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NEWSLETTER

INTERNATIONALER VERBAND
ZUM SCHUTZ VON
PFLANZENZÜCHTUNGEN

UNION INTERNATIONALE
POUR LA PROTECTION
DES OBTENTIONS VÉGÉTALES

INTERNATIONAL UNION
FOR THE PROTECTION OF
NEW VARIETIES OF PLANTS

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INFORMATION FROM UPOV

The International Union for the Protection of New Varieties of Plants in 1978

Membership

In 1978, there was no change in the membership of the International Union for the Protection of New Varieties of Plants (UPOV). The Union has ten member States--Belgium, Denmark, France, Germany (Federal Republic of), Italy, Netherlands, South Africa, Sweden, Switzerland, United Kingdom--of which all but the United Kingdom are party to the Additional Act. Spain, however, made an application for accession to the UPOV Convention and to the Additional Act, which the Council unanimously accepted at its fourth extraordinary session, on October 18, 1978, thereby authorizing that country to deposit its instrument of accession to the said texts.

Diplomatic Conference

A Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants, held from October 9 to 23, 1978, culminated in the adoption of a revised text of the UPOV Convention. For details, see UPOV Newsletter No. 15 of December 1978 (containing the revised text of the Convention and a report on the proceedings of the Diplomatic Conference) and the Note on the Diplomatic Conference published on pages 6 to 12 of this issue.

Sessions

During 1978, the various bodies of UPOV met as listed below (unless otherwise indicated, the sessions took place in Geneva).

The Council of UPOV held two sessions, which were presided over by Mr. H. Skov (Denmark): its fourth extraordinary session, on October 18, 1978, which dealt mainly with the application for accession by Spain and its acceptance as mentioned above, and its twelfth ordinary session from December 6 to 8, 1978. The latter session was also attended by observers from the following non-member States: Austria, Canada, Ireland, New Zealand, Poland, Soviet Union, Spain, United States of America. At its twelfth ordinary session, the Council took, inter alia, the following action:

(i) It approved the annual report of the Secretary-General and the accounts for 1978 and established the program and budget for 1979. In particular, the Administrative and Legal Committee was given the mandate to continue its work on the possible introduction of closer cooperation between member States, if necessary on the basis of a special agreement under Article 29 of the UPOV Convention.

(ii) It endorsed the recommendation of the Administrative and Legal Committee that member States should establish their national plant breeders' rights gazettes in accordance with an agreed pattern, and it approved the establishment of a model gazette to serve as a guide for States starting to publish a gazette or a new type of gazette.

(iii) It approved the program of work of the Technical Committee and of the Technical Working Parties, in particular with respect to the establishment of a common approach to data recording and interpretation in the examination of new plant varieties for distinctness, homogeneity and stability.

(iv) It appointed Mr. W. Gfeller (Switzerland) as its new Vice-President.

(v) It appointed, for a period of three years, the following persons to chair the five Technical Working Parties:

for Agricultural Crops:	Miss J. Rasmussen (Denmark)
for Forest Trees:	Mr. F. Schneider (Netherlands)
for Fruit Crops:	Mr. A. Berning (Federal Republic of Germany)
for Ornamental Plants:	Mr. A. George (United Kingdom)
for Vegetables:	Mr. J. Brossier (France)

(vi) It decided to invite a number of additional States to its ordinary sessions, in particular those States which had participated in the Diplomatic Conference.

The Consultative Committee held its seventeenth session on April 20 and 21, 1978, and its eighteenth session on December 5 and 9, 1978, under the chairmanship of Mr. H. Skov (Denmark). At its seventeenth session, it examined the state of the preparations for the Diplomatic Conference, considered the work of the technical bodies of UPOV and had an exchange of views on the development of the Union. At its eighteenth session, it prepared the twelfth ordinary session of the Council.

The Administrative and Legal Committee held its first session from April 17 to 19, 1978, and its second session from November 15 to 17, 1978, under the chairmanship of Dr. D. Böringer (Federal Republic of Germany). Among other things, the Committee

(i) reviewed the implementation of the UPOV Model Agreement for International Cooperation in the Testing of Varieties and devised various further Model Forms, on which work is continuing;

(ii) examined the possibility of the further development of the Union, a task which is to be continued under a specific mandate from the Council;

(iii) examined the relationship between the law on competition and the law on plant variety protection and agreed on certain considerations on the assessment of multiplication licenses in the light of competition law;

(iv) examined the possibility of further harmonization of plant breeders' rights gazettes;

(v) reviewed the preparations of the Diplomatic Conference, the revision of Article 13 of the Convention (Variety Denomination), a task concluded at its first session by the adoption of an alternative proposal for the new text of Article 13 which was submitted to the Diplomatic Conference.

An Ad Hoc Committee on the Revision of the Convention met from September 11 to 15, 1978, under the chairmanship of Mr. H. Skov (Denmark) to review the state of the preparations for the Diplomatic Conference.

The Technical Committee held its twelfth session from November 13 to 15, 1978, under the chairmanship of Mr. A.F. Kelly (United Kingdom). At that session it continued its discussions on data recording and interpretation in the examination of new plant varieties for distinctness, homogeneity and stability, and continued to supervise the work of the five Technical Working Parties. It adopted Test Guidelines

for Almond (TG/56/3), for Rye (TG/58/3), for Beetroot (TG/60/3), for Cucumber and Gherkin (TG/61/3) and for Rhubarb (TG/62/3) and provisionally adopted Test Guidelines for Lily (TG/59/3), thus bringing the total number of Test Guidelines adopted to 59. Finally, the Committee also considered various questions relating to the establishment of Test Guidelines, to cooperation in examination and to the grouping of vegetable species for the purpose of variety denominations.

