



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

---

Cette publication a été numérisée à partir d'une copie papier et peut contenir des différences avec la publication originale.

---

Diese Veröffentlichung wurde von einer Papierkopie gescannt und könnte Abweichungen von der originalen Veröffentlichung aufweisen.

---

Esta publicación ha sido escaneada a partir de una copia en papel y puede que existan divergencias en relación con la publicación original.

# PLANT VARIETY PROTECTION

**Gazette and Newsletter  
of the  
International Union for the Protection of New Varieties of Plants (UPOV)**

No. 47

October 1985

Geneva

## CONTENTS

### GAZETTE

Page

#### Extension of Protection to Further Genera and Species

- Belgium .....	2
- Denmark .....	4
- Israel .....	13

### NEWSLETTER

#### UPOV

Fifteenth Session of the Administrative and Legal Committee, March 1985 .....	13
Thirty-first Session of the Consultative Committee, March 1985 .....	14
UPOV Recommendations on Variety Denominations .....	14

#### Member States

New Zealand: Modification of Fees .....	20
Denmark: Modification of Variety Listing Fees .....	63
United States of America : Modification of Fees Under the Plant Variety Protection Act .....	63

#### Legislation

Belgium: Royal Decree Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species (of May 21, 1985) .....	21
Israel: Law on the Rights of the Breeders of Plant Varieties (Consolidated Text of the Plant Breeders' Rights Law, 5733-1973, as Amended by the Plant Breeders' Rights (Amendment) Law, 5744-1984) .....	31

#### Miscellaneous Information

Colloquium on Plant Genetic Resources .....	63
---	----

#### Cooperation in Examination

<u>Conclusion of Agreements</u>	
- Belgium and Switzerland .....	64

<u>Extension of Agreements</u>	
- Belgium and France .....	64

<u>Calendar</u> .....	66
-----------------------	----

## GAZETTE

## EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

## Belgium

By virtue of the Royal Decree of May 21, 1985, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species (Moniteur belge - Belgisch Staatsblad of July 18, 1985, and of September 24, 1985), protection was extended to the following with effect from July 19, 1985 (the Latin and French common names appear in the Decree, whereas the English and German common names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume
Arrhenatherum elatius (L.) P. Beauv. ex J.S. et K.B. Presl	Tall Oatgrass, False Oatgrass	Fromental	Glatthafer
Berberis L.	Berberis, Barberry	Berberis	Berberitze
Brassica napus L. var. napobrassica (L.) Rchb.	Swede	Chou-navet	Kohlrübe
Capsicum annum L.	Sweet Pepper, Capsicum, Chili	Piment	Paprika
Cynosurus cristatus L.	Crested Dog's-Tail	Crételle	Kammgras
Euphorbia fulgens Karw.	Euphorbia fulgens	Euphorbia fulgens	Korallenranke
Euphorbia-Milii-Hybridi	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Festuca ovina L. sensu lato	Hard Fescue, Sheep's Fescue	Fétuque durette, fétuque ovine	Schafschwingel
Foeniculum vulgare P. Mill.	Fennel	Fenouil	Fenchel
Hippeastrum Herb.	Amaryllis	Amaryllis	Ritterstern, Amaryllis
Hyacinthus orientalis L.	Common Hyacinth	Jacinthe	Hyazinthe
Hydrangea L.	Hydrangea	Hortensia	Hortensie
Impatiens-Neu-Guinea-Hybridi	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea-Impatiens
Juniperus L.	Juniper	Genévrier	Wacholder
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Larix Mill.	Larch	Mélèze	Lärche
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
Medicago lupulina L.	Black Medick, Yellow Trefoil	Luzerne lupuline	Gelbklee (Hopfenklee)

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Pelargonium-Grandi-florum-Hybridi	Show and Fancy Pelargoniums	Pelargonium des fleuristes	Edelpelargonie
Picea A. Dietr.	Spruce	Epicéa	Fichte
Poa annua L.	Annual Meadow-grass	Pâturin annuel	Einjähriges Rispengras
Poa compressa L.	Canada Bluegrass, Flattened Meadow-grass	Pâturin comprimé	Flaches Rispengras
Poa nemoralis L.	Wood Meadow-grass	Pâturin des bois	Hainrispengras
Poa palustris L.	Swamp Meadow-grass	Pâturin des marais	Sumpfrispengras
Pseudotsuga Carr.	Douglas Fir	Sapin de Douglas	Douglasie
Pyracantha M.J. Roem.	Firethorn	Pyracantha	Feuerdorn
Raphanus sativus L. var. niger (Mill.) S. Kerner	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
Raphanus sativus L. var. oleiformis Pers.	Fodder Radish	Radis oléifère	Oelrettich
Sinapis alba L.	White Mustard	Moutarde blanche	Weisser Senf
Thuja L.	Thuya	Thuya	Lebensbaum
Trifolium hybridum L.	Alsike Clover	Trèfle hybride	Schwedenklee
Valerianella locusta (L.) Laterrade	Cornsalad, Lamb's Lettuce	Mâche	Feldsalat
Zygocactus K. Schum., Schlumbergera Lem., Epiphyllopsis Berger, Rhipsalidopsis Britt. et Rose	Cacti with jointed stems belonging to the genera and to their mutual hybrids	Cactus à tiges à articles appartenant aux genres et à leurs hybrides mutuels	Gliederkakteen, die zu den Gattungen und ihren wechselseitigen Hybriden gehören

The availability of protection to foreigners is governed by Article 9 of the Law on the Protection of New Plant Varieties of May 20, 1975, which reads as follows:

"(1) If the variety has been bred outside Belgium, the new plant variety certificate shall be granted when Belgium is bound to do so under the [UPOV] Convention or any other international Convention.

"(2) If the variety has been bred outside Belgium and paragraph (1) is not applicable, the new plant variety certificate shall be granted when the State in which it was bred grants equivalent protection to similar new varieties bred in Belgium.

"(3) If the variety has been bred outside Belgium without there being the obligation referred to in paragraph (1) or the reciprocity referred to in paragraph (2), the Minister [with responsibility for agriculture] may, on the advice of the Service [for the Protection of New Plant Varieties], and after the [Scientific] Council has been heard, specify the conditions for the grant of a new plant variety certificate in respect of a variety bred outside Belgium which he considers to be beneficial to Belgian agriculture, horticulture or forestry. The Minister may impose limitations that are not provided for in the Convention."

Pursuant to Article 49 of the said Law, applications that relate to varieties of recent creation and are to benefit from the transitional limitation of the requirement of novelty laid down in paragraph (2) of that Article must be filed within the year following the extension of protection to the taxon concerned, i.e. before July 19, 1986.

As regards the list of the taxa covered by plant variety protection legislation, the duration of protection and the scope of protection, reference is made to the text of the Royal Decree of May 21, 1985, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species published in the "Legislation" subsection of the "Newsletter" section, starting on page 21.

Concerning the scope of protection, Article 21 of the Law of May 20, 1975, on the Protection of New Plant Varieties provides as follows:

"The owner of a New Plant Variety Certificate shall have the exclusive right to render the production for commercial purposes and the commercialization of reproductive or vegetative propagating material for the respective variety subject to his prior authorization and to conditions specified by him. He may grant licenses.

"Vegetative propagating material shall be deemed to include whole plants.

"The right of the owner shall extend to ornamental plants or parts thereof that are normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers."

The above-mentioned Decree amplifies that provision.

#### Denmark

By virtue of the Order of the Minister of Agriculture No. 313 of June 25, 1985, Concerning the Protection of Plant Breeders' Rights for Plant Novelties of *Dieffenbachia* Schott and *Exacum* spp., protection was extended to the genera mentioned with effect from June 30, 1985.

