62,28014Madrid(tel.:+34913476712fax:+34913476703 e-mail:lsalaice@mapya.es)

ESTONIE/ESTONIA/ESTLAND

PilleARDEL(Mrs.),Head,VarietyControlDepartment,PlantProductionInspectorate, Vabaduseplats4,71029Viljandi(tel.:+3724333946fax:+3724334650 e-mail:pille.ardel@plant.agri.ee)

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA/
VEREINIGTES STAATEN VON AMERIKA/ESTADOS UNIDOS DE AMÉRICA

Karen M. HAUDA (Mrs.), Patent Attorney, Office of International Relations, U.S. Patent and Trademark Office (USPTO), Mail Stop International Relations, P.O. Box 1450, Alexandria, VA 22313 -1450 (tel.: +17033059300 ext. 129 fax: +17033058885
e-mail: karen.hauda@uspto.gov)

Paul M. ZANKOWSKI, Commissioner, Plant Variety Protection Office, USDA National Agricultural Library (NAL), Room 400, 10301 Baltimore Blvd., Beltsville, MD 20705 -2351
(tel.: +13015047475 fax: +13015045291 e-mail: paul.zankowski@usda.gov)

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION/RUSSISCHE FÖDERATION/
FEDERACIÓN DE RUSIA

Yuri A. ROGOVSKIY, Deputy Chairman, Chief of Methods Department, State Commission of the Russian Federation for Selection Achievements Test and Protection, Orlikov per., 1/11, Moscow 107139 (tel.: +700952086775 fax: +700952078626
e-mail: statecommission@mtu-net.ru)

Madina O. UMAROVA (Mrs.), Expert of Methods Department, State Commission of the Russian Federation for Selection Achievements Test and Protection, Orlikov per., 1/11, Moscow 107139 (tel.: +700952086775 fax: +700952078626
e-mail: gossort@gossort.ru)

Ilya GRIBKOV, Attaché, Permanent Mission, 15, av. de la Paix, 1211 Geneva 20, Switzerland (tel.: +41227331870 fax: +41227344044 e-mail: igribkov@hotmail.com)

FINLANDE/FINLAND/FINNLAND/FINLANDIA

Arto VUORI, Director, Plant Variety Rights Office, Ministry of Agriculture and Forestry, Hallituskatu 3A, P.O. Box 30, 00023 Government (tel.: +358916053316
fax: +358916052203 e-mail: arto.vuori@mmm.fi)

FRANCE/FRANKREICH/FRANCIA

Bernard MATHON, Chef, Bureau de la sélection végétale et des semences, Ministère de l'Agriculture et de la Pêche, DPEI/BSVS, 3, rue Barbet de Jouy, 75349 Paris 07 SP (tel.: +33149554579 fax: +33149555075
e-mail: bernard.mathon@agriculture.gouv.fr)

Nicole BUSTIN (Mlle), Secrétaire général, Comité de la protection des obtentions végétales (CPOV), Ministère de l'Agriculture et de la Pêche, 11, rue Jean Nicot, 75007 Paris (tel.: +33142759314 fax: +33142759425
e-mail: nicole.bustin@geves.fr)

GUIARD, Directeur adjoint, Grouped'étude et de contrôle des variétés et des semences (GEVES), La Minière, 78285 Guyancourt Cedex (tel.: +33130833580
fax: +33130833629 e-mail: joel.guiard@geves.fr)

HONGRIE/HUNGARY/UNGARN/HUNGRÍA

Karoly NESZMÉLYI, General Director, National Institute for Agricultural Quality Control (NIAQC), Keleti Karoly u. 24, P.O. Box 30, 93, 1024 Budapest (tel.: +361 3369102 fax: +361 3369099e -mail: neszmelyik@ommi.hu)

Márta POSTEINER -TOLDI (Mrs.), Vice -President, Hungarian Patent Office, Garibaldi u. 2, 1054 Budapest (tel.: +361 3114841 fax: +361 3023822e- mail: posteiner@hpo.hu)

