The International Seed Federation

UPOV CAJ-AG, 18 October 2011

Marcel Bruins, Secretary-General ISF

International Seed Federation

(formed by merger of FIS and Assinsel in 2002)

FIS

(international seed traders association)

Established 1924

Assinsel

(international plant breeders association)

Established 1938

SEED IS LIFE

ISF

International Seed Federation

Established 2002 - Secretariat: Nyon, Switzerland (6,5 fte)

For more information: www.worldseed.org

ISF : membership

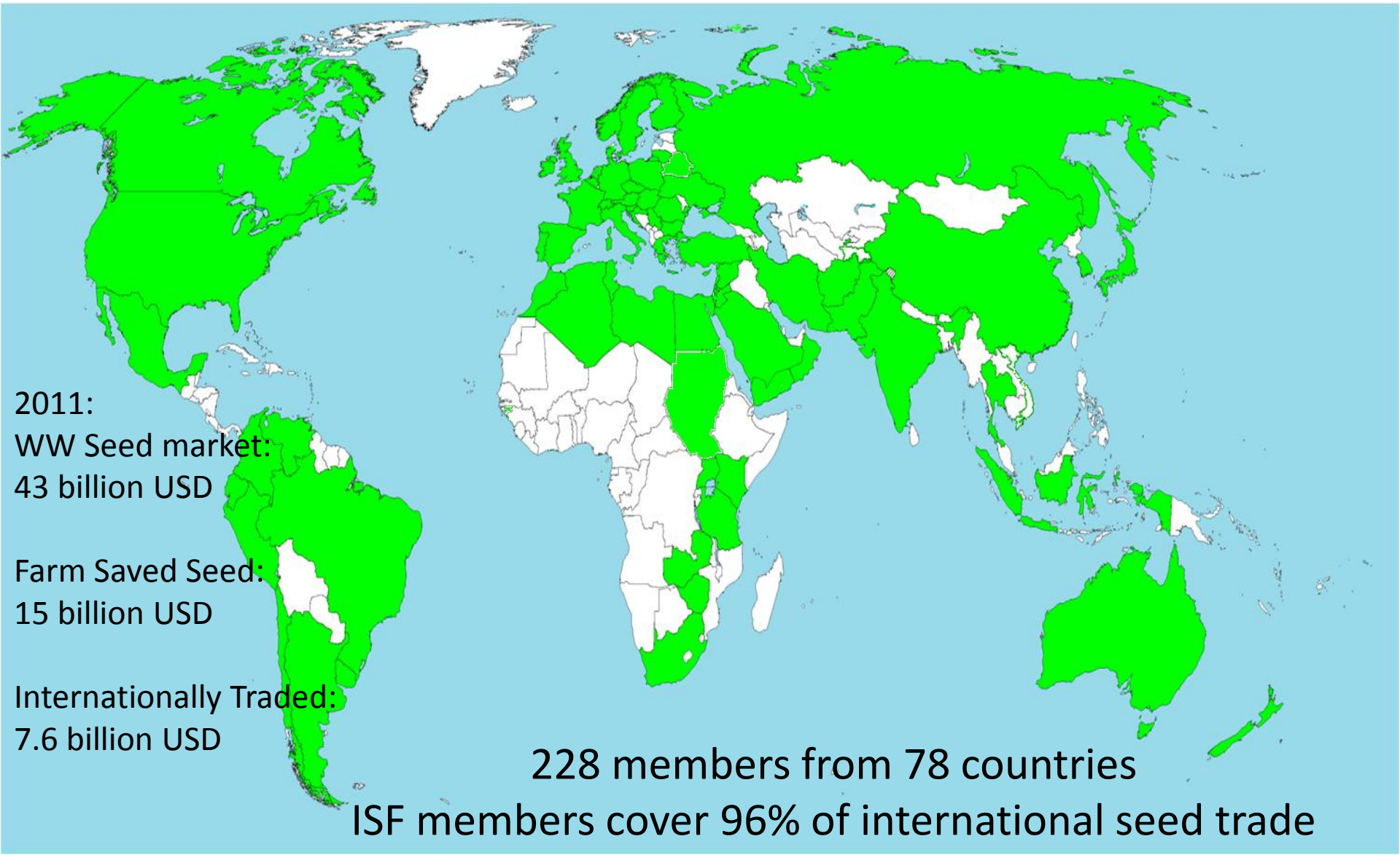
Ordinary members	• National Associations representing seed companies and enterprises within their countries • 54 members from 41 countries
Associate members	• Seed companies or enterprises • 98 members from 42 countries
Affiliate members	• Service providers to the seed industry • 26 members from 11 countries
Tree and Shrub Seed Group	• National Seed Associations of tree and shrub seed companies and / or individual companies active in this field • 41 members from 25 countries
Observers	• 9 Associations (Afghanistan, Bangladesh, Gambia, Pakistan, Paraguay, Russia, Sudan, Ukraine and Venezuela)