Pursuant to Article 12(1) of the Law on the Protection of Plant Breeders' Rights (see Plant Variety Protection No. 29, page 14), the duration of protection is 15 years in the case of *Dieffenbachia* and *Exacum*, the varieties of those genera being, as a general rule, vegetatively propagated.

Pursuant to Article 1 of the Order No. 137 of March 26, 1982, Concerning the Possibility for Foreign Breeders to Obtain Protection of Plant Breeders' Rights, etc. (see Plant Variety Protection No. 29, page 19), breeders who are nationals of or have their residence or registered office in a UPOV member State may obtain protection in Denmark for novelties of any botanical genus or species protected in Denmark. In addition, pursuant to Article 3(2) of the Law mentioned above, the Minister of Agriculture may exceptionally provide that it shall be possible to grant protection to a breeder to whom the preceding provision does not apply if, in the particular case, such protection is found to be in the interest of the Danish agricultural economy.

The list of taxa covered by plant variety protection legislation is given hereunder, starting on page 5 (the Danish and Latin names appear in the Order No. 675 of December 20, 1984, and the above-mentioned Order, whereas the English, French and German common names have been added, without guarantee of concordance, by the Office of the Union).

List of Taxa Covered by Plant Variety Protection Legislation in DenmarkListe des taxons couverts par la législation sur la protection des obtentions végétales au DanemarkListe der taxonomischen Einheiten, die in Dänemark der Sortenschutzgesetzgebung unterliegen

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Aeschynanthus	Aeschynanthus Jack.	Aeschynanthus	Aeschynanthus	Aeschynanthus
Hvene	Agrostis spp.	Bentgrass	Agrostis	Straussgras
Allamanda	Allamanda cathartica L.	Allamanda	Allamanda	Allamanda
Skalotteløg	Allium ascalonicum L.	Shallot	Echalote	Schalotte
Kepaløg	Allium cepa L.	Onion	Oignon	Zwiebel
Porre	Allium porrum L.	Leek	Poireau	Porree
Purløg	Allium schoenoprasum L.	Chives, Asatsuki	Ciboulette, Civette	Schnittlauch
Inkalilje (alstroemeria)	Alstroemeria spp.	Alstroemeria, Herb Lily	Alstroèmère, Lis des Incas	Inkalilie
Dild	Anethum graveolens L.	Dill	Aneth	Dill
Kørvel	Anthriscus cerefolium (L.) Hoffm.	Chervil	Cerfeuil	Kerbel
Selleri (knold- og bladselleri)	Apium graveolens L.	Celery, Celeriac	Céleri, Céleri-rave	Sellerie (Knollen- und Blattsellerie)
Peberrod	Armoracia rusticana Ph. Gaertn., B. Mey. et Scherb.	Horse Radish	Raifort sauvage	Meerrettich
Asparges	Asparagus officinalis L.	Asparagus	Asperge	Spargel
Plumosus	Asparagus setaceus (Kunth) Jessop	"Asparagus Fern"	Asparagus	Asparagus, Federspargel
Havre	Avena sativa L., Avena byzantina C. Koch	Oats	Avoine	Hafer
Begonie	Begonia spp.	Begonia	Bégonia	Begonie

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Berberis	Berberis spp.	Berberis, Barberry	Berberis, Epine-vinette	Berberitze
Rødbede	Beta vulgaris L. var. conditiva Alef.	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote kübe
Foderbede	Beta vulgaris L. var. crassa Mansf.	Fodder Beet	Betterave fourragère	Runkelrübe
Bladbede	Beta vulgaris L. var. vulgaris	Mangel, Leaf Beet, Spinach Beet	Bette commune, Poirée	Mangold
Bougainvillea	Bougainvillea spp.	Bougainvillea	Bougainvillier	Bougainvillea
Kalroe	Brassica napus L. var. napobrassica (L.) Rchb.	Swede	Chou-navet, Rutabaga	Kohlrübe
Raps	Brassica napus L.	Swede Rape, incl. Oilseed Rape	Colza	Raps
Knudekal	Brassica oleracea L. convar. acephala (DC.) Alef. var. gongylodes L.	Kohlrabi	Chou-rave	Kohlrabi
Fodermarvkal	Brassica oleracea L. convar. acephala (DC.) Alef. var. medullosa Thell.	Marrow-stem Kale	Chou moellier	Markkohl
Grønkål	Brassica oleracea L. convar. acephala (DC.) Alef. var. sabellica L.	Curly Kale	Chou frisé	Grünkohl
Blomkal	Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis L.	Cauliflower	Chou-fleur	Blumenkohl
Hvidkal	Brassica oleracea L. convar. capitata (L.) Alef. var. alba DC.	White Cabbage	Chou cabus	Weisskohl
Rødkål	Brassica oleracea L. convar. capitata (L.) Alef. var. rubra (L.) Thell.	Red Cabbage	Chou rouge	Rotkohl

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Savoykal	Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda L.	Savoy Cabbage	Chou de Milan	Wirsing
Rosenkal	Brassica oleracea L. convar. oleracea var. gemmifera DC.	Brussels Sprouts	Chou de Bruxelles	Rosenkohl
Rybs	Brassica rapa L. var. silvestris (Lam.) Briggs	Turnip Rape	Navette	Rübsen
Majroe	Brassica rapa L. var. rapa	[Spring] Turnip	Navet [de printemps]	Mairübe
Turnips	Brassica rapa L. var. rapa	[Autumn] Turnip	Navet [d'automne]	Herbstrübe
Kommen	Carum carvi L.	Caraway	Carvi, Cumin des prés	Kümmel
Dvaergcypres	Chamaecyparis spp.	Chamaecyparis	Chamaecyparis	Scheinzypresse
Chrysanthemum	Chrysanthemum spp.	Chrysanthemum	Chrysanthème	Chrysantheme
Endivie	Cichorium endivia L.	Endive	Chicorée frisée, Scarole	Winterendivie
Cikorie	Cichorium intybus L.	Chicory	Chicorée, Endive	Wurzelzichorie, Salatzichorie
Melon	Cucumis melo L.	Melon	Melon	Melone
Agurk	Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Centnergraeskar	Cucurbita maxima Duch.	Pumpkin	Potiron, Giraumon	Riesenkürbis
Mandelgraeskar	Cucurbita pepo L.	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Pâtisson, Citrouille	Gartenkürbis, Olkürbis
Kvaede	Cydonia spp.	Quince	Cognassier	Quitte
Kamgraes	Cynosurus cristatus L.	Crested Dog's-tail	Crételle	Kammgras
Hundegraes	Dactylis glomerata L.	Cocksfoot, Orchard Grass	Dactyle	Knaulgras



<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Dieffenbachia	Dieffenbachia Schott	Dieffenbachia, Tuft Root, Dumb Bane	Dieffenbachia	Dieffenbachia
Gulerod	Daucus carota L.	Carrot	Carotte	Möhre
Nellike	Dianthus caryophyllus L.	Carnation	Oeillet	Nelke
Koralranke	Euphorbia fulgens Karw.	Euphorbia fulgens	Euphorbia fulgens	Korallenranke
Kristi tornekrone	Euphorbia milii et hybridae	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn
Julestjerne (poinsettia)	Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Exacum	Exacum spp.	Exacum	Exacum	Blaues Lieschen
Svingel	Festuca spp.	Fescue	Fétuque	Schwingel
Havejordbaer	Fragaria X ananassa Duch.	Strawberry	Fraisier	Erdbeere
Freesia	Freesia spp.	Freesia	Freesia	Freesie
Fuchsia	Fuchsia spp.	Fuchsia	Fuchsia	Fuchsie
Julerose	Helleborus L.	Christmas Rose	Hellébore, Rose de Noël	Schneerose, Christusrose
Ridderstjerne (amaryllis)	Hippeastrum Herb.	Amaryllis	Amaryllis	Ritterstern, Amaryllis
Byg	Hordeum vulgare L.	Barley	Orge	Gerste
Hyacinth	Hyacinthus orientalis L.	Common Hyacinth	Jacinthe	Hyazinthe
Balsamin	Impatiens spp.	Balsam, Busy Lizzie, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
Ene	Juniperus spp.	Juniper	Genévrier	Wacholder
Kalanchoe	Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Salat	Lactuca sativa L.	Lettuce	Laitue	Salat
Karse	Lepidium sativum L.	Cress	Cresson alénois	Gartenkresse