Mária GORKA -HORVAI (Mrs.), Deputy -Head of Section, Agriculture and Plant Variety Protection Section, Hungarian Patent Office, Garibaldi u. 2, 1054 Budapest (tel.: +361 4745915 fax: +361 4745914e -mail: gorkane@hpo.hu)

ISRAËL/ISRAEL

Michal SGAN -COHEN (Mrs.), Senior Deputy Legal Advisor and Registrar (Plant Breeders' Rights), Legal Department, Ministry of Agriculture and Rural Development, P.O. Box 30, Bet-Dagan 50200 (tel.: +972 39485499 fax: +972 39485898 e-mail: michal.sc@moag.gov.il)

Noa FURMAN (Mrs.), Counsellor, Permanent Mission, 1 -3, avenue de la Paix, 1202 Geneva, Switzerland (tel.: +41 2271 60500 fax: +41 2271 60555 e-mail: mission.israel@geneva.mfa.gov.il)

Esther GOULDMAN -ZARKA (Mrs.), Adviser, Permanent Mission, 1 -3, avenue de la Paix, 1202 Geneva, Switzerland (tel.: +41 2271 60500 fax: +41 2271 60555 e-mail: mission.israel@geneva.mfa.gov.il)

JAPON/JAPAN/JAPÓN

Keiji TERAZAWA, Director, Seeds and Seedlings Division, Agricultural Production Bureau, Ministry of Agriculture, Forestry and Fisheries (MAFF), 1 -2-1 Kasumigaseki, Chiyoda -ku, Tokyo 100 -8950 (tel.: +81 335910524 fax: +81 335025301 e-mail: keiji_terazawa@nm.maff.go.jp)

Jun KOIDE, Deputy Director, International Affairs, Seeds and Seedlings Division, Ministry of Agriculture, Forestry and Fisheries (MAFF), 1 -2-1 Kasumigaseki, Chiyoda -ku, Tokyo 100-8950 (tel.: +81 335018111 ext. 3716 fax: +81 335025301 e-mail: jun_koide@nm.maff.go.jp)

Seisuke INOUE, First Secretary, Permanent Mission, 3, chemin des Fins, 1218 Grand-Saconnex, Switzerland (tel.: +41 2271 73225 fax: +41 227 883368 e-mail: seisuke.inoue@mofa.go.jp)

KENYA/KENIA

Evans O. SIKINYI, Manager, Plant Variety Protection Office, Kenya Plant Health Inspectorate Service (KEPHIS), P.O. Box 49592 -00100, Waiyaki Way, Nairobi (tel.: +254 20884545 fax: +254 20882265e -mail: kephis@nbnet.co.ke)

LETTONIE/LATVIA/LETTLAND/LETONIA

Sergejs KATANENKO, Director, Plant Variety Testing Department, State Plant Protection Service, Lubanasiela, 49, 1073 Riga (tel.: +371 7365567 fax: +371 7365571 e-mail: sergejs.katanenko@vaad.gov.lv)

LITUANIE/LITHUANIA/LITAUEN/LITUANIA

Sigita JUCIUVIENE (Mrs.), Deputy Director, Lithuanian State Plant Varieties Testing Centre, Smelio 8, 10324 Vilnius (tel.: +37052343647 fax: +37052 341862
e-mail: sigita.juciuviene@avtc.lt)

MEXIQUE/MEXICO/MEXIKO/MÉXICO

Enriqueta MOLINAMACÍAS (Srta.), Directora, Servicio Nacional de Inspección y Certificación de Semillas (SNICS), Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (SAGARPA), Av. Presidente Juárez, 13, Col. El Cortijo, Tlalnepantla, Estado de México 54000 (tel.: +525553842210 fax: +525553901441
e-mail: enriqueta.molina@sagarpa.gob.mx)

Juan Manuel SÁNCHEZ CONTRERAS, Tercer Secretario, Misión Permanente, 16, avenue de Budé, 1202 Ginebra, Suiza (tel.: +41227480707 fax: +41227480708
e-mail: juan.sanchez@ties.itu.int)