The Technical Working Parties met as follows: the Technical Working Party for Agricultural Crops held its seventh session in Zurich (Switzerland), from May 23 to 25, 1978, under the chairmanship of Mr. A.F. Kelly (United Kingdom); the Technical Working Party for Forest Trees held its sixth session in Ghent (Belgium), from September 19 to 21, 1978, under the chairmanship of Mr. M. Bischoff (Federal Republic of Germany); the Technical Working Party for Fruit Crops held its ninth session in Florence (Italy), from September 5 to 7, 1978, under the chairmanship of Mr. J. Brossier (France); the Technical Working Party for Ornamental Plants held its eleventh session in Paris, from June 20 to 22, 1978, under the chairmanship of Mr. F. Schneider (Netherlands); the Technical Working Party for Vegetables held its eleventh session in Hanover (Federal Republic of Germany), from June 6 to 8, 1978, under the chairmanship of Mr. T. Webster (United Kingdom). Besides the routine--but important--work on the establishment of new Test Guidelines and the increasingly time-consuming revision of the existing Test Guidelines, the Technical Working Parties also dealt with the following matters: reference collections; the possibility of establishing a growth stage code for grasses; the meaning of "common knowledge"; disease tests.

Relations with Other Organizations

As far as meetings of intergovernmental organizations are concerned, UPOV was represented by its Vice Secretary-General and by Dr. D. Böringer (Federal Republic of Germany) at the first Subregional Andean Seed Symposium, held in Lima (Peru) from October 30 to November 3, 1978.

As far as meetings of international non-governmental organizations are concerned, UPOV was represented by its Vice Secretary-General

(i) in the Committee on Novelty Protection of the International Association of Horticultural Producers (AIPH), which met in Zurich (Switzerland) on March 20, 1978, and in Tours (France) on September 5, 1978;

(ii) in the Committee on Plant Variety Protection and in the Executive Committee of the International Association for the Protection of Industrial Property (AIPPI), at the AIPPI Congress held in Munich (Federal Republic of Germany) from May 18 to 20, 1978;

(iii) in the Congress of the International Federation of the Seed Trade (FIS) held in Hamburg (Federal Republic of Germany) from May 29 to 31, 1978, and in the General Assembly of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) held also in Hamburg on May 30 and 31, 1978, meetings which included a visit to the testing center of the Bundessortenamt (Federal Plant Varieties Office) situated in Scharnhorst near Hanover;

(iv) in the ASSINSEL symposium for grass and cereal breeders organized by the Danish members of ASSINSEL at Klarskovgaard (Denmark) from June 1 to 4, 1978; this was an occasion for the said breeders and for representatives of the national authorities of some UPOV member States to meet and discuss matters of common interest, in particular questions relating to the examination of new varieties of plants.

Publications

The Office of the Union published four further issues of the UPOV Newsletter, in February, May, October and December. It published leaflets containing general information on UPOV in English, French, German and Spanish and a loose-leaf supplement to update the General Information Brochure in French and German.

Development of Plant Variety Protection Throughout the World in 1978

Following established practice, the representatives of States at the twelfth ordinary session of the Council (December 6 to 8, 1978) reported briefly on the development of plant variety protection in their countries.

Much of the information given by the representatives has already been published in recent issues of the UPOV Newsletter and is not repeated here.

A number of representatives announced that their Governments had been approached to sign the Convention as revised on October 23, 1978. In some States, the procedure had been initiated for the revision of national legislation or draft legislation in the light of that Convention.

Several States were said to be studying the extension of protection to further species. These States were: Belgium (Potato, Meadow Grass, Fescue, Broad Bean, Field Bean, Linseed, Red Clover, Lettuce, Black Salsify, certain Cabbages and Tomato), Denmark (Kalanchoë and Epiphyllum), the Netherlands (Fennel, Liatris, Kalanchoë, Bougainvillea and interspecific hybrids of Ribes), New Zealand (Wheat, Oats, Camellia and Orchids, and also, at a later date, Brassicas, Beans and Swedes), Switzerland (Kohlrabi, Fennel, Cocksfoot, Meadow Fescue, Oats, Barley, Potato, Strawberry, Raspberry, Vine, Hortensia, Kalanchoë, Zonal Pelargonium, Rose and Pansy). The importance of cooperation in examination was stressed, particularly since it facilitated a more rapid and less costly extension of protection to further species.

Belgium and Switzerland were reported to be studying the possibility of establishing facilities for the examination of varieties of certain species for distinctness, homogeneity and stability.

From France, where the 2000th application for protection had been filed recently, it was reported that the examination of varieties was stricter for the granting of protection than for inclusion in the national catalogue. For example, findings from electrophoretic or chromatographic analysis might not always be sufficient for the granting of protection. Discussions were under way to extend the period of protection for certain varieties and especially for lines, for example inbred lines of maize, the intention being to amend the legislation to allow a period of 30 years for those lines.

The representative of Austria had unfortunately been prevented from attending the Diplomatic Conference, but affirmed that it continued to be very interested in UPOV. Work was proceeding on the drafting of legislation which would conform to the Convention; the same applied in the case of Canada, Ireland and Poland. In the United States of America, the procedure for the adaptation of legislation to the revised Convention had already been initiated.

From the Soviet Union, which was represented for the first time in the Council, it was reported that special testing systems had been set up under the Ministry of Agriculture of that country for the different crops. A special State Committee was dealing with 227 different species. About 1500 different places had been selected for the carrying out of tests. About 5200 agronomists of different disciplines were dealing with those trials. Tests of the varieties would include tests on productivity, on quality, on resistance to pests and diseases, and on yielding capacity including response to different levels of fertilizers. A description of a variety would also include morphological characteristics and all other characteristics which would help to identify the variety. Separate catalogues of varieties recommended for each region were published. It was possible to apply for inventors' certificates for new varieties. If an inventor's certificate was granted, the inventor would receive, in addition to the recognition of his authorship, remuneration for his work (up to 20,000 roubles) as well as other benefits.*

* See A.A. Komissarov, "Some Aspects of Legal Protection of Plant Varieties in the Soviet Union," UPOV Newsletter No. 6 of August 1976, page 9; A.D. Kitava, "Procedure for Obtaining Legal Protection for Varieties of Agricultural Crops in the Soviet Union," *ibid.*, page 15.

Session of an Ad Hoc Committee on the Revision of the Convention, September 1978

Twelfth Session of the Technical Committee, November 1978

Second Session of the Administrative and Legal Committee, November 1978

Eighteenth Session of the Consultative Committee, December 1978

Twelfth Ordinary Session of the Council, December 1978

See "The International Union for the Protection of New Varieties of Plants," starting on page 2 of this issue.