Increasing no. of members:
30 => 228
Each yr 15-25 new mbrs

International Seed Federation

International Seed Federation

- membership countries (July 2011) -



2011:
WW Seed market:
43 billion USD

Farm Saved Seed:
15 billion USD

Internationally Traded:
7.6 billion USD

228 members from 78 countries
ISF members cover 96% of international seed trade

Domestic Seed Market 2011

(USD million) (Conversion rate: 1 €=1.3 USD)

	Total		Total		Total
USA	12,000	UK	400	Finland	160
China	9,500	Turkey	400	Austria	150
France	2,400	South Africa	370	Egypt	140
Brazil	2,000	Mexico	350	Morocco	140
India	2,000	The Netherlands	317	Bulgaria	120
Japan	1,400	Czech Republic	300	Chile	120
Germany	1,261	Hungary	300	Nigeria	120
Italy	780	TW Prov. of China	300	Serbia	120
Argentina	600	Poland	260	Switzerland	118
Canada	550	Greece	240	Slovakia	110
Russian Federation	500	Sweden	240	New Zealand	100
Spain	450	Romania	220	Ireland	80
Australia	400	Belgium	185	Paraguay	80
Korea	400	Denmark	185	**Total**	**40645***

*The commercial world seed market is assessed at approximately US$ 43 billion

ISF International Seed Federation

Seed Exports 2003-2009: steady increase

Value = Mio USD

Country	Value 2003	Value 2005	Value 2007	Value 2008	Value 2009
Netherlands	1100	784	1040	1072	1299
USA	829	922	1019	1176	1178
France	679	688	914	1015	1162
Germany	270	340	483	493	506
Chile	138	171	204	281	370
Canada	201	215	347	378	355
Mexico	11	109	171	181	255
Hungary	78	106	196	254	235
Denmark	170	178	325	355	223
Italy	151	171	184	253	217
Argentina	41	56	118	120	172
Belgium	93	123	142	154	164
China	49	61	88	113	140
Total	**4456**	**4904**	**6398**	**7064**	**7670**

SEED IS LIFE
ISF
International Seed Federation

Intellectual Property Committee

- 15 members
- Think tank on IP issues
- Plant Variety Protection, Patents, Other forms of IP, Confluence with international treaties such as CBD, IT etc., recent jurisprudence
- Reports to ISF Breeders Committee

Intellectual Property Committee

MEMBERS OF THE ISF INTELLECTUAL PROPERTY COMMITTEE (IPC)		COUNTRY
1	Stephen Smith, Chairman	US
2	Judith Blokland	NL
3	Leon Broers	DE
4	Harry Collins	US
5	Huib Ghijsen	BE
6	Chris Green	UK
7	Michael Kock	CH
8	Miguel Rapela	AR
9	Mike Roth	US
10	Bert Scholte	NL
11	Evans Sikinyi	KE
12	Alain Taillardat	FR
13	Antonio Villarroel	ES
14	Usha Barwale Zehr	IN
15	(Vacancy 1)	

SEED IS LIFE
ISF
International Seed Federation

SEED IS LIFE
ISF
International Seed Federation

ISF site search
Go

2

The ISF | Position Papers | Rules | Trade Related Topics | Resource Centre | Events | Members