NORVÈGE/NORWAY/NORWEGEN/NORUEGA

Haakon SØNJU, Registrar, Plant Variety Board, P.O. Box 3, 1431 Aas (tel.: +476 4944400
fax: +4764944410e -mail: haakon.sonju@mattilsynet.no)

Kåre SELVIK, Director General, Head of Plant Variety Board, Royal Ministry of Agriculture, Akersgt. 59, P.O. Box 8007 Dep., 0030 Oslo (tel.: +4722249253 fax: +4722242753
e-mail: kare.selvik@lmd.dep.no)

NOUVELLE-ZÉLANDE/NEW ZEALAND/NEUSEELAND/NUEVA ZELANDIA

Christopher J. BARNABY, Assistant Commissioner of Plant Variety Rights/Examiner of Fruit and Ornamental Varieties, Plant Variety Rights Office (PVRO), Private Bag 4 714, Christchurch 8001 (tel.: +6439626206 fax: +6439626202e -mail: chris.barnaby@pvr.govt.nz)

OUZBÉKISTAN/UZBEKISTAN/USBEKISTAN/UZBEKISTÁN

Badridin OBIDOV, Chargé d'affaires, Permanent Mission, 20, route de Pré -Bois, 1215 Geneva 15, Switzerland (tel.: +41227994300 fax: +41227994302
e-mail: uzbekistan@bluewin.ch)

PAYS-BAS/NETHERLANDS/NIEDERLANDE/PAÍSES BAJOS

Christianus M.M. VAN WINDEN, Account Manager Propagating Material, Ministry of Agriculture, Nature and Food Quality, Post bus 20401, 2500 EK The Hague (tel.: +31703784281 fax: +31703786156e -mail: c.m.m.van.winden@minlnv.nl)

Krieno Adriaan FIKKERT, Secretary -General, Board for Plant Breeders' Rights, Postbus 27, 6710 BA Ede (tel.: +31318822580 fax: +31318822589 e-mail: k.a.fikkert@rkr.agro.nl)

Ellen DEHAAS (Mrs.), Legal Department, Room 8220, Ministry of Agriculture, Nature and Food Quality, Postbus 20401, 2500 EK The Hague (tel.: +31703784283
fax: +31703786127e -mail: e.de.haas@minlnv.nl)

POLOGNE/POLAND/POLEN/POLONIA

Edward S. GACEK, Director General, Research Centre for Cultivar Testing (COBORU),
63-022 Slupia Wielka (tel.: +48612852341 fax: +48612853558
e-mail: e.gacek@coboru.pl)

Julia BORYS (Ms.), Head, DUST Testing Department, Research Centre for Cultivar
Testing (COBORU), 63 -022 Slupia Wielka (tel.: +48612852341 fax: +48612853558
e-mail: j.borys@coboru.pl)

Alicja RUTKOWSKA -ŁOŚ (Mrs.), Head, National Listing and Plant Breeders' Rights
Protection Office, Research Centre for Cultivar Testing (COBORU), 63 -022 Slupia
Wielka (tel.: +48612852341 fax: +48612853558 e-mail: a.rutkowska@coboru.pl)

PORTUGAL

Carlos PEREIRA GODINHO, Head, Plant Breeders' Rights and National List Office,
National Center for Registration of Protected Varieties, General Direction for the Protection
of Crops (DGPC), Ministry of Agriculture, Rural Development and Fisheries (MADRP),
Edifício IIDAD GPC, Tapada da Ajuda, 1349 -018 Lisboa (tel.: +351213613200
fax: +351213613222 e-mail: cgodinho@dgpc.min-agricultura.pt)

José S. DECALHEIRO DAGAMA, Legal Counsellor, Permanent Mission,
Case postale 160, 1211 Geneva 7, Switzerland (tel.: +41229180200 fax: +41229180228
e-mail: mission.portugal@ties.itu.int)

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA/REPUBLIK KOREA/
REPÚBLICA DE COREA