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Hør	Linum usitatissimum L.	Flax, Linseed	Lin	Lein
Rajgraes	Lolium L.	Ryegrass	Ray-grass	Weidelgras
Hvid lupin	Lupinus albus L.	White Lupin	Lupin blanc	Weisslupine
Smalbladet lupin	Lupinus angustifolius L.	Blue Lupin	Lupin bleu	Blaue Lupine
Gul lupin	Lupinus luteus L.	Yellow Lupin	Lupin jaune	Gelbe Lupine
Tomat	Lycopersicon lycopersicum (L.) Karst. ex Farw.	Tomato	Tomate	Tomate
Aeble*	Malus sylvestris Mill.	Apple	Pommier	Apfel
Katost	Malvaceae	Mallow	Mauve	Malve
Levkøj	Matthiola spec.	Stock	Giroflée	Levkoje
Humlesneglebaelg	Medicago lupulina L.	Black Medick, Yellow Trefoil	Luzerne lupuline, Minette	Gelbklee (Hopfenklee)
Lucerne	Medicago sativa L.	Lucerne, Alfalfa	Luzerne	Luzerne
Sandlucerne	Medicago X varia Martyn	(Hybrid) Lucerne	Luzerne hybride	Bastardluzerne
Narcis	Narcissus L.	Narcissus, Daffo- dil, Jonquil	Narcisse, Jonquille	Narzisse
Opiatvalmue	Papaver somniferum L.	Opium Poppy	Oeillette, Pavot	Mohn
Pastinak	Pastinaca sativa L.	Parsnip	Panais	Pastinak
Pelargonie	Pelargonium L'Hér. (incl. P.-Grandiflorum-Hybridæ; P.-Zonale-Hybridæ et P.-Peltatum-Hybridæ)	Geranium, Pelargonium, Stork's Bill	Géranium, Pelargonium	Pelargonie
Rodpersille	Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. tuberosum (Bernh. ex Rchb.) Soó.	Turnip-rooted Parsley	Persil à grosse racine	Wurzelpetersilie

---

\* Inclusive grundstammer / Including rootstocks / Y compris les porte-greffes / Einschliesslich Unterlagen

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Kruspersille	Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. crispum	Parsley	Persil	Blattpetersilie
Pralbønne	Phaseolus coccineus L.	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne
Bønne	Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
Knoldrottehale (lav timothe)	Phleum bertolonii DC.	Timothy	Fléole diploïde, Petite fléole	Zwiebellieschgras
Timothe	Phleum pratense L.	Timothy	Fléole des prés	Wiesenlieschgras
Aert	Pisum sativum L.	Pea	Pois	Erbse
Rapgraes	Poa spp.	Meadow-grass	Pâturin	Rispengras
Potentil	Potentilla fruticosa L.	Shrubby Cinquefoil	Potentille ligneuse	Strauchfingerkraut
Sødkirsebaer*	Prunus avium (L.) L.	Sweet Cherry	Cerisier (cerises douces: guignes, bigarreaux)	Süsskirsche
Surkirsebaer*	Prunus cerasus L.	Morello, Sour Cherry	Cerisier (cerises acides: griottes, amarelles)	Sauerkirsche
Blomme*	Prunus domestica L.	Plum	Prunier	Pflaume
Paere	Pyrus communis L.	Pear	Poirier	Birne
Raeddike	Raphanus sativus L. var. niger (Mill.) S. Kerner	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
Olieraeddike	Raphanus sativus L. ssp. oleifera (DC.) Metzg.	Fodder Radish	Radis oléifère, Radis chinois	Oelrettich
Radis	Raphanus sativus L. var. sativus	Radish	Radis de tous les mois	Radieschen

\* Inclusive grundstammer / Including rootstocks / Y compris les porte-greffes / Einschliesslich Unterlagen

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Rabarber	Rheum rhabarbarum L.	Rhubarb	Rhubarbe	Krauser Rhabarber
Ledkaktus, herunder paske- og pinsekaktus	Rhipsalidopsis Britt. et Rose et hybridae	Cactus with jointed stems, including Easter and Whitsun Cactus	Cactus à articles, y compris les cactus de Pâques et de la Pentecôte	Gliederkaktus, einschliessend Oster- und Pfingstkaktus
Rhododendron, herunder azalea	Rhododendron spp.	Rhododendron, including Azalea	Rhododendron, y compris Azalée	Rhododendron, einschl. Azalee
Solbaer	Ribes nigrum L.	Black Currant	Cassis	Schwarze Johannisbeere
Ribs	Ribes niveum Lindl. Ribes sylvestre (Lam.) Mert. et W.D.J. Koch	White and Red Currant	Groseillier à grappes	Weisse und Rote Johannisbeere
Stikkelsbaer	Ribes uva-crispa L.	Gooseberry	Groseillier à maquereau	Stachelbeere
Rose	Rosa L.	Rose	Rosier	Rose
Brombaer	Rubus fruticosus L.	Blackberry	Ronce fruitière	Brombeere
Hindbaer	Rubus idaeus L.	Raspberry	Framboisier	Himbeere
Sanktpaulia	Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Skorsonerrod	Scorzonera hispanica L.	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel
Ledkaktus, herunder november- og julekaktus	Schlumbergera Lem. et hybridae	Cactus with jointed stems, including November and Christmas Cactus	Cactus à articles, y compris les cactus de novembre et de Noël	Gliederkaktus, einschliessend November- und Weihnachtskaktus
Rug	Secale cereale L.	Rye	Seigle	Roggen
Gul sennep	Sinapis alba L.	White Mustard	Moutarde blanche	Weisser Senf
Kartoffel	Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Fredslilje (spathiphyllum)	Spathiphyllum spp.	Spathiphyllum	Spathiphyllum	Spathiphyllum

<u>Dansk</u>	<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Spinat	Spinacia oleracea L.	Spinach	Epinard	Spinat
Streptokarpus	Streptocarpus X hybridus Voss	Streptocarpus, Cape Primrose	Streptocarpus	Drehfrucht
Thuja	Thuja spp.	Thuya	Thuya	Lebensbaum
Alsikekløver	Trifolium hybridum L.	Alsike Clover	Trèfle hybride	Schwedenklee
Rødkløver	Trifolium pratense L.	Red Clover	Trèfle violet	Rotklee
Hvidkløver	Trifolium repens L.	White Clover	Trèfle blanc	Weissklee
Alm. Hvede	Triticum aestivum L. emend. Fiori et Paoletti	Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen
Durumhvede	Triticum durum Desf.	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen
Tulipan	Tulipa L.	Tulip	Tulipe	Tulpe
Blabaer	Vaccinium myrtillus L.	Bilberry, Whortle- berry, Blueberry	Myrtille	Heidelbeere
Valsk bønne	Vicia faba L.	Broad Bean, Horse Bean	Fève	Dicke Bohne (Puffbohne)
Hestebønne	Vicia faba L.	Field Bean, Tick Bean	Féverole	Ackerbohne
Fodervikke	Vicia sativa L.	Common Vetch	Vesce commune	Saatwicke
Majs	Zea mays L.	Maize	Maïs	Mais

## Israel

By virtue of the Plant Breeders' Rights Order (Amendment of Schedule) (2), 5743-1984 (Kovetz Hatakanot 4618, of April 12, 1984), protection was extended to *Euphorbia pulcherrima* Willd. ex Klotzsch.