You are here : Position Papers → On Intellectual Property

On Trade
On Intellectual Property
On Sustainable Agriculture
On Specific Technical Subjects

Intellectual Property

3

2009

ISF View on Intellectual Property

Use of Proprietary Parental Lines of Hybrids

2007

Hybrids

Implementation of Articles 14(2) and 14(3) of UPOV 1991 in Relation to the Phrase: Reasonable Opportunity"

2006

Provisional Protection

Use of DNA Markers for DUS Testing, Essential Derivation and Identification

2005

Essential Derivation from a Not-yet Protected Variety and Dependency

2003

Disclosure of Origin in Intellectual Property Protection Applications

2001

What's New

- New page titled Plant Diseases and Resistance
- Pathogen codes updated

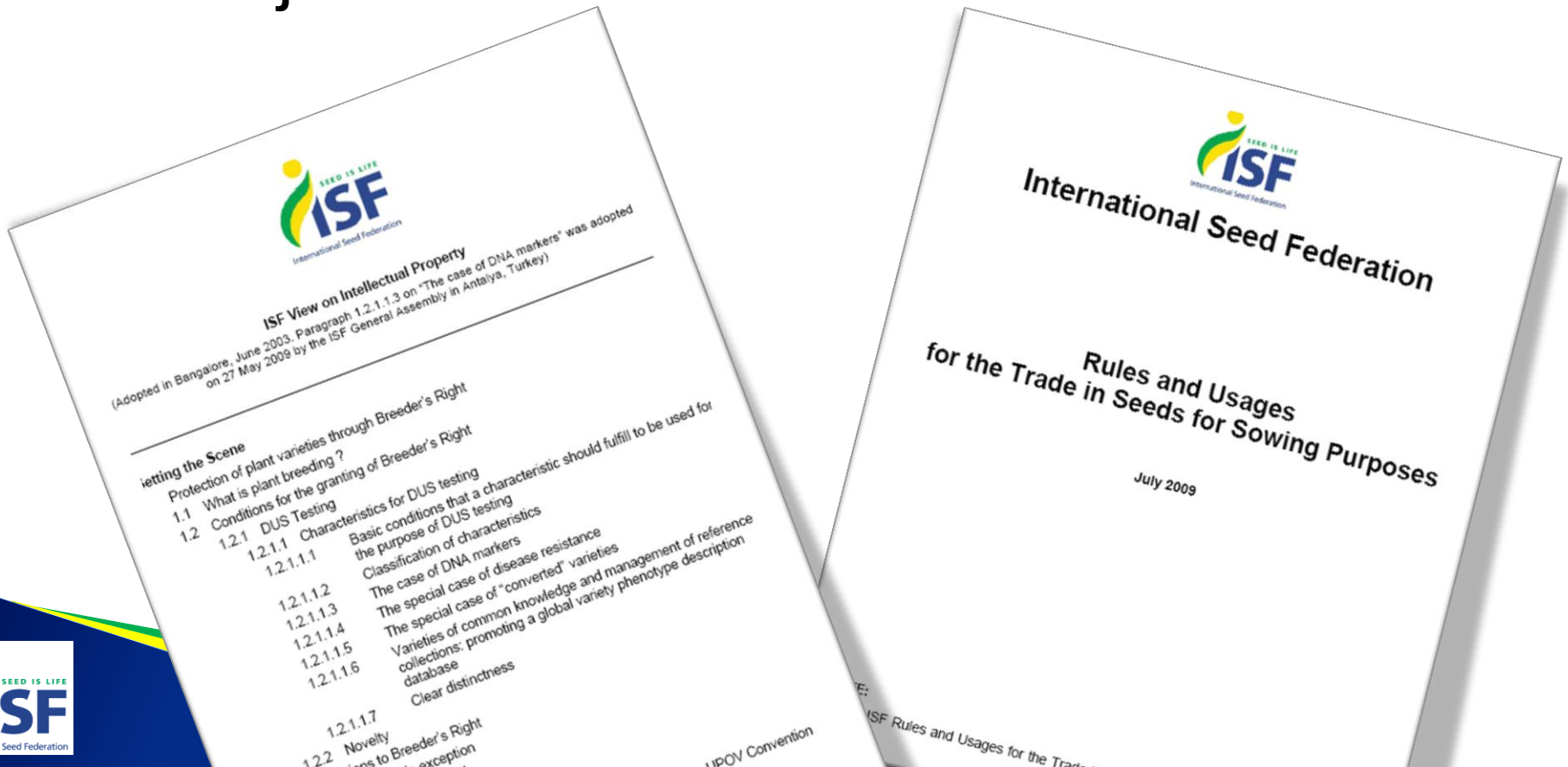
Where to find ISF information on IP?