International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, and on October 23, 1978: Signature by Sweden

On December 6, 1978, Sweden signed the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978. The number of signatory States has now reached 11 (Belgium, Denmark, France, Germany (Federal Republic of), Italy, Netherlands, South Africa, Sweden, Switzerland, United Kingdom, United States of America).

Note on the Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants, October 9 to 23, 1978

Historical Background

December 2, 1961, marks the inception of the International Convention for the Protection of New Varieties of Plants. The Convention entered into force on August 10, 1968, and was amended for the first time, with respect to its administrative provisions only, on November 10, 1972. At present it is binding, in its original version or as amended by the Additional Act, on the following ten States, which together form the International Union for the Protection of New Varieties of Plants (UPOV): Belgium, Denmark, France, Germany (Federal Republic of), Italy, Netherlands, South Africa, Sweden, Switzerland, United Kingdom.

As its preamble indicates, the Convention is an instrument whose purpose is to propagate the idea of the protection of the rights of the creators of new varieties, and to ensure that such protection is established according to uniform and clearly defined principles. It therefore constitutes a sort of skeleton law, sufficiently flexible to allow each State to introduce legislation in conformity with its Constitution and yet sufficiently rigid to bring about a high degree of uniformity of national legislation on the subject.

However, experience has shown in recent years that certain States, although very interested in acceding to UPOV, are encountering difficulty in conforming to

certain of the principles set forth in the 1961 Convention. One such case is the United States of America, which has had a Plant Patent Act since 1930, incorporated in the Patent Act and applicable to asexually reproduced plants, and since 1970 a Plant Variety Protection Law applicable to sexually reproduced plants. Clearly such a system can hardly be subjected to fundamental revision, especially since the proportion of plant patents to the total number of patents is broadly speaking about 0.2 percent.

UPOV therefore decided to make such States' accession to the Union easier by agreeing on a more flexible interpretation of the Convention, and if necessary revising some of its provisions. To this objective were added those of modernizing the operation of the Union and of improving the wording of the Convention in the light of experience gained. The task of preparing the Diplomatic Conference on the revision was entrusted to the Office of the Union and to a Committee of Experts for the Interpretation and Revision of the Convention, which met six times between February 1975 and September 1977. Generally on the basis of precise studies and suggestions made by the Office of the Union, the Committee established drafts of the basic documents for the Conference and, in particular, a Draft Revised Convention, which was adopted for distribution by the Council at its eleventh ordinary session in December 1977. Finally, an Ad Hoc Committee on the Revision

of the Convention met in September 1978 to consider the progress of the preparatory work and take last-minute decisions to ensure the satisfactory running of the Conference.

The Diplomatic Conference was held from October 9 to 23, 1978. Details on the proceedings thereof, as well as the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978, and the two Recommendations adopted by the Diplomatic Conference, were published in issue No. 15 of the *JPOV Newsletter*.

Summary of the Main Amendments to the Convention

General

There is no need to revert to the 1961 Paris Convention or to the 1972 Additional Act of Geneva,¹ which have been the subject of a number of articles explaining their provisions.² The instrument adopted by the Conference on October 23, 1978, was entitled "International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978." This instrument will be referred to below as "the Geneva Act," and the original version of the Convention as "the Paris Act."

From the point of view of form, the Geneva Act embodies two innovations: it is established in three languages (English, French and German), the French text prevailing in the case of any discrepancy between the three, whereas the Paris Act and the Additional Act were established in French only; and it has official titles for each article and a table of contents, which the Paris Act does not.

Substantive Provisions

Article 1. The word "breeder" is defined in paragraph (1) as being the breeder of a new plant variety or his successor in title. This definition obviates references to the successor in title in the remainder of the text.

Article 2. Paragraph (1), which provides that the right of the breeder may be recognized by the grant either of a special title of protection or of a patent, and

that both forms of protection may not coexist for one and the same botanical genus or species, has not undergone any change. There is a derogation from it, however, which appears in Article 37(1), which provides that any State which has introduced protection in the forms mentioned above for one and the same genus or species prior to October 31, 1979 (date of expiration of the period during which the Geneva Act is open for signature), may retain that system of protection subject to notification of the fact. This enables the United States of America to retain the system outlined earlier. When Japan adopted the revised Law on Seeds and Plants,³ it was not able formally to exclude plant varieties from the benefits of the Patent Law, even though the application of the Patent Law to varieties seems to be presenting a number of awkward problems. Thus Japan's accession to the Union should also be facilitated by the derogation.

In the Paris Act, paragraph (2) gives certain indications as to the meaning of the "variety" concept. The concept is a very complex one, and it had taken no less than three years by the time of the Paris Conference to specify what it covered.⁴ Now, the progress made in genetics and plant improvement, on the one hand, and in legislation on seeds, seedlings and the protection of new plant varieties, on the other, have had the effect of demarcating the variety concept very precisely. In the course of the preparatory work on the Geneva Conference, paragraph (2) gave rise to impassioned discussions on a number of points, and no proposed new version won unanimous acceptance. The Conference found it preferable to remove the provision: it considered that by doing so it facilitated the adaptation of the meaning of the word "variety" to scientific and technological progress, especially in the area of plant improvement, and thereby also the adaptation of the system of protection of new plant varieties as a whole.

At the same time a new provision was inserted in Article 2, specifying that each State of the Union might apply the Convention to part of a genus or species according to the manner of reproduction or multiplication or the ultimate use of the varieties. All this does is ratify a well-established custom within the Union. For instance, with respect to fruit species (apple, pear, cherry, plum, etc.), many States of the Union protect only fruit-bearing species and rootstocks, and not ornamental varieties. The provision concerned also expressly allows the exclusion of certain types of varieties from protection, for instance hybrid varieties as in the United States of America or

¹See UPOV publication No. 273.

²See, in particular, B. Laclavière, "The Convention of Paris of December 2, 1961, for the Protection of New Varieties of Plants and the International Union for the Protection of New Varieties of Plants," *Industrial Property*, 1965, p. 224; L.J. Smith, "International Convention for the Protection of New Varieties of Plants and Some Comments on Plant Breeders' Rights Legislation in the United Kingdom," *ibid.*, 1965, p. 275; B. Laclavière, "A New Intellectual Property Union is Born: The International Union for the Protection of New Plant Varieties," *ibid.*, 1969, p. 162; L.J. Smith, "Diplomatic Conference for the Amendment of the International Convention for the Protection of New Varieties of Plants: Report," *ibid.*, 1972, p. 348.