As regards the availability of protection to foreigners and the novelty condition, reference is made to Sections 3 and 71, and Section 7, respectively, of the Law on the Rights of the Breeders of Plant Varieties published in the "Legislation" subsection of the "Newsletter" section, starting on page 31.

The list of taxa covered by plant variety protection legislation is also given in the "Legislation" subsection, starting on page 58.

NEWSLETTER
UPOV

## Fifteenth Session of the Administrative and Legal Committee, March 1985

The Administrative and Legal Committee held its fifteenth session on March 27 and 28, 1985, under the chairmanship of Mr. M. Heuver (Netherlands). All member States except Italy were represented. The European Economic Community was represented by an observer.

The main business of the session was as follows:

The Committee considered the issue of the application of the UPOV Convention--through the national plant variety protection laws--to the botanical genera and species. It noted that for a certain number of member States, representing the majority, it was not possible at the present time, for various reasons, to extend protection to all botanical genera and species. Those States had consequently drawn up limitative lists specifying the protected genera and species by name. That had not prevented some of the States from covering the "useful" plant kingdom in its virtual entirety. However, gaps could yet exist, and they had to be filled. In that connection the Committee adopted draft recommendations, the text of which appears in the Annex to this document, and decided to submit them to the second meeting with international organizations (on October 15 and 16, 1985).

In this context, it should also be mentioned that the Committee decided to enter a standing item on the agenda for its sessions which would allow information to be exchanged on developments in variety creation activities. That decision was based on the fact that the ornamental plant sector had become a sector subject to fashion, and that it would be advisable to provide as soon as possible for the protection of fashionable species, or species that would become fashionable, in order to encourage plant breeding.

The Committee had an in-depth discussion, on the basis of a document of the Office of the Union, on whether it was possible, under the provisions of the UPOV Convention, to grant industrial patents for plant varieties in addition to titles based on the rules and principles of that Convention. The discussions were based solely on the Convention, and took no account of the content and interpretation of whatever other sources of law were relevant.

No conclusion reflecting a unanimous opinion emerged from the discussions. That was no doubt due to the complexity of the question, the differences between national circumstances and the different ways in which the subject could be addressed. The Office of the Union nevertheless considers that the discussions may be summarized as follows:

(i) The relevant provisions of the Convention are: Article 1(1) (summary of the obligation subscribed to by member States), Article 2(1) and Article 37 (definition of the forms of protection and the principles governing their possible coexistence) and also Article 4(2) (obligation to extend the Convention progressively to the largest possible number of botanical genera and species), as well as the Preamble.

(ii) A State that subscribes to the rules and principles of the Convention should not protect plant varieties otherwise than by legislation that meets the conditions provided for in the Convention.

(iii) The fact that certain States have not ruled out all varieties from patentability, but only the varieties of those genera and species that are governed by the provisions of the plant variety protection law, does not contradict the aforementioned principle. In this respect, the present circumstances of member States are conditioned by their circumstances prior to their membership of UPOV:

(a) For those that did not protect plant varieties before becoming members of UPOV, the Convention--through the agency of the national law--created a law from scratch. By undertaking to protect plant varieties according to a legal system conforming to the Convention, those States in fact undertook to abstain from making a form of protection available to varieties that rivalled the one based on the Convention.

(b) For those that recognized the protection of plant varieties--at least in theory--by means of an "industrial" patent, the Convention provided a better system of protection, because it was a tailor-made system. By implementing the Convention at the national level, the majority of those States did not want to, or could not, deprive breeders of the patent route in the case of genera and species not (yet) covered by the specific system of protection based on the Convention.

In this respect, reference is also made to Plant Variety Protection No. 45, pages 17 and 18.

(iv) For genera and species covered by the system of protection conforming to the Convention, no other, additional, system of protection is allowed.

The Committee further had a preliminary discussion on the possibilities for protecting, under the plant breeders' rights system, plants that have been transformed by means of beneficial viral infection agents. It decided to seek first the opinions of the Technical Committee on the subject.

Finally, the Committee examined the drafts for the documents to be submitted to the Second Meeting with International Organizations and gave instructions for their finalization.

#### Thirty-first Session of the Consultative Committee, March 1985

The Consultative Committee held its thirty-first session on March 29, 1985, under the chairmanship of Mr. J. Rigot (Belgium). All member States except Israel and Italy were represented.

The main business of the session was as follows:

The Committee received a report on the state of arrangements for the celebration in 1986 of the 25th anniversary of the signing of the UPOV Convention.

The Committee established guidelines for the 1986-87 program and budget and the 1986-91 medium term plan.

The Committee decided on the arrangements for the Second Meeting with International Organizations to be held on October 15 and 16, 1985.

#### UPOV Recommendations on Variety Denominations

At its eighteenth session, on October 19, 1984, the Council of UPOV adopted a set of recommendations on variety denominations to give guidance to breeders when selecting variety denominations and to plant variety protection authorities when taking decisions on the suitability of such denominations. In view of the first-mentioned purpose of the recommendations, it is highly advisable that they are widely publicized. The recommendations are therefore reprinted in this issue, starting overleaf.

The recommendations replace the former UPOV Guidelines for Variety Denominations and the Provisional Rules of Procedure for the Exchange of Variety Denominations

### UPOV RECOMMENDATIONS ON VARIETY DENOMINATIONS

The Council of the International Union for the Protection of New Varieties of Plants (UPOV) refers to Articles 6(1)(e) and 13 of 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 in particular to the fact that, according to that Convention, a variety must be given a denomination destined to be its generic designation before a title of protection can be issued in respect of it.

The Council points out that, according to Article 13, a variety denomination must be suitable as a generic designation and must enable the variety to be identified; it must be not liable to mislead nor to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder.

The Council emphasizes that the main purpose of the rules laid down in Article 13 is to ensure that, as far as possible, protected varieties are designated in all member States by the same variety denomination, that the approved variety denominations establish themselves as the generic designations and that they are used in the marketing of reproductive or propagating material, even after the expiration of protection.

The Council considers that such an aim can only be achieved if the broadly worded provisions on variety denominations in Article 13 are uniformly interpreted and applied by the member States, and that the adoption of appropriate recommendations is therefore advisable.

The Council also considers that the adoption of such recommendations for the uniform interpretation and application of the provisions of Article 13 would be of assistance not only to the authorities of member States but also to breeders having to select variety denominations.

The Council, having regard to Article 21(h) of the Convention, under which it has the task of taking all necessary decisions to ensure the efficient functioning of the Union, and in the light of the experience acquired by member States in connection with variety denominations, recommends that the authorities of member States

- (i) base their decisions on the suitability of proposed variety denominations on the recommendations set out in Part I below,
- (ii) take into account, when assessing such suitability, the recommendations on the exchange of information and on procedure set out in Part II below,
- (iii) give comprehensive information on the recommendations to the breeders so that they can take them into account when selecting variety denominations.

#### PART I

#### SUITABILITY OF PROPOSED VARIETY DENOMINATIONS

##### Recommendation 1

(1) Designations that may be taken for indications of another type by which reproductive or propagating material or harvested material is commonly designated are not suitable as generic designations and therefore are not suitable as variety denominations. This is applicable regardless of whether the indication for which the designation may be taken would in fact be correct.