AHN Hyung -Geun, Researcher, National Seed Management Office, 268 -1, Pyungchon- ri,
Sag nam -myun Milyang, Kyung sang nam -do (tel.: +82553532571 fax: +82553527959
e-mail: hgahn@seed.go.kr)

CHOI Keun -Jin, Examination Officer, National Seed Management Office (NSMO), Ministry
of Agriculture and Forestry, 328, Jung ang ro Man an ku, Anyang si, A nyang City,
Kyung gi-do 430-016 (tel.: +82314670190 fax: +82314670161 e-mail: kjchoi@seed.go.kr)

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC/TSCHECHISCHE REPUBLIK/
REPÚBLICA CHECA

Daniel JURE ČKA, Director, Plant Variety Testing Division, Central Institute for
Supervising and Testing in Agriculture (ÚKZÚZ), Hroznová 2, 65606 Brno
(tel.: +420543217649 fax: +420543212440 e-mail: daniel.jurecka@ukzuz.cz)

Jirí SOUCEK, Head of Department, Department of Plant Variety Rights and DUST Tests,
Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ), Zaopravnou 4,
150 06 Praha 5 -Motol (tel.: +420257211755 fax: +420257211752
e-mail: jiri.soucek@ukzuz.cz)

ROUMANIE/ROMANIA/RUMÄNIEN/RUMANIA

Adriana PARASCHIV (Mrs.), Head, Examination Department, State Office for Inventions and Trademarks (OSIM), 5, Jon Ghica, Sector 3, P.O. Box 52, 030044 Bucharest 3 (tel.: +40213155698 fax: +40213123819e -mail: adriana.paraschiv@osim.ro)

Mihaela-Rodica CIORA (Mrs.), Counsellor, State Institute for Variety Testing and Registration, Ministry of Agriculture, Food and Forestry, 61, B -Dul Marasti, Sector 1, 011464 Bucharest (tel.: +40212550007 fax: +40212225605 e-mail: mihaela_ciora@gmx.net)

Carmen STEFAN (Mrs.), Legal Advisor, Legal and International Cooperation Division, State Office for Inventions and Trademarks, 5, Ion Ghica Str., Sector 3, P.O. Box 52, 030044 Bucharest 3 (tel.: +4013151966 fax: +4013123819e -mail: office@osim.ro)

ROYAUME-UNI/UNITED KINGDOM/VE REINIGTES KÖNIGREICH/
REINOUNIDO

Michael H. MILLER, Policy Administrator, Plant Variety Rights Office and Seeds Division, Department for Environment, Food and Rural Affairs (DEFRA), White House Lane, Huntingdon Road, Cambridge CB30LF (tel.: +441223 342375 fax: +441223342386e -mail: michael.miller@defra.gsi.gov.uk)

SINGAPOUR/SINGAPORE/SINGAPUR

Dennis LOW, Senior Assistant Director, Legal Policy and International Affairs, Intellectual Property Office of Singapore (IPOS), #04 -01 Plaza By The Park, 51 Bras Basah Road, Singapore 189554 (tel.: +6563316580 fax: +6563390252 e-mail: dennis_low@ipos.gov.sg)

SLOVAQUIE/SLOVAKIA/SLOWAKEI/ESLOVAQUIA

Bronislava BÁTOROVÁ (Ms.), Senior Officer, Central Control and Testing Institute in Agriculture (ÚKZÚP), Stefánikova 88, 94901 Nitra (tel.: +421376551080 fax: +421376523086e -mail: bathorovab@stonline.sk)

SUÈDE/SWEDEN/SCHWEDEN/SUECIA

Karl Olov ÖSTER, President, National Plant Variety Board, Box 1287, 17124 Solna (tel.: +4687831260 fax: +468833170e -mail: karl.olov.oster@svn.se)

Gunnar KARLTORP, Head of Office, National Plant Variety Board, Box 1247, 171 24 Solna (tel.: +4687831260 fax: +468833170e -mail: karltorp@svn.se)