Breeders Committee

- 15 members
- All national seed associations are invited & can participate as observers
- Intellectual Property (IPC) and Sustainable Agriculture Committee (SAC) report to the BC
- Discuss proposals of IPC and SAC and view in overall context.
- Approved positions go forward to ISF General Assembly.

Major Developments in 2011

- ❑ Major revision of ISF View on IP
- ❑ Major revision of ISF Trade Rules



Contributions of Plant Breeding

- Yield
- Resistance to biotic stress
- Tolerance to abiotic stress
- Earliness
- Taste
- Size
- Quality
- Firmness
- Shelf-Life
- Plant type
- Labour cost
- Harvestability
- Dwarfness

Contributions of Plant Breeding

- Food security & Hunger alleviation
- Increased nutritional values
- Reduction of pesticides / fossil fuels
- Reduction GHG emissions
- Land saving / Decrease deforestation
- Conserve biodiversity
- Increase carbon sequestration
- Improved economic functioning
- Enhanced social stability

Needs investment AND Return on investment

STRONG IP !!

Definition of Breeder

- No comments on draft paper UPOV/EXN/BRD

  Draft 4

- Disagree with ECVC comments on this paper

Harvested Material

The act of reproduction requires the permission of the PVP holder

⇒ The unauthorized export of propagating material (or material that will be used as such), to a country where his variety is not protected is an unauthorized act, whether the variety can be protected in the country of export or not.

=> The condition of “unauthorized use” of the propagation material can be fulfilled even if the propagation takes place in a country where the variety is not protected. As the holder in such circumstances has no reasonable opportunity to exercise his rights he is entitled to act against the material harvested from such unauthorized propagating material if imported in a country where the variety is protected.

Harvested Material

"reasonable opportunity to *exercise his right*" does **not** mean a "reasonable opportunity to *obtain a right*"
This interpretation above has been confirmed by the decision of the German Supreme Court of 14 February 2006, No. X ZR 93/04.

ISF is of the opinion that there is unauthorized use if the breeder has not given his explicit authorization. This can be the case of a breach of contract or once material that has been sold on the market as end product is being used as propagating material in a country where the variety is not protected.

Products made from Harvested Material: include in scope as Mandatory

Essential Derivation

- ISF is opposed to plagiarism & strongly supports concept of EDV
- ISF has so far developed guidelines for EDV disputes of perennial ryegrass, maize, oilseed rape, cotton and lettuce.
- ISF notes that even if there are not yet international agreed-upon professional rules and usages for assessing essential derivation and for solving disputes for all crops, the concept has already greatly contributed to avoid infringement, breeders being more careful in their breeding programs.

SEED IS LIFE
ISF
International Seed Federation

Essential Derivation

- Initiative of the breeder to enforce these rights.
- Determination of essential derivation is not part of the procedure of the granting of the Breeder's Right.
- Variety Description data of the varieties based on UPOV guidelines should be available after granting of rights to enable breeders to compare their varieties.
- It is possible to have an unlimited "cascade" of essential derivation. Whether any predominantly derived variety in such a case can still be considered as essentially derived from the initial variety will depend on the level of conformity that still exists between the derived variety and the initial variety.

Predominant Derivation - Use of information

The collection of molecular data from the initial variety and the subsequent application of the obtained DNA profiles with the explicit intention to select for similar genotypes in a particular population, which is mostly related to the initial variety, may also be regarded as predominant derivation from the initial variety.