(2) In particular designations that are identical or may be confused with designations of the following type are unsuitable under paragraph (1):

- (i) Latin or common names for botanical genera, species or other taxonomic units, or parts of such names, unless it is obvious that those designations are used solely to signify color or form, or in some other figurative sense for varieties which belong to a category of plants that is botanically different and differs in respect of its cultivation.



- (ii) Terms used in breeding or in the production and marketing of propagating material.
- (iii) Indications, including abbreviations, usually referring to quantity, weight, price, date or quality, unless it is obvious that they cannot have such a meaning in connection with reproductive or propagating material or harvested material of the variety.
- (iv) Official certification signs, names or abbreviations of the names of testing stations, authorities, institutions or organizations with which a variety might be associated. This is not applicable where it would be manifestly unreasonable to establish such an association.
- (v) Designations which consist exclusively of geographical names. This is not applicable for designations referring to places or regions that are manifestly of no significance in terms of plant growing, unless precluded under Recommendation 6(2)(iv).
- (vi) Designations in everyday language, which refer exclusively to characteristics.

#### Recommendation 2

(1) Designations that are difficult to remember or pronounce for the average user are unsuitable as generic designations and therefore are not suitable as variety denominations. In the case of varieties that are exclusively marketed within a limited circle of knowledgeable persons, as in the case of parent varieties for the production of hybrids, the average user should be taken to mean the average knowledgeable person in that circle.

(2) In particular, the following would be unsuitable under paragraph (1):

- (i) Designations consisting of a combination of more than three letters if the combination is not pronounceable in syllables and does not obviously form a sequence of letters familiar to the general public. The syllables do not need to have a meaning.
- (ii) A number (where allowed at all, either alone or as an adjunct) consisting of more than four figures, unless the number has a meaning for the general public that is particularly easy to remember.
- (iii) A designation consisting of more than three independent words, unless special circumstances make it easy to remember.
- (iv) Excessively long words, particularly those composed of more than three syllables without pre-existing meaning or of more than three different terms, unless the word has a meaning for the general public that is particularly easy to remember.
- (v) Combinations of letters and figures, unless they are used in that order and refer to species for which that type of denomination is established practice.
- (vi) Combinations of words and figures, unless they are used in that order.
- (vii) Combinations containing words, letters and figures.
- (viii) Designations containing elements that would cause difficulties when expressed in speech or transmitted by telex, for instance special signs such as hyphens, subscript or superscript figures, or alternating upper and lower cases.

#### Recommendation 3

Designations which consist exclusively or predominantly of terms in everyday language whose recognition as variety denominations would prevent others from using them when marketing reproductive or propagating material of other varieties, in other words terms whose use should be kept free, are not suitable as generic designations and therefore are not suitable as variety denominations.

Recommendation 4

(1) Designations whose use may be forbidden in the marketing of reproductive or propagating material of the variety are not suitable as generic designations and therefore are not suitable as variety denominations.

(2) In particular, the following would be unsuitable under paragraph (1):

(i) Designations in which the applicant himself has some other right (for instance a right in the name or a trademark) which he could assert under the legislation of the member State concerned, as from the time when the variety denomination is approved, to oppose use of the variety denomination by others, either at any time or at least after the expiration of protection.

(ii) Designations in which third parties have prior rights that stand in the way of the use of the variety denomination. The proper names of other persons need not be unsuitable as variety denominations or parts of denominations in the case of:

(a) dedications to commonly known public figures that cannot be mistaken for names of breeders or owners of varieties,

(b) historical figures or characters in literature.

(iii) Designations that are contrary to public policy in the member State concerned.

Recommendation 5

Names and abbreviations of organizations which are excluded by international conventions from use as trademarks or parts of trademarks are not suitable as generic designations and therefore are not suitable as variety denominations.

Recommendation 6

(1) A variety denomination is liable to mislead, and therefore is not suitable, if there is a risk of it giving rise to misconceptions concerning the characteristics or value of the variety.

(2) In particular, the following would be unsuitable under paragraph (1):

(i) Designations that convey the impression that the variety has particular characteristics which in reality it does not have.

(ii) Designations that refer to specific characteristics of the variety in such a way that the impression is created that only the variety possesses them, whereas in fact other varieties of the species in question also have or may have the same characteristics.

(iii) Comparative and superlative designations.

(iv) Designations that refer to a particular region, where the variety has no connection with that region.

(v) Designations that convey the impression that the variety is derived from or related to another variety when that is not in fact the case.

Recommendation 7

A variety denomination is liable to mislead, and therefore is not suitable, if there is a risk of it giving rise to misconceptions concerning the identity of the breeder.

Recommendation 8

(1) A designation is liable to cause confusion and/or to mislead, and therefore is not suitable, if it is identical or similar to a designation under which a variety of the same or a closely related botanical species has been made known or officially registered or under which reproductive or propagating material of that variety has been marketed.

(2) Paragraph (1) is not to be applied where the variety made known or registered earlier or already marketed is no longer cultivated and its denomination has not acquired any particular importance, except where special circumstances nevertheless might make it liable to mislead.

#### Recommendation 9

For the purposes of the fourth sentence of Article 13(2) of the Convention, all taxonomic units are considered closely related that belong to the same botanical genus or are contained in the same class in the list in Annex I to these Recommendations.

### PART II

#### PROCEDURE

#### Recommendation 10

(1) When rendering its decision on the suitability of a variety denomination, the authority referred to in Article 30(1)(b) of the Convention (hereinafter referred to as "the authority") should take into account all observations made by the authorities of other member States.

(2) The authorities should accept as far as possible a variety denomination established in another member State even if they have objections to it.

#### Recommendation 11

(1) The information exchanged between the authorities of member States on variety denominations and the communication of observations on proposed variety denominations, required in Article 13(6) of the UPOV Convention, should be effected by the exchange of the official gazettes published by the member States in accordance with Article 30(1)(c) of the UPOV Convention. The layout of those official gazettes should be based on the UPOV Model Plant Breeders' Rights Gazette (document UPOV/INF/5) and on any other recommendations made by UPOV; in particular, the chapters containing information on variety denominations should be appropriately identified in the table of contents.

(2) Each authority should send a mutually agreed number of copies of each issue of its official gazette immediately on publication to the authorities of the other member States.

#### Recommendation 12

(1) Each authority should examine the filed variety denominations published in the official gazettes of the other member States. If it finds a variety denomination to be unsuitable, it should proceed as follows:

(i) As soon as possible, but not later than three months after publication of the issue concerned, it should communicate its observations, together with its reasons, to the authority that has published the variety denomination, on the form reproduced in Annex II to these Recommendations.\* (In some countries, the statutory period for filing comments on a proposed denomination may be less than three months, after which time comments may no longer be acceptable for consideration.)

(ii) A copy of the above-mentioned communication should be sent at the same time to the authorities of the other member States.

(2) The authority that has published the filed denomination should immediately examine the observations communicated by the authorities of the other member States and should proceed as follows:

---

\* Not reproduced here.

(i) If the observations refer to an obstacle to approval that according to the Convention applies to all member States, the authority should accept the observations in case of doubt and should reject the filed denomination. If it does not share the misgivings of the other authority, it should inform that other authority accordingly and should give its reasons. As far as possible the offices concerned should endeavor to reach agreement.