³At the time of drafting this Note, this Law was expected to be put into effect in December 1978: it is for this reason that the date of expiration of the period during which the Geneva Act is open for signature was preferred to the date of opening for signature, originally adopted for the purposes of this derogation.

⁴B. Laclavière, *Industrial Property*, 1965, p. 226.

synthetic varieties, which are not yet protected as such in the States of the Union.

Article 3. This Article has undergone no change apart from the transfer to it of the provision on reciprocity, which is in Article 4(4) in the Paris Act.

Article 4. In the Paris Act, paragraph (3) provides that the Convention has, at least, to be applied within the prescribed periods to cultivated species listed in an Annex. The Annex has been removed as the list of species, which was drawn up at the time of the Paris Conference in relation to the prevailing situation in the States participating in the Conference, does not have universal validity and could be an obstacle to certain States' accession to the Union, particularly those located outside the temperate zone. On the other hand, the principle of a progressive minimum application has been retained and, in view of the fact that the removal of the Annex results in freedom in the choice of categories of plants for protection, the number of those categories was increased from 13 to a total of 24, the prescribed periods remaining the same.

The increase was nevertheless accompanied by a number of precautions. For want of a better expression, the Conference adopted "genus or species," which is not very precise but respects botanical complexities and can be translated into the various languages. What the experts intended was that each State should protect at least a certain number of categories of cultivated plants which are often well defined by a common name (for instance wheat, sugar cane, cauliflower, rose) and which, from the point of view of botanical classification, may constitute a genus, species, subspecies, etc. In accordance with a recommendation adopted by the Conference, these genera or species should be "important." Moreover, subparagraph (c) of paragraph (3) specifies that the part of a genus or species defined according to Article 2(2) counts as a genus or species. Finally, paragraphs (4) and (5) allow the Council to grant derogations to certain States and under certain circumstances.

Paragraph (4) of the Paris Act provides for the possibility of applying the reciprocity rule in the case of genera and species not listed in the Annex to that Act. Owing to the removal of the Annex, the possibility was extended to all genera and species and, as there was no longer any link with Article 4, the provision was transferred to Article 3. It was also simplified: it is no longer specified that a State may extend the benefit of the protection of a genus or species to nationals of States of the Union that do not protect that genus or species, and to nationals of States of the Paris Union for the Protection of Industrial Property, or that it may apply Articles 2 and 3 of the Paris Convention for the Protection of Industrial Property. These possibilities are obvious as the UPOV

Convention does no more than lay down minimum obligations in the area concerned.

It is perhaps not inappropriate to point out that the reciprocity rule concerns only the grant of the benefits of protection to certain persons. If they are granted those benefits, they are entitled to the same treatment as nationals, in accordance with the provisions of Article 3(1) and (2).

Article 5. This Article was not amended with respect to substance, although a number of amendments were proposed with a view to the extension of the minimum protection provided for in paragraph (1). The Conference was fully aware of the problems that arise when only minimum protection is granted at the national level, for instance, to mention only two, in the case of asexually reproduced plants in general and fruit trees in particular, and in the case of the production and sale of seedlings of sexually reproduced annual species. It was unable to decide on the amendment of Article 5(1) owing to the risk that ratification, acceptance or approval of the Geneva Act, or accession to it, might be prevented or delayed, and also owing to the difficulty of amending a text which, with remarkable conciseness, does justice to the diversity of the subject matter to which the protection applies. It therefore confined itself to adopting a Recommendation on Article 5, inviting member States to take adequate measures in accordance with paragraph (4) where desirable in order to safeguard the legitimate interests of breeders.

The Conference nevertheless adopted an amendment of a purely formal nature in the first sentence of paragraph (1) in order to avoid errors of interpretation and to state unequivocally that each of the following acts, and any combination thereof, carried out with reproductive or vegetative propagating material as such, requires the prior authorization of the breeder: production for purposes of commercial marketing; offering for sale; and marketing.

Article 6. Article 6(1) lists the conditions that have to be met by a variety for its breeder to enjoy protection. They are the following: the variety has to have distinctive characteristics (subparagraph (a)); be "new," in other words not have been offered for sale or marketed under certain conditions (subparagraph (b)); be homogeneous (subparagraph (c)); be stable (subparagraph (d)); and be given a denomination (subparagraph (e)).

From a drafting point of view, it should be noted that subparagraph (a) has been simplified, as it no longer specifies that the characteristics of a variety have to be "morphological or physiological." This has become self-evident.

Subparagraph (b) was completely reworded, on the one hand, and amended with respect to substance, on the other. In the Paris Act it lists the facts that do not

prejudice the grant of the title of protection and then sets forth the conditions of novelty that the variety has to meet in order to be protected. The order is reversed in the Geneva Act, apart from which the conditions are numbered in such a way that there can be no doubting the fact that they are cumulative.

The conditions are the following: at the time of the filing of the application for protection, the variety must not have been offered for sale or marketed with the agreement of the breeder (actually the applicant or his predecessor in title) or, if the legislation of that State so provides, for longer than a year; also, it must not have been offered for sale or marketed in any other State for longer than six years in the case of vines and trees, including their rootstocks, or for longer than four years in the case of other plants. The innovations are, on the one hand, the introduction of the possibility of giving breeders a period of one year for acts of marketing in the State of application—which is already customarily called the “period of grace”—and, on the other hand, the extension from four to six years of the period during which the variety may have been the subject of acts of marketing abroad, in the case of vines and trees. The first of these allows countries like the United States of America to retain the period of grace, which is a well-established tradition there, especially in the patent field; it also allows other countries to introduce such a period if they see fit. It should be noted that this period may be provided for in respect of all the species protected or only some of them. The second substantive innovation is intended to allow for the sometimes long periods that are necessary for the multiplication of the trees and vines from the original sample of the variety.

The interpretation of the various terms, particularly the expression “offering for sale or marketing,” in relation to “the variety,” is left to the discretion of each State, which will establish it according to its domestic legislation. Under the present circumstances it would seem that differences of opinion could only arise in borderline cases—for instance the sale of products of the plants of the variety—and even then the courts would have to accumulate a case law on the subject.