Christina TÖRNSTRAND (Ms.), Legal Advisor, Ministry of Agriculture, Food and Fisheries, 8, Fredsgatan, 10333 Stockholm (tel.: +4684051107 fax: +468206496 e-mail: christina.tornstrand@agriculture.ministry.se)

SUISSE/SWITZERLAND/SCHWEIZ/SUIZA

PierreAlexMIAUTON, ChefdeService, Certification -semencesetplants, Stationfédérale derecherchesenproductionvégétaledeChangins, Agroscope, Casepostale254, 1260 Nyon 1 (tel.:+41223634668fax:+41223634690 e-mail: pierre.miauton@rac.admin.ch)

ManuelaBRAND(Frau), LeiterinSortenschutz, HauptabteilungForschungundBeratung, EidgenössischesVolkswirtschaftsdepartment, BundesamtfürLandwirtschaft, Mattenhofstrasse5, 3003Bern (tel.:+41313222524fax:+41313222634 e-mail: manuela.brand@blw.admin.ch)

TRINITÉ-ET-TOBAGO/TRINIDADANDTOBAGO/TRINIDADUNDTOBAGO/TRINIDADYTABAGO

RichardACHING, SeniorExaminer(Technical), IntellectualPropertyOffice, Ministryof LegalAffairs, 72 -74SouthQuay, PortofSpain (tel.:+1 -8686259972fax:+1 -8686241221 e-mail: richard.aching@ipo.gov.tt)

TUNISIE/TUNISIA/TUNESIEN/TÚNEZ

MaresHAMDI, Directeurgénéral, Conseillerdesservicespublics, Ministèredel'agriculture, del'environnementetdesressourceshydrauliques, 30, rueAlainSavary, 1002 Tunis (tel.:+21671842317fax:+21671784419e -mail: mares.hamdi@iresa.agrinet.tn)

UKRAINE/UCRANIA

SvitlanaTKACHYK(Mrs.), DeputyDirector, UkrainianInstituteforPlantVariety Examination, 15, HeneralRodimtsevastr., 03041Kyiv (tel.:+38044257345 6 fax:+380442579963e -mail: sops@sops.gov.ua)

OksanaV.ZHMURKO(Mrs.), Head, DepartmentofInternationalCooperation, Scientificand InformationalProvision, UkrainianInstituteforPlantVarietyExamination, 15, HeneralRodimtsevastr., 03041 Kyiv (tel.:+380442573456fax:+380442579963 e-mail: zhmurko@sops.gov.ua)

URUGUAY

GustavoE.BLANCODEMARCO, Asesor, MinisteriodeGanadería, Agricultura yPesca, Constituyente1476, Piso3, 11200Montevideo (tel.:+59824126308fax:+598 4126331 e-mail: gblanco@mgap.gub.uy)

MarielaIBARRADUTRA(Sra.), InstitutoNacionaldeSemillas(INASE), C.Bertolotti S/No yRuta8, km29, 90000Canelones (tel.:+59822887099fax:+59822887077 e-mail: inasemid@adinet.com.uy)

II. OBSERVATEURS/OBSERVERS/
BEOBACHTER/OBSERVADORES

ALBANIE/ALBANIA/ALBANIEN

Petrit TOPI, Director, National Seed Institute, Ministry of Agriculture and Food,
Rr. Siri Kodra, Tirana (tel.: +3554362419 fax: +3554362419
e-mail: petrittopi@yahoo.com)

Fetah ELEZI, Head, Department for Varieties Testing, National Seed Institute, Ministry of
Agriculture and Food, Rr. Siri Kodra, Tirana (tel.: +3554230324 fax: +3554362419
e-mail: fetahелеzi@yahoo.com)

ÉGYPTE/EGYPT/ÄGYPTEN/EGIPTO

Abdelazeem El -Tantawi BADAWI, President, Agricultural Research Center (ARC), Ministry
of Agriculture and Land Reclamation, 9, Gamaa Street, 12619 Giza
(tel.: +2025736570 fax: +2025736570 e-mail: badawi_a_tantawi@dns.claes.sci.eg)