(ii) If the observation refers to a circumstance that is an obstacle to approval only in the member State whose authority has transmitted the observation, but not in the member State whose authority has published the filed denomination (e.g. the denomination is identical with someone else's trademark in the former State only), the latter authority, depending on the circumstances of the case, either should reject the filed denomination or should inform the applicant accordingly, requesting him to file another variety denomination if it is envisaged that protection will be applied for in the member State whose authority has transmitted the observation or if it can be expected that reproductive or propagating material of the variety will be marketed in that same State. If this procedure does not result in the filing of another variety denomination, no communication need be addressed to the authority that has transmitted the observation.

#### ANNEX I/ANNEXE I/ANLAGE I

##### LIST OF CLASSES FOR VARIETY DENOMINATION PURPOSES (Recommendation 9)

##### LISTE DES CLASSES AUX FINS DE LA DENOMINATION DES VARIETES (Recommandation 9)

##### KLASSENLISTE FÜR ZWECKE DER BEZEICHNUNG VON SORTEN (Anleitung 9)

**Note:** Classes which contain subdivisions of a genus may lead to the existence of a complementary class containing the other subdivisions of the genus concerned (example: Class 9 (*Vicia faba*) leads to the existence of another class containing the other species of the genus *Vicia*).

**Note :** Les classes contenant des subdivisions d'un genre peuvent entraîner l'existence d'une classe complémentaire contenant les autres subdivisions du genre concerné (exemple : La classe 9 (*Vicia faba*) entraîne l'existence d'une autre classe contenant les autres espèces du genre *Vicia*).

**Anmerkung:** Klassen, die Unterteilungen einer Gattung enthalten, können zum Bestehen einer zusätzlichen Klasse führen, die die anderen Unterteilungen der betreffenden Gattung enthält (Beispiel: Klasse 9 (*Vicia faba*) führt zum Bestehen einer anderen Klasse, die die sonstigen Arten der Gattung *Vicia* enthält).

##### Class 1 / Classe 1 / Klasse 1

Avena, Hordeum, Secale, Triticale,  
Triticum

##### Class 2 / Classe 2 / Klasse 2

Panicum, Setaria

##### Class 3 / Classe 3 / Klasse 3

Sorghum, Zea

##### Class 4 / Classe 4 / Klasse 4

Agrostis, Alopecurus, Arrhenatherum,  
Bromus, Cynosurus, Dactylis,  
Festuca, Lolium, Phalaris, Phleum,  
Poa, Trisetum

##### Class 5 / Classe 5 / Klasse 5

Brassica oleracea

##### Class 6 / Classe 6 / Klasse 6

Brassica napus, B. campestris, B.  
rapa, B. juncea, B. nigra, Sinapis

##### Class 7 / Classe 7 / Klasse 7

Lotus, Medicago, Ornithopus,  
Onobrychis, Trifolium

##### Class 8 / Classe 8 / Klasse 8

Lupinus albus L., L. angustifolius  
L., L. luteus L.

##### Class 9 / Classe 9 / Klasse 9

*Vicia faba* L.

##### Class 10 / Classe 10 / Klasse 10

Beta vulgaris L. var. alba DC.,  
Beta vulgaris L. var. altissima

Class 11 / Classe 11 / Klasse 11

Beta vulgaris ssp. vulgaris var. conditiva Alef. (syn.: Beta vulgaris L. var. rubra L.), Beta vulgaris L. var. cicla L., Beta vulgaris L. ssp. vulgaris var. vulgaris

Class 12 / Classe 12 / Klasse 12

Lactuca, Valerianella, Cichorium

Class 13 / Classe 13 / Klasse 13

Cucumis sativus

Class 14 / Classe 14 / Klasse 14

Citrullus, Cucumis melo, Cucurbita

Class 15 / Classe 15 / Klasse 15

Anthriscus, Petroselinum

Class 16 / Classe 16 / Klasse 16

Daucus, Pastinaca

Class 17 / Classe 17 / Klasse 17

Anethum, Carum, Foeniculum

Class 18 / Classe 18 / Klasse 18

Bromeliaceae

Class 19 / Classe 19 / Klasse 19

Picea, Abies, Pseudotsuga, Pinus, Larix

Class 20 / Classe 20 / Klasse 20

Calluna, Erica

Class 21 / Classe 21 / Klasse 21

Solanum tuberosum L.

Class 22 / Classe 22 / Klasse 22

Nicotiana rustica L., N. tabacum L.

Class 23 / Classe 23 / Klasse 23

Helianthus tuberosus

Class 24 / Classe 24 / Klasse 24

Helianthus annuus

Class 25 / Classe 25 / Klasse 25

Orchidaceae

Class 26 / Classe 26 / Klasse 26

Epiphyllum, Rhipsalidopsis, Schlumbergera, Zygocactus

Class 27 / Classe 27 / Klasse 27

Proteaceae

## MEMBER STATES

## New Zealand: Modification of Fees

A new tariff of fees has been introduced with effect from June 27, 1985, by The Plant Varieties Regulations 1975, Amendment No. 3. The main fees now are as follows (in New Zealand dollars):

Type of Fee	A	B	C
a) Application for grant	300	100	100
b) Examination of data supplied by applicant	300	100	50
or			
Test trial fees -			
a) Official testing in New Zealand, per annum	-	200	100
b) National testing authority trials overseas )	amount charged by overseas organizations		
c) Test reports acceptable to the Registrar )			
from overseas national testing authorities )			
c) Notice of grant	300	100	100
d) Renewal fee per annum	100	70	70

A: Herbage, agricultural crops, vegetables

B: Orchids, fruit

C: Other ornamentals, forest and nut trees

[Subsection continued on page 63]

[This text replaces the text published in Plant Variety Protection No. 36]

## BELGIUM

### Royal Decree Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species\*

of May 21, 1985\*\*

#### Article 1

The Service for the Protection of New Plant Varieties may, pursuant to the provisions of the Royal Decree of July 22, 1977, on the Protection of New Plant Varieties, issue New Plant Variety Certificates for the species the list of which appears in Annex 1 to this Decree.

#### Article 2

(1) In the case of bentgrass, onion, celery, tall oatgrass, oat, swede, the cabbage species, turnip, sweet pepper, endive, cucumber, gherkin, crested dog's-tail, cocksfoot, carrot, fescue, fennel, barley, lettuce, flax and linseed, ryegrass, lupin, tomato, black medick, lucerne, runner bean, French bean, timothy, pea, meadow-grass, radish, black salsify, rye, white mustard, spinach, clover, triticale, wheat, spelt, cornsalad, broad bean, field bean and maize, the breeder's rights shall relate to any type of seed, whether certified or not, to any part of the plant used as propagating material and also to plants marketed for planting purposes.

(2) In the case of potato, the breeder's rights shall relate to any type of planting material, whether certified or not, and also to any part of the plant used as propagating material.

#### Article 3

In the case of strawberry, the breeder's rights shall relate to the whole plant or parts thereof to be used as reproductive or vegetative propagating material.

#### Article 4

In the case of alstroemeria, anthurium, begonia, berberis, the Bromeliaceae, chrysanthemum, carnation, Euphorbia fulgens, Christ's thorn, poinsettia, freesia, gerbera, gladiolus, amaryllis, common hyacinth, hydrangea, New Guinea impatiens, iris, kalanchoë, lily, the orchids, pelargonium, firethorn, azalea, rhododendron, rose, African violet, streptocarpus, tulip and the cacti with jointed stems, the breeder's rights shall relate to the whole plant or parts thereof to be used as reproductive or vegetative propagating material of the variety.

---

\* French title: Arrêté royal déterminant les espèces végétales pour lesquelles un certificat d'obtention peut être délivré et fixant la durée de la protection pour ces espèces.

\*\* Translation by the Office of the Union of the text published in the Moniteur belge - Belgisch Staatsblad of July 18, 1985, on pages 10590 to 10593, and of September 9, 1985, on page 13667 (corrigendum).