With regard to the facts that do not prejudice the grant of the title of protection, it was considered advisable, because of its importance, to state a principle applicable to a specific case, namely trials of the variety, along with the general principle according to which the fact of the variety being common knowledge does not prejudice protection except where it is the result of the offering for sale or marketing of the variety.

There is a fundamental difference in the novelty concept between the protection of industrial inventions and the protection of new plant varieties under the Convention, arising out of the actual nature of the subject matter protected: the fact of an invention

being common knowledge may be sufficient for it to be produced by third parties, whereas this is not true of a variety for which reproductive or propagation material is necessary. Such material may only be lawfully obtained if it is offered for sale and marketed (either as such or, in certain cases, in the form of a product of the variety).

This does not alter the fact that certain States that already protect varieties according to their patent legislation, in particular the United States of America, apply the novelty criteria of that legislation to varieties. In order to allow for the difficulties encountered by such States in the amendment of their patent legislation, the derogation appearing in *Article 37(2)* was adopted, which allows States having provided for the protection of varieties in the form of patents and special titles of protection prior to October 31, 1979, to the exclusion of any other State, to apply the patentability criteria—and the term of protection—of their patent legislation also to such varieties as are protected according to that legislation.

Finally, *Article 35* of the Paris Act provides for the possibility for a State to limit the requirement of novelty with regard to varieties of recent creation existing at the date of entry into force of the Convention in respect of that State. This Article has become *Article 38* of the Geneva Act, and it extends the possibility to varieties of a species existing at the date on which the Convention is applied, whether before or after its entry into force, for the first time to that species.

Article 7. This Article underwent no change of substance. In the present member States protection is granted only if there has previously been a growing test of the variety, carried out by an official body. The Conference did, however, note the interpretation given to this Article by the UPOV Council in the course of the preparatory work, according to which a growing test carried out by the applicant (or under his responsibility) is regarded as being in conformity with the provisions of *Article 7* if it is carried out in accordance with guidelines established by the official services and continued until a decision is taken on the application, provided that the applicant deposits in a designated place, at the time of filing the application, a sample of the reproductive or vegetative propagating material of the variety, and allows access to the growing tests to persons duly authorized by the official services.

Article 8. This Article has been simplified and is subject to a derogation appearing in *Article 37(2)*, which has already been mentioned in connection with *Article 6*.

Articles 9, 10 and 11. These Articles have not been amended in substance. However, as in the case of

other provisions, drafting amendments have been made in order to ensure perfect matching of the three texts.

Article 12. Under paragraph (3), the breeder is allowed a period of four years after the expiration of the period of priority in which to furnish additional documents and material to the State with which he has filed an application for protection with a claim of priority. In order to enable the State in question to ensure that priority has not been wrongfully claimed, paragraph (3) has been completed with a provision allowing that State to demand the documents and material mentioned within an adequate period if the application whose priority is claimed is rejected or withdrawn.

Article 13. This Article, which has to do with variety denominations, has forever been the cause of animated discussion, and the Diplomatic Conference did not escape this. Its origins are due to various factors, some of which are now of secondary or even negligible importance. Moreover, it had been felt that the Article should be used as the basis for a common approach for all member States to the problems associated with the designation of varieties. As it happens, the harmonization of legislation was not achieved to the extent anticipated, particularly with respect to the relationship between variety denominations and trademarks. Finally, certain States wishing to accede to the Union were having some difficulty with the text of Article 13 in its Paris Act form. These circumstances led the Diplomatic Conference to reconsider Article 13 in its entirety.

In the Paris Act, a large part of the provisions of Article 13 propose to avert or resolve the conflicts between variety denominations, which should be available to anyone in relation to the variety, and trademarks, the use of which is an exclusive right. Other rights may also come into conflict with the variety denomination, however. The Diplomatic Conference took this fact into account when it specified, already in paragraph (1), that, on the one hand, the denomination was destined to be the generic designation of the variety and that, on the other hand, each State had to ensure that no rights in the designation registered as the denomination of the variety should hamper its free use in connection with the variety, even after the expiration of protection. It is therefore up to each State to determine, in absolute terms, what rights are liable to hamper the free use of the denomination—on the understanding that the trademark is one such right—under what circumstances those rights are liable to hamper, or actually do hamper, the free use of the denomination and, finally, what measures should be taken to ensure the free use of the denomination. In the Geneva Act, therefore, paragraph (1) contains provisions corresponding to those appearing in paragraphs (1), (3)

and (8)(b) of the Paris Act. Paragraph (10) of the Paris Act has become paragraph (4) after adaptation to the new provisions of paragraph (1). Finally, paragraph (8) has been amended as follows: in addition to the trademark, it refers also to trade names or other “similar” indications; it provides that the association of such indications with the variety denomination is permitted when the variety is offered for sale or marketed—which rules out such association in a register of varieties, for instance; finally, it specifies that the denomination has to remain easily recognizable after such an association. In this connection it should be noted that *Article 36* (Transitional Rules Concerning the Relationship Between Variety Denominations and Trademarks) has been deleted in view of the amendment of Article 13.

As far as the other provisions of Article 13 are concerned, the following amendments should be mentioned: in paragraph (2), the prohibition on purely numerical denominations has been removed under certain circumstances and each State may accept such denominations where their use constitutes an established practice for the designation of varieties, on the understanding that it is for the State concerned to specify the conditions determining an established practice, and that the acceptance of numerical denominations by one member State does not imply any obligation on other member States; the procedure provided for in paragraph (6) of the Paris Act for the exchange of information on variety denominations, which involved the agency of the Office of UPOV, has been eliminated, although the obligation to ensure the communication to other plant variety protection services remains; finally, the obligation to use the variety denomination when reproductive or vegetative propagation material of the variety is offered for sale or marketed has been expressly confined to the State of the Union in which that variety is or has been protected.

Administrative Provisions

Owing to the fact that the establishment of administrative and technical cooperation was planned between UPOV and the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI)—to which WIPO succeeded—the Paris Conference was intent on aligning the administrative provisions of the UPOV Convention with those that, at the time, governed BIRPI. In particular, the Swiss Government was entrusted with the functions of High Supervisory Authority.