Therefore, for the purpose of EDV assessment, "*predominant derivation*" may result from:

i) The use of –mainly- the plant material of an initial variety for selection or (back) crossing followed by selection in the breeding process,

or

ii) The use of molecular marker data, collected from an initial variety, for the purpose of selection of genotypes close or similar to the genotype of the initial variety, or in the case of hybrids, close or similar to the genotype of its parent lines.

Language of EDV provision

SEED IS LIFE
ISF
International Seed Federation

STATE	UPOV	UPOV	EU	EDV Other	No Mention
Albania	1991				X
Argentina	1978				X
Australia	1991			X	
Austria	1991	X			
Azerbaijan	1991			X	
Belarus	1991	X			
Belgium	1961/1972				X
Bolivia	1978	X			
Brazil	1978			X	
Bulgaria	1991		X		
Canada	1978				X
Chile	1978				X
China	1978				X
Colombia	1978	X			
Costa Rica	1991	X			
Croatia	1991			X	
Czech Republic	1991		X		
Denmark	1991			X	
Dominican Rep.	1991	X			
Ecuador	1978	X			
Estonia	1991		X		
EU	1991		X		
Finland	1991	X			
France	1978				X
Georgia	1991			X	
Germany	1991		X		
Hungary	1991				X
Iceland	1991				X
Ireland	1978	X			
Israel	1991	X			
Italy	1978	X			
Japan	1991			X	
Jordan	1991	X			
Kenya	1978				X

STATE	UPOV	UPOV	EU	EDV Other	No Mention
Kyrgyzstan	1991			X	
Latvia	1991	X			
Lithuania	1991	X			
Mexico	1978				X
Morocco	1991	X			
Netherlands	1991		X		
New Zealand	1978				X
Nicaragua	1978	X			
Norway	1978				X
Panama	1978				X
Paraguay	1978				X
Poland	1991	X			
Portugal	1978				X
Rep. of Korea	1991	X			
Rep. of Moldova	1991	X			
Romania	1991		X		
Russian Fed.	1991	X			
Singapore	1991	X			
Slovakia	1978			X	
Slovenia	1991		X		
South Africa	1978			X	
Spain	1991	X			
Sweden	1991	X			
Switzerland	1991			X	
Tr. and Tobago	1978				X
Tunisia	1991			X	
Turkey	1991	X			
Ukraine	1991			X	
United Kingdom	1991	X			
USA	1991	X			
Uruguay	1978				X
Uzbekistan	1991			X	
Viet Nam	1991			X	

International Seed Federation

Statistics

	#	%
Countries under UPOV 78	24 / 67	36
Countries under UPOV 91	43 / 67	64
Countries with EDV	49 / 67	73
Countries without EDV	18 / 67	27
Countries with EDV = UPOV wording	26 / 49	53
Countries with EDV = EU wording	8 / 49	16
Countries with other EDV wording	15 / 49	31
UPOV 78 Countries with EDV	9 / 24	38
UPOV 91 Countries without EDV	3 / 41	7

CONCLUSIONS - EDV

1. EDV concept has been implemented not only in UPOV ‘91 Member States, but also in 38% (9/24) of the UPOV ‘78 Member States.
2. As a result of this, EDV concept has been implemented in 73% (49/67) of the UPOV Member States.
3. However, there are 17 different wordings of the EDV concept among the 49 Member States of UPOV which have introduced the concept.
4. ISF is of the opinion that each such wording should be interpreted in a manner that is consistent with the principles embodied in UPOV 1991.

- Propagation & propagating material
- Exhaustion of Breeders Rights

ISF supports the development of:

- Explanatory notes on the notion of Propagation and propagating material
- Preferred language: ‘capable of’ or ‘can’
- Not preferred: ‘intended for’ or ‘used for’

Exhaustion of Breeders Rights

ISF supports the development of:

- Document on the Exhaustion of Breeders Rights

General comments

Some documents came less than a week before the meeting
Please send out meeting documents pref. 4-6 weeks in advance.

Thank you for your attention

SEED IS LIFE
ISF
International Seed Federation

More information:
www.worldseed.org