#### Article 5

In the case of hop, apple, pear, quince, cherry, plum, apricot, myrobalan, peach, black, red and white currants, gooseberry, raspberry and blackberry, all varieties except ornamental varieties, but including rootstocks, may be protected; the breeder's rights shall relate to any part of the plant to be used as vegetative propagating material, such as plants, grafts, cuttings, layers.

The breeder's rights shall also relate to any type of seed or to the pips and stones of those species in cases where they may be used as seeds for the generative reproduction of the varieties.

#### Article 6

In the case of juniper, larch, spruce, poplar, Douglas fir, thuya and willow, the breeder's rights shall relate to the cuttings and, in general, to any part of the plant to be used as reproductive or vegetative propagating material.

#### Article 7

The New Plant Variety Certificates relating to the species referred to in Articles 2, 3 and 4 of this Decree, with the exception of potato, shall have a duration of twenty years; the duration shall be twenty-five years for the species referred to in Articles 5 and 6 and for potato.

#### Article 8

The Royal Decree of February 10, 1983, Fixing the Plant Species for Which a New Plant Variety Certificate may be Issued and Fixing the Duration of Protection for Those Species, as amended by Royal Decree of May 30, 1984, shall be repealed.

#### Article 9

This Decree shall enter into force on the day following its publication in the Moniteur belge.

#### Article 10

The Minister for External Relations and the State Secretary for Agriculture shall, each within his attributions, implement this Decree.

AnnexList Referred to in Article 1

## Genera and Species to be Protected

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Agrostis canina L.	Kruipend struisgras	Agrostide des chiens	Velvet Bent	Hundsstraussgras
Agrostis gigantea Roth	Hoog struisgras	Agrostide géante	Red Top (Black Bent)	Weisses Straussgras
Agrostis stolonifera L.	Fioringras	Agrostide stolonifère	Creeping Bent	Flechtstraussgras
Agrostis tenuis Sibth.	Gewoon struisgras	Agrostide commune	Brown Top, Common Bent	Rotes Straussgras
Allium cepa L.	Ajuin	Oignon	Onion	Zwiebel
Alstroemeria L.	Incalelie	Alstroemère	Alstroemeria, Herb Lily	Inkalilie
Anthurium Schott	Anthurium	Anthurium	Anthurium, Tail Flower	Flamingoblume
Apium graveolens L.	Bleekselder, knolselder	Céleri, Céleri-rave	Celery, Celeriac	Blattsellerie, Knollensellerie
Arrhenatherum elatius (L.) P. Beauv. ex J.S. et K.B. Presl	Frans raaigras	Fromental	Tall Oatgrass, False Oatgrass	Glatthafer
Avena byzantina K. Koch	Byzantijnse haver	Avoine d'Algérie	Algerian Oat	Mittelmeerhafer
Avena nuda L.	Naakte haver	Avoine nue	Naked Oat	Nackthafer
Avena sativa L.	Haver	Avoine	Oat	Hafer
Begonia-Elatior-Hybridi	Elatior-Begonia	Bégonia elatior	Elatior Begonia	Elatior-Begonie



<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Begonia X tuberhybrida Voss	Knolbegonia	Bégonia tubéreux	Tuberous Begonia	Knollenbegonie
Berberis L.	Berberis	Berberis	Berberis, Barberry	Berberitze
Brassica napus L. var. napobrassica (L.) Rchb.	Koolraap onder de grond	Chou-navet	Swede	Kohlrübe
Brassica oleracea L. convar. acephala (DC.) Alef.				
- var. gongylodes L.	Raapkool	Chou-rave	Kohlrabi	Kohlrabi
- var. medullosa Thell.	Mergkool	Chou moellier	Marrow-stem Kale	Markkohl
- var. sabellica L.	Boerenkool	Chou frisé	Curly Kale	Grünkohl
- var. viridis L.	Voederkool	Chou fourrager	Fodder Kale	Futterkohl
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Bloemkool	Chou-fleur	Cauliflower	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. capitata L.				
- f. alba DC.	Witte kool	Chou cabus	White Cabbage	Weisskohl
- f. rubra (L.) Thell.	Rode kool	Chou rouge	Red Cabbage	Rotkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda	Savoyekool	Chou de Milan	Savoy Cabbage	Wirsing
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Spruitkool	Chou de Bruxelles	Brussels Sprouts	Rosenkohl
Brassica rapa L. var. rapa (L.) Thell.	Raap	Navet	Turnip	Herbstrübe, Mairübe

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Bromeliaceae Juss. Aechmea Ruiz et Pav., Cryptanthus Otto et A. Dietr., Guzmania Ruiz et Pav., Neoregelia L.B. Sm., Tillandsia L., Vriesea Lindl.	Bromelia-achtigen behorende tot de geslachten en hun onderlinge hybri- den	Broméliacées appartenant aux genres et à leurs hybrides mutuels	Bromeliaceae belonging to the genera and to their mutual hybrids	Bromeliaceen, die zu den Gattungen und ihren wechsel- seitigen Hybriden gehören
Capsicum annuum L.	Spaanse peper	Piment	Sweet Pepper, Capsicum, Chili	Paprika
Chrysanthemum partim	Chrysant	Chrysanthème	Chrysanthemum	Chrysantheme
Cichorium endivia L.	Andijvie	Chicorée frisée, Scarole	Endive	Winterendivie
Cucumis sativus L.	Komkommer, augurk	Concombre, Cornichon	Cucumber, Gherkin	Salatgurke, Essiggurke
Cydonia Mill.	Kweeper	Cognassier	Quince	Quitte
Cynosurus cristatus L.	Kamgras	Crételle	Crested Dog's-Tail	Kammgras
Dactylis glomerata L.	Kropaar	Dactyle	Cocksfoot, Orchard Grass	Knauelgras
Daucus carota L.	Peen	Carotte	Carrot	Möhre
Dianthus caryophyllus L.	Anjer	Oeillet	Carnation	Nelke
Euphorbia fulgens Karw.	Koraalrank	Euphorbia fulgens	Euphorbia fulgens	Korallenranke
Euphorbia-Milii-Hybridi	Christusdoorn	Epine du Christ	Christ's Thorn, Crown of Thorns	Christusdorn
Euphorbia pulcherrima Willd. ex Klotzsch	Kerstster	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Festuca ovina L. sensu lato	Hardzwenkgras, schapegras	Fétuque durette, fétuque ovine	Hard Fescue, Sheep's Fescue	Schafschwingel
Festuca pratensis Huds.	Beemdlangbloem	Fétuque des prés	Meadow Fescue	Wiesenschwingel