In view of the fact that this function of the Swiss Government no longer exists following the substitution of WIPO for BIRPI, the Diplomatic Conference decided, in agreement with the Swiss Government, to eliminate the function of High Supervisory Authority, and placed UPOV under the *collective supervision* of

its member States. The reference to the Swiss Government as Supervisory Authority was therefore removed from Articles 15, 20, 21, 23, 24 (of the Paris Act; 25 of the Geneva Act) and 25 (of the Paris Act; deleted in the Geneva Act). The UPOV Council will thus take over the responsibilities that were assigned to the Swiss Government by the Paris Act, although the auditing of the accounts will nevertheless be carried out by a State of the Union designated by the Council.

With regard to Article 25 of the Paris Act, which provides that the procedures for cooperation between UPOV and BIRPI (or its successor WIPO) are governed by rules established by the Swiss Government, it was decided that it should be deleted and replaced by an article (Article 24) expressly according UPOV *legal personality within the meaning of public international law*, and also the *legal capacity* necessary for the attainment of its objectives and the exercise of its functions on the territory of each member State of the Union. The new Article 24 provides also for the conclusion of a *headquarters agreement* with the Swiss Confederation.

Finally, this amendment brought about an amendment with regard to staff matters: the Secretary-General, and the Vice Secretary-General, if a post of Vice Secretary-General is considered necessary, are appointed by the Council (Article 21(b)).

An interesting innovation has been incorporated in Article 26, concerning the *finances* of the Union. It will be recalled that the Paris Act and the Additional Act provide for a system of classes, which is also found in many other treaties, in which each State of the Union has to choose a place. The main drawback of such a system is its rigidity, and experience has shown this within UPOV, where a certain number of States have had to use additional units or half-units, paid on a voluntary basis, in order to achieve a level of contributions corresponding best to their possibilities. This system of classes has been removed, and each State now contributes to the budget of the Union on the basis of a number of units chosen by itself. Only a lower limit has been set, namely one-fifth of one unit.

The last noteworthy amendment to the administrative provisions concerns the *revision* of the Convention. Paragraph (4) of Article 26 of the Paris Act has been deleted, as it is imprecise in a number of respects and also unusual in international conventions, as the conditions for the entry into force of texts are generally fixed by the conferences that revise them, and their composition and the wishes of the member States can very well vary from one conference to the next.

Treaty-Law Provisions

It should be mentioned at the outset that these provisions are independent of their counterparts in the Paris Act and the Additional Act.

In accordance with the main purpose of the Diplomatic Conference, the drafting of these provisions has been placed in the context of opening up the Convention to other States. Consequently, the possibility of expressing consent to be bound by the Geneva Act by *signature followed by ratification, acceptance or approval* has been made available to any State of the Union—which is the rule—and also to any other State that was represented at the Diplomatic Conference (Articles 31 and 32). This possibility is the result of the grant of special status, extending beyond the traditional status of observer, for the purposes of the Diplomatic Conference.

Moreover, States that are not party to the Paris Act may contribute to the *entry into force* of the Geneva Act, as the conditions for entry into force are the following: the number of instruments of ratification, acceptance or approval deposited has to be at least five, and at least three of those instruments have to be deposited by States party to the Paris Act. After the entry into force of the Geneva Act, there is no further possibility of acceding to the Paris Act as amended by the Additional Act.

While they may be bound by different texts, the States party to the Convention all belong to one and the same Convention system, which justifies the maintenance of a single Union, with a single Council and a single Office. The *relations between States bound by different texts*, from the point of view of substantive law, are set forth in Article 34. States party both to the Paris Act and to the Geneva Act (the Additional Act may be disregarded, as it has no substantive implications) continue to apply only the Paris Act in their relations with States party to that Act only (paragraph (1)). As for the relations between a State party to the Geneva Act only and one party to the Paris Act only, paragraph (2) provides for the following system: the State party to the Paris Act only may declare, in a notification addressed to the Secretary-General, that it will apply the Paris Act (as amended by the Additional Act) in its relations with any State bound by the Geneva Act only. On expiration of a period of one month following the date of the notification, each State applies, in its relations with the other, the Act to which it is party until such time as the State party to the Paris Act is bound also by the Geneva Act.

Article 35 (Article 33 of the Paris Act) has been broadened in scope: it no longer requires only that member States be informed, via the depositary, of the list of genera and species protected, but also the *publication of the information* supplied by the member State concerned on all the provisions of its legislation in respect of which the Convention gives it a choice.

Unlike the Paris Act, the Geneva Act does not contain any provision on the *settlement of disputes*, in view of the unlikelihood of a dispute requiring settlement by an arbitration tribunal, and the difficulty of

establishing an arbitral procedure satisfactory to all member States.

Finally, with regard to Article 42 (*Languages; Depositary Functions*), it has already been mentioned that the Geneva Act has been established in English, French and German, the French text prevailing in the case of any discrepancy between the three. Official texts will be established in Arabic, Dutch, Italian, Japanese and Spanish, and in other languages on a decision by the Council, whereas the Paris Act (established in French only) provided for the establishment of official translations only in Dutch, English, German, Italian and Spanish. Depositary functions are exercised by the Secretary-General of the Union, according to a practice that is becoming more and more widespread, whereas the Paris Act and the **Additional Act** provide for a system involving the agency of the French and Swiss Governments.

Conclusion

The adoption of the Geneva Act is a milestone in the history of UPOV and the protection of new plant varieties in general. Its signature by the present member States and the United States of America in itself affords interesting future prospects and promises a leap forward in the protection of new plant varieties. Moreover, the representatives of other States, including Canada, Ireland, Japan, New Zealand and Spain, announced at the Diplomatic Conference or at the twelfth ordinary session of the Council, held from December 6 to 8, 1978, that recommendations would be made to their Governments with a view to the signature of the Geneva Act.