Essam Kamel ABOU -ZEID, Head, Central Administration for Seed Testing and
Certification (CASC), P.O. Box 147, Giza, 12211 Cairo (tel.: +2025720839
fax: +2025725998 e-mail: casc@casc.gov.eg)

Gamal Eissa ATTYA, Head, Plant Variety Protection Office, Central Administration for Seed
Testing and Certification (CASC), P.O. Box 147, Giza, 12211 Cairo (tel.: +2025728962
fax: +2025725998 e-mail: gamal_attya@hotmail.com)

Ahmed ABDEL -LATIF, Second Secretary, Permanent Mission, 49, avenue Blanc,
1202 Geneva, Switzerland (tel.: +41227312638 fax: +41227384415
e-mail: abdelatif@yahoo.com)

Ragui EL -ETREBY, Second Secretary, Permanent Mission, 49, avenue Blanc, 1202 Geneva,
Switzerland (tel.: +41227316530 fax: +41227384415 e-mail: ragui@lycos.com)

THAÏLANDE/THAILAND/TAIANDIA

Chutima RATANASATIEN, Senior Agricultural Scientist, Plant Varieties Protection
Division, Department of Agriculture, Phaholyothin Road, Ladyao, Chatuchak, 10900
Bangkok (tel.: +6629405628 fax: +6625790548 e-mail:
chutina_ratanasatien@yahoo.com)

III. ORGANISATIONS/ORGANIZATIONS/
ORGANISATIONEN/ORGANIZACIONES

ORGANISATIONDES NATIONS UNIES POUR L'ALIMENTATION ET
L'AGRICULTURE (FAO)/FOOD AND AGRICULTURE ORGANIZATION OF THE
UNITED NATIONS (FAO)/ERNÄHRUNG S-UND
LANDWIRTSCHAFTS ORGANISATION DER VEREINTEN NATIONEN (FAO)/
ORGANIZACIÓN DE LAS NACIONES UNIDAS PARA LA AGRICULTURA Y LA
ALIMENTACIÓN (FAO)

Arturo MARTÍNEZ, Chief, Seed and Plant Genetic Resources Services, Plant Production and Protection Division, Food and Agriculture Organization of the United Nations (FAO), Room C-720, Viale delle Terme di Caracalla, 00100 Rome, Italy
(tel.: +390657056574 fax: +390652253152e -mail: arturo.martinez@fao.org)

COMMUNAUTÉ EUROPÉENNE/EUROPEAN COMMUNITY/
EUROPÄISCHE GEMEINSCHAFT/COMUNIDADE EUROPEA

Jacques GENNATAS, Head of Sector, Unit E1, Plant Variety Property Rights, Health and Consumer Protection Directorate - General, European Commission, 101, rue Froissart, Office: F10105/92, 1049 Brussels, Belgium (tel.: +3222959713 fax: +3222969399 e-mail: jacques.gennatas@cec.eu.int)

Bart KIEWIET, President, Community Plant Variety Office (CPVO), 3, boulevard Maréchal Foch, B.P. 2141, 49021 Angers Cedex 02, France (tel.: +33241256412 fax: +33 241256410e -mail: kiewiet@cpvo.eu.int)

Martin EKVAD, Head of Legal Affairs, Community Plant Variety Office (CPVO), 3, boulevard Maréchal Foch, B.P. 2141, 49021 Angers Cedex 02, France (tel.: +33241256415 fax: +33241256410e -mail: ekvad@cpvo.eu.int)

OFFICE EUROPEËNDES BREVETS (OEB)/EUROPEAN PATENT OFFICE (EPO)/
EUROPÄISCHES PATENTAMT (EPA)/OFICINA EUROPEA DE PATENTES (OEP)

Pierre TREICHEL, Directorate Patent Law 5.2.1, European Patent Office (EPO), Erhardtstrasse 27, 80331 Munich, Germany (tel.: +498923995172 fax: +498923995153 e-mail: ptreichel@epo.org)

AGENCE EUROPÉENNE DES SEMENCES (ESA)/
EUROPEAN SEED ASSOCIATION (ESA)/
EUROPÄISCHER SAATGUT VERBAND (ESA)