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Cooperation Agreement with the Junta of the Cartagena Agreement

Following the participation of Dr. H. Mast, Vice Secretary-General of UPOV, and of Dr. D. Böringer (Federal Republic of Germany) in the first Subregional Andean Seed Symposium held in Lima (Peru) from October 30 to November 3, 1978, the Junta of the Cartagena Agreement and UPOV concluded, by means of an exchange of letters, an agreement on cooperation in the field of plant varieties. That agreement provides as follows:

1. The Junta of the Cartagena Agreement and UPOV will exchange, as necessary, information and all published documentation, especially on aspects relating to the field of the protection of new varieties of plants.
2. The Junta and UPOV will organize meetings necessary for achieving progress in the area mentioned under the preceding paragraph which each organization will invite the other organization to attend, if it so desires, informing it sufficiently in advance of the places and dates of the different meetings.
3. The Junta and UPOV will extend to each other the necessary cooperation for the performance of their functions in the fields mentioned in the first paragraph, including the furnishing of any information regarding the preparation of legislation in that area.
4. Where necessary for the promotion of projects in the fields mentioned, the Junta and UPOV will organize the convocation of seminars and such visits of experts as may be desired to institutions in each of the member States of the respective organizations.

The Cartagena Agreement was concluded in May 1969 within the framework of the Montevideo Treaty by virtue of which the Latin American Free Trade Association was created. Five States--Bolivia, Colombia, Ecuador, Peru and Venezuela--are presently party to the Cartagena Agreement. Its aim is to promote a well-balanced and harmonious development of their economies, an equitable distribution of the benefits thereof and a reduction of the differences presently existing between them. In particular, the Agreement provides for the adoption of a common trade policy towards third countries, for the harmonization of industrial promotion laws and for the establishment of standard legislation on foreign investment, trademarks, patents, licenses, royalties and other modes of technology transfer.

INFORMATION FROM MEMBER STATES

Belgium: Amendment of the Royal Decree of July 22, 1977, on the Protection of New Plant Varieties

By virtue of the Royal Decree of October 18, 1978 (Moniteur belge of October 28, 1978), Amending the Royal Decree of July 22, 1977 (Moniteur belge of October 13, 1977) on the Protection of New Plant Varieties, the Service de la protection des obtentions végétales (Service for the Protection of New Plant Varieties) is now authorized to decide not to carry out an examination of the variety where Belgian or foreign documentation in the possession of the Service shows that an examination has already been made and where it appears to the Service that the information contained in such documents is adequate to enable a decision to be taken.

According to the original version of Article 21(2) of the Royal Decree of July 22, 1977, the Service had to hear the Conseil du droit d'obtention végétale (Council for Plant Variety Rights) before taking such a decision.

Belgium and France: Agreement on Cooperation in Examination

An Administrative Agreement providing for cooperation in the examination of plant varieties of certain species for distinctness, homogeneity and stability has been concluded between the Service de la protection des obtentions végétales (Service for the Protection of New Plant Varieties) of Belgium, on the one hand, and the Comité de la protection des obtentions végétales (Committee for the Protection of New Plant Varieties) and the Groupe d'étude et de contrôle des variétés et des semences (Group for the Study and Control of Varieties and Seeds) of France, on the other hand. It entered into force on October 23, 1977. The species covered by this Agreement are listed on page 14 below.

Federal Republic of Germany and Sweden: Agreement on Cooperation in Examination

An Administrative Agreement providing for cooperation in the examination of plant varieties of certain species for distinctness, homogeneity and stability has been concluded between the Bundessortenamt (Federal Plant Varieties Office) of the Federal Republic of Germany and the Statens Växtnämnd (National Plant Variety Board) of Sweden. It entered into force on October 1, 1978. The species covered by this Agreement are listed on page 15 below.

South Africa: Extension of Protection

By virtue of the Declarations of Plants as Kinds of Plants under the Plant Breeders' Rights Act, 1976, of January 20, 1978, and August 4, 1978, protection was extended to the following:

<u>Latin</u>	<u>English</u>	<u>French</u>	<u>German</u>
Brassica oleracea var. botrytis	Cauliflower	Chou-fleur	Blumenkohl
Brassica rapa L.	Turnip	Navet	Herbstrübe, Mairübe
Hibiscus canna- binus L.	Kenaf	Kenaf, Chanvre de Guinée	Ambari, Dekkan-Hanf
Humulus lupulus	Hops	Houblon	Hopfen
Trifolium sub- terraneum L.	Subterranean Clover	Trèfle sou- terrain	Bodenfrüchtiger Klee

Administrative Agreement on Cooperation in Examination between Belgium and France

1. Species whose varieties will be examined by France/Espèces dont les variétés seront examinées par la France/Arten, deren Sorten durch Frankreich geprüft werden

<u>Latin Name</u>	<u>English</u>	<u>French</u>	<u>German</u>
Cichorium endivia L.	Endive	Chicorée frisée, Scarole	Winterendivie
Cucumis sativus L.	Cucumber, Gherkin (outdoor varieties only)	Concombre, Cornichon (variétés de pleine terre seulement)	Gurke (nur Freilandsorten)
Cydonia Mill.	Quince (including rootstocks)	Cognassier (y compris les porte-greffes)	Quitte (einschl. Unterlagen)
Hordeum vulgare L.	Barley	Orge	Gerste
Lactuca sativa L.	Lettuce (outdoor varieties only)	Laitue (variétés de pleine terre seulement)	Salat (nur Freilandsorten)
Linum usitatissimum L.	Flax, Linseed	Lin	Lein
Lycopersicon lycopersicum L.	Tomato (outdoor varieties only)	Tomate (variétés de pleine terre seulement)	Tomate (nur Freilandsorten)
Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
Pisum sativum L. (sensu lato)	Pea, Garden Pea, Field Pea	Pois	Erbse, Gemüseerbse, Trockenspeiseerbse, Futtererbse
Prunus L.	Apricot Cherry Myrobalan Plum Peach	Abricotier Cerisier Myrobalan Prunier Pêcher	Aprikose Kirsche Myrobalane Pflaume Pfirsich
Pyrus L.	Pear	Poirier	Birne
Rosa L.	Rose	Rosier	Rose
Triticum aestivum L. ssp. vulgare (Vill., Host) Mac Kay	Wheat, Soft Wheat, Bread Wheat	Blé tendre	Weichweizen
Triticum durum Desf.	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Durumweizen (Hartweizen)

Administrative Agreement on Cooperation in Examination between the Federal Republic
of Germany and Sweden

15. Species whose varieties will be examined by the Federal Republic of Germany/Espèces dont les variétés seront examinées par la République fédérale d'Allemagne/Arten, deren Sorten durch die Bundesrepublik Deutschland geprüft werden

<u>Latin Name</u>	<u>English</u>	<u>French</u>	<u>German</u>
Begonia-Elatior-Hybrids	Elatior Begonia	Bégonia elatior	Elatior-Begonie
Fragaria L.	Strawberry	Fraisier	Erdbeere
Lupinus albus L.	White Lupin	Lupin blanc	Weisslupine
Lupinus angustifolius L.	Blue Lupin	Lupin bleu	Blaue Lupine
Lupinus luteus L.	Yellow Lupin	Lupin jaune	Gelbe Lupine
Pelargonium-Peltatum-Hybrids	Ivy-leaved Pelargonium	Géranium-lierre	Efeupelargonie
Pelargonium-Zonale-Hybrids	Zonal Pelargonium	Géranium, Pélargonium zonale	Zonalpelargonie
Pelargonium-Peltatum x Pelargonium-Zonale-Hybrids	-	-	Halbpeltaten
Ribes nigrum L.	Black Currant	Cassis	Schwarze Jo- hannisbeere
Ribes niveum Lindl.	White Currant	Groseillier blanc	Weisse Johannis- beere
Ribes sylvestre (Lam.) Mert. et W. Koch	Red Currant	Groseillier rouge	Rote Johannis- beere
Ribes uva-crispa L.	Gooseberry	Groseillier à maquereau	Stachelbeere
Rosa L.	Rose	Rosier	Rose
Rubus subg. Eubatus Focke	Blackberry	Ronce	Brombeere
Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Zea mays L.	Maize	Maïs	Mais

16. Species whose varieties will be examined by Sweden/Espèce dont les variétés seront examinées par la Suède/Art, deren Sorten durch Schweden geprüft werden

Allium schoenoprasum L.	Chives	Ciboulette, Civette	Schnittlauch
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Sweden: Modification of Fees

With effect from January 1, 1979, the fees for the examination of new plant varieties for distinctness, homogeneity and stability are as follows:

<u>Crop/Species</u>	<u>Amount (in Swedish Crowns)</u> <u>per Sample and Growing Period</u>	
	New Level	Previous Level
A. Agricultural Crops		
1. Cereals, pulses and grasses, except rye	1750	1450
2. Other species	1150	950
B. Vegetables		
1. Greenhouse cucumber, melon, sweet pepper and tomato	1750	1450
2. Other species grown in glasshouses and species grown in the open	1150	950

INFORMATION FROM NON-MEMBER STATES

Chile: Rules for Research, Production and Marketing of Seeds

Rules for Research, Production and Marketing of Seeds (Fija Normas para la Investigación, Producción y Comercio de Semillas) were promulgated by Decree-Law No. 1764 of April 28, 1977, and were published in the Diario Oficial, No. 2974, of April 30, 1977.

Spain: Entry into Operation of the Plant Variety Protection System

On December 20, 1978, the plant variety protection system of Spain entered into operation following the adoption of Order No. 29194 of November 16, 1978, Establishing Protection for New Varieties of Wheat, Barley, Oats, Rice, Potato, Rose and Carnation, which was published in the Boletín Oficial del Estado of November 25, 1978.

The said Order fixes the periods of protection for the above-mentioned species as follows: 18 years for rose; 15 years for potato; 16 years for the other species.

It also gives details on the forms to be completed, on the quantity and quality of plant material to be submitted for examination, on the deadlines for submitting such material and on the general principles governing the examination.

Application forms and other relevant forms may be obtained from the

Registro de Variedades Protegidas del Instituto
Nacional de Semillas y Plantas de Vivero
Carretera de la Coruña, km 7,5
Madrid - 35

PUBLICATIONS OF THE OFFICE OF THE UNION

Test Guidelines

Guidelines for the Conduct of Tests for Distinctness, Homogeneity and Stability (Test Guidelines) have been published recently by the Office of the Union in a trilingual--English, French and German--edition for the following species:

<u>English</u>	<u>French</u>	<u>German</u>	<u>Document</u>
Almond	Amandier	Mandel	TG/56/3
Rye	Seigle	Roggen	TG/58/3
Beetroot	Betterave rouge	Rote Rübe	TG/60/3
Cucumber, Gherkin	Concombre, Cornichon	Gurken	TG/61/3
Rhubarb	Rhubarbe	Rhabarber	TG/62/3

Copies of Test Guidelines are available from the Office of the Union at the price of 2 Swiss francs each, including surface mail costs.

PUBLICATION OF LEGAL TEXTS

The following legal texts have been published in "Industrial Property/La Propriété industrielle":

Spain:

General Rules on the Protection of Plant Varieties (Approved by Royal Decree No. 1674/1977 of June 10, 1977) (in the November issue)

Federal Republic of Germany:

Law on the Protection of Plant Varieties (Varieties Protection Law) (Consolidated Version of January 4, 1977) (in the December issue).

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in: SAFA, 1978, No. 5, pp. 18-23.

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in: Rivista di diritto industriale, 1978, Vol. 27, No. 3, pp. 263-271.

CALENDAR

1. UPOV Meetings

March 26 to 28 Geneva	Technical Committee
April 24 and 25 Geneva	Administrative and Legal Committee
April 26 and 27 Geneva	Consultative Committee
May 21 to 23 La Minière (France)	Technical Working Party for Agricultural Crops
June 5 to 7 Avignon (France)	Technical Working Party for Vegetables
July 17 to 19 Hanover (Federal Republic of Germany)	Technical Working Party for Ornamental Plants
September 18 and 19 Geneva	Administrative and Legal Committee (if necessary)
September 25 to 27 Wageningen (Netherlands)	Technical Working Party for Forest Trees
October 16 and 19 Geneva	Consultative Committee
October 17 to 19 Geneva	Council
November 12 to 14 Geneva	Technical Committee
November 14 to 16 Geneva	Administrative and Legal Committee

2. Meetings of Non-Governmental Organizations

May 23 London (United Kingdom)	International Community of Breeders of Asexually Reproduced Ornamentals (CIOPORA), General Assembly
May 28 and 29 Interlaken (Switzerland)	International Federation of the Seed Trade (FIS), Interim Congress
May 30 and 31 Interlaken (Switzerland)	International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), Congress
November 4 to 12 Tel Aviv (Israel)	International Association of Horti- cultural Producers (AIPH), Congress

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