Bert SCHOLTE, Technical Director, European Seed Association (ESA), 23/15, rue du Luxembourg, 1000 Brussels, Belgium (tel.: +3227432860 fax: +3227432869e -mail: bertscholte@euroseeds.org)

FÉDÉRATION INTERNATIONALE DES SEMENCES (ISF)/
INTERNATIONAL SEED FEDERATION (ISF)/
INTERNATIONALER SAATGUTVERBAND (ISF)/
FEDERACIÓN INTERNACIONAL DE SEMILLAS (ISF)

Bernard LEBUANEC, Secretary General, International Seed Federation (ISF),
7, chemin du Reposoir, 1260 Nyon, Switzerland (tel.: +41 22 365 44 20
fax: +41 22 365 44 21 e-mail: isf@worldseed.org)

Werner BASTIAN, Head, Global IP Seeds, Syngenta, Schwarzwaldallee 215, 4058 Basel,
Switzerland (tel.: +41 61 323 862 4 fax: +41 61 323 862 2
e-mail: werner.bastian@syngenta.com)

Richard CROWDER, President, American Seed Trade Association (ASTA), 225 Reinekers
Lane, Suite 650, Alexandria, VA 22314, United States of America (tel.: +1 703 837 8140
fax: +1 703 837 9365 e-mail: rcrowder@amseed.org)

Jean DONNENWIRTH, International Intellectual Property Manager, Pioneer Hi-Bred
S.A.R.L., Chemindel'Enseigure, 318 40 Aussonne, France (tel.: +33 561 062 084
fax: +33 561 062 091 e-mail: jean.donnenwirth@pioneer.com)

Guy ELYASHIV, Vice President IP Matters, Zeraim Gadera Ltd., P.O. Box 103,
Gadera 70750, Israel (tel.: +972 8944 6246 fax: +972 885 94376 e-mail: guy@zeraim.co.il)

Barry GREENGRASS, Advisor, 55 Pratt Street, London NW10BJ, United Kingdom
(tel.: +44 2072 679097 e-mail: barry_greengrass@hotmail.com)

Robert Bruce HUNTER, RR5, Guelph, Ontario N1H6S2, Canada (tel.: +1 519 836 0200
fax: +1 519 837 9876 e-mail: rfhunter@sympatico.ca)

Juan Carlos MARTÍNEZ, Coordinator, Latin American Federation of Seed
Associations (FELAS), Calle 72, 12-65, Oficina 406, Bogota D.C. Colombia
(tel.: +349 762 264 10 fax: +349 762 12 197 e-mail: felas@felas.org)

Pierre ROGER, Directeur de la propriété intellectuelle, Groupe Limagrain Holding,
Boîte postale 1, 63720 Chappes, France (tel.: +33 473 634 069
fax: +33 473 646 737 e-mail: pierre.roger@limagrains.com)

COMMUNAUTÉ INTERNATIONALE DES OBTENTEURS DE PLANTES
ORNAMENTALES ET FRUITIÈRES DE REPRODUCTION ASEXUÉE (CIOPORA)/
INTERNATIONAL COMMUNITY OF BREEDERS OF ASEXUALLY REPRODUCED
ORNAMENTAL AND FRUIT -TREE VARIETIES (CIOPORA)/ INTERNATIONALE
GEMEINSCHAFT DER ZÜCHTER VEGETATIV VERMEHRBARER ZIERUND
OBSTPFLANZEN (CIOPORA)/ COMUNIDAD INTERNACIONAL DE OBTENTORES
DE VARIEDADES ORNAMENTALES Y FRUTALES DE REPRODUCCIÓN
ASEXUADA (CIOPORA)

Maarten LEUNE, President, International Community of Breeders of Asexually Reproduced Ornamental and Fruit -Tree Varieties (CIOPORA), Düsternstrasse 3, 20355 Hamburg, Germany (tel.: +494055563703 fax: +494055563702 e-mail: maarten@royalty -adm-int.nl)

Edgar KRIEGER, Executive Secretary, International Community of Breeders of Asexually Reproduced Ornamental and Fruit -Tree Varieties (CIOPORA), (Administrative Office), Düsternstrasse 3, 20355 Hamburg, Germany (tel.: +494055563702 fax: +494055563703 e-mail: info@ciopora.org)

Alain MEILLAND, President, Meilland International, 59, chemin des Nielles, 066 00 Antibes, France (tel.: +33494500325 fax: +33493618629e -mail: meilland@wanadoo.fr)

IV. BUREAU/OFFICERS/VORSITZ /OFICINA

Nicole BUSTIN (Ms.), Chairperson
Krieno FIKKERT, Vice -Chairman

V. BUREAU DE L'UPOV/OFFICE OF UPOV/BÜRO DER UPOV/
OFICINA DELA UPOV

Rolf JÖRDENS, Vice Secretary -General
Peter BUTTON, Technical Director
Raimundo LAVIGNOLLE, Senior Counsellor
Makoto TABATA, Senior Counsellor
Yolanda HUERTA (Mrs.), Senior Legal Officer

[L'annexe II suit/
Annex II follows/
Anlage II folgt/
Sigue el Anexo II]

ANNEXII

DeclarationMadebytheDelegationofSingapore

MadamChair,
LadiesandGentlemen,

On behalf of the Government of the Republic of Singapore and on behalf of the Intellectual Property Office of Singapore, I would like to express our appreciation for the warm welcome extended by the UPOV family. We are pleased to be a member of UPOV.

On June 30, 2004, Singapore deposited its instrument of accession to the UPOV Convention. On July 30, 2004, Singapore became the fifty-fifth member of UPOV.

On October 23, 2003, the Council of UPOV took a positive decision on the conformity of the Plant Varieties Protection Bill with the 1991 Act of the UPOV Convention. The Plant Varieties Protection Act of Singapore was passed by the Singapore Government on June 15, 2004, and published in the Government Gazette on June 25, 2004. This Act came into force on July 1, 2004.

Plant breeders' rights in Singapore fall under the responsibility of the Intellectual Property Office of Singapore (IPOS). IPOS, being the national intellectual property authority in Singapore, has the appropriate legal and institutional framework for the grant of protection of plant breeders' rights. The Agricultural, Food and Veterinary Authority of Singapore (AVA) is the prescribed examination authority which carries out DUS testing in Singapore under this Act.

As of today, protection is available in Singapore for 15 genera and species.

We are grateful for the assistance received by IPOS from the Office of the Union in our accession procedure to the UPOV Convention.

I would also like to take this opportunity to thank all the experts from those members of the Union who have shared their information and experience with Singapore.

Thank you.

[Annex III follows]

ANNEX III

Declaration Made by the Delegation of Uzbekistan

Madam Chair,
Ladies and Gentlemen,

On behalf of the Government of the Republic of Uzbekistan, on behalf of the Ministry of Agriculture, Uzbekistan appreciates the warm welcome into the UPOV family. We are very honored to be a member of UPOV.

On October 14, 2004, Uzbekistan deposited its instrument of accession to the UPOV Convention (1991 Act). On November 14, 2004, Uzbekistan will become the fifty-seventh member of UPOV.

The Law of the Republic of Uzbekistan on Selection Achievements was adopted on August 30, 2002. On October 23, 2003, the Council of UPOV took a positive decision on the conformity of the Law with the 1991 Act of the UPOV Convention.

Plant breeders' rights in Uzbekistan fall under the responsibility of the State Patent Office of the Republic of Uzbekistan. This Office has the appropriate legal and institutional framework for the grant of protection of plant breeders' rights.

As of today, protection is available in Uzbekistan for 41 genera and species.

I would like to emphasize our gratitude for the assistance rendered by the Office of the Union in the accession procedure of Uzbekistan to the UPOV Convention.

I would like also to convey thanks to other authorities of members of the Union for their help and active cooperation.

Thank you.

[End of Annex III and of document]