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
<i>Festuca rubra</i> L.	Roodzwenkgras	Réтуque rouge	Red Fescue, Creeping Fescue	Rotschwingel
<i>Foeniculum vulgare</i> P. Mill.	Venkel	Fenouil	Fennel	Fenchel
<i>Fragaria</i> L.	Aardbei	Fraisier	Strawberry	Erdbeere
<i>Freesia</i> Eckl. ex Klatt	Freesia	Freesia	Freesia	Freesie
<i>Gerbera</i> Cass.	Gerbera	Gerbera	Gerbera	Gerbera
<i>Gladiolus</i> L.	Gladiool	Glaïeul	Gladiolus	Gladiole
<i>Hippeastrum</i> Herb.	Amaryllis	Amaryllis	Amaryllis	Ritterstern, Amaryllis
<i>Hordeum vulgare</i> L. sensu lato	Gerst	Orge	Barley	Gerste
<i>Humulus lupulus</i> L.	Hop	Houblon	Hop	Hopfen
<i>Hyacinthus orientalis</i> L.	Hyacinth	Jacinthe	Common Hyacinth	Hyazinthe
<i>Hydrangea</i> L.	Hortensia	Hortensia	Hydrangea	Hortensie
<i>Impatiens</i> -Neu-Guinea- Hybridi	Nieuw-Guinea- Impatiens	Impatiente de Nouvelle-Guinée	New Guinea Impatiens	Neu-Guinea- Impatiens
<i>Iris</i> L.	Iris	Iris	Iris	Iris
<i>Juniperus</i> L.	Jeneverbes	Genévrier	Juniper	Wacholder
<i>Kalanchoë</i> Adans.	Kalanchoë	Kalanchoë	Kalanchoë	Kalanchoë
<i>Lactuca sativa</i> L.	Sla	Laitue	Lettuce	Salat
<i>Larix</i> Mill.	Lork	Mélèze	Larch	Lärche
<i>Lilium</i> L.	Lelie	Lis	Lily	Lilie
<i>Linum usitatissimum</i> L.	Vlas	Lin	Flax, Linseed	Lein

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Lolium multiflorum Lam.,	Italiaans raaigras, Westerwold raaigras,	Ray-grass d'Italie, Ray-grass de Westerwold,	Italian Ryegrass, Westerwold Rye- grass,	Italienisches Raygras, Welches Weidelgras,
Lolium perenne L.,	Engels raaigras,	Ray-grass anglais,	Perennial Rye- grass,	Deutsches Weidelgras,
et Lolium X hybridum Hausskn.	en hun onderlinge hybriden	et leurs hybrides mutuels	and their mutual hybrids	und ihre wechsel- seitigen Hybriden
Lupinus albus L.	Witte lupine	Lupin blanc	White Lupin	Weisslupine
Lupinus angustifolius L.	Blauwe lupine	Lupin bleu	Blue Lupin	Blaue Lupine
Lupinus luteus L.	Gele lupine	Lupin jaune	Yellow Lupin	Gelbe Lupine
Lycopersicon lycopersi- cum L.	Tomaat	Tomate	Tomato	Tomate
Malus Mill.	Appel	Pommier	Apple	Apfel
Medicago lupulina L.	Hopperupsklaver	Luzerne lupuline	Black Medick, Yellow Trefoil	Gelbklee (Hopfenklee)
Medicago sativa L., Medicago X varia Martyn	Luzerne	Luzerne	Lucerne	Luzerne
Orchidaceae Juss.	Orchideeën	Orchidées	Orchids	Orchideen
Pelargonium-Grandiflorum- Hybridi	Franse geranium	Pelargonium des fleuristes	Show and Fancy Pelargoniums	Edelpelargonie
Pelargonium-Peltatum- Hybridi	Hanggeranium	Géranium-lierre	Ivy-leaved Pelargonium	Efeupelargonie
Pelargonium-Zonale- Hybridi	Tuingeranium	Géranium, Pelar- gonium zonale	Zonal Pelargonium	Zonalpelargonie
Pelargonium-Peltatum X P.-Zonale-Hybridi	Hybriden van Pelar- gonium-Peltatum X P.-Zonale	Hybrides de Pelar- gonium-Peltatum X P.-Zonale	Hybrids of Pelar- gonium-Peltatum X P.-Zonale	Hybriden von Pelar- gonium-Peltatum X P.-Zonale, Halbpeltaten
Phaseolus coccineus L.	Pronkboon	Haricot d'Espagne	Runner Bean, Kidney Bean	Prunkbohne

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Phaseolus vulgaris L.	Boon	Haricot	French Bean	Gartenbohne
Phleum bertolonii DC.	Kleine timothee	Fléole diploïde	Timothy	Zwiebellieschgras
Phleum pratense L.	Lammerstaart	Fléole des prés	Timothy	Wiesenlieschgras
Picea A. Dietr.	Spar	Epicéa	Spruce	Fichte
Pisum sativum L. sensu lato	Erwt	Pois	Pea	Erbse
Poa annua L.	Tuintjesgras	Pâturin annuel	Annual Meadow-grass	Einjähriges Rispengras
Poa compressa L.	Plat beemdgras	Pâturin comprimé	Canada Bluegrass, Flattened Meadow-grass	Flaches Rispengras
Poa nemoralis L.	Schaduwgras	Pâturin des bois	Wood Meadow-grass	Hainrispengras
Poa palustris L.	Moerasbeemdgras	Pâturin des marais	Swamp Meadow-grass	Sumpfrispengras
Poa pratensis L.	Veldbeemdgras	Pâturin des prés	Kentucky Blue-grass, Smooth Stalked Meadow-Grass	Wiesenrispengras
Poa trivialis L.	Ruwbeemdgras	Pâturin commun	Rough Stalked Meadow-Grass	Gemeines Rispengras
Populus L.	Populier	Peuplier	Poplar	Pappel
Prunus L.	Kers, pruim, abrikoos, kers-pruim, perzik	Cerisier, prunier, abricotier, myro-bolan, pêcher	Cherry, Plum, Apricot, Myro-balan, Peach	Kirsche, Pflaume, Aprikose, Myro-balane, Pfirsich
Pseudotsuga Carr.	Douglasspar	Sapin de Douglas	Douglas Fir	Douglasie
Pyracantha M.J. Roem.	Vuurdoorn	Pyracantha	Firethorn	Feuerdorn
Pyrus L.	Peer	Poirier	Pear	Birne

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Raphanus sativus L. - var. niger (Mill.) S. Kerner	Ramenas	Radis d'été, d'automne et d'hiver	Black Radish	Rettich
- var. oleiformis Pers.	Bladramenas	Radis oléifère	Fodder Radish	Oelrettich
- var. sativus	Radijs	Radis de tous les mois	Radish	Radieschen
Rhododendron L.	Azalea, Rhododendron	Azalée, Rhododendron	Azalea, Rhododendron	Azalee, Rhododendron
Ribes L.	Zwarte aalbes, witte en rode trosbes, kruisbes en hybriden van deze soorten	Cassis, groseilliers blanc et rouge, groseillier à maquereau et hybrides de ces espèces	Black, Red and White Currants, Gooseberry and hybrids of these species	Schwarze, Weisse und Rote Johannisbeeren, Stachelbeere und Hybriden dieser Arten
Rosa L.	Roos	Rosier	Rose	Rose
Rubus L.	Framboos, Braambes	Framboisier, Ronce	Raspberry, Blackberry	Himbeere, Brombeere
Saintpaulia ionantha H. Wendl.	Kaaps viooltje	Saintpaulia	African Violet	Usambaraveilchen
Salix L.	Wilg	Saule	Willow	Weide
Scorsonera hispanica L.	Schorseneer	Scorsonère	Black Salsify	Schwarzwurzel
Secale cereale L.	Rogge	Seigle	Rye	Roggen
Sinapis alba L.	Gele mosterd	Moutarde blanche	White Mustard	Weisser Senf
Solanum tuberosum L.	Aardappel	Pomme de terre	Potato	Kartoffel
Spinacia oleracea L.	Spinazie	Epinard	Spinach	Spinat
Streptocarpus Lindl.	Draaivrucht	Streptocarpus	Streptocarpus	Drehfrucht
Thuja L.	Thuya	Thuya	Thuya	Lebensbaum
Trifolium hybridum L.	Bastaardklaver	Trèfle hybride	Alsike Clover	Schwedenklee

<u>Latine</u>	<u>Vlaams</u>	<u>Français</u>	<u>English</u>	<u>Deutsch</u>
Trifolium pratense L.	Rode klaver	Trèfle violet	Red Clover	Rotklee
Trifolium repens L.	Witte klaver	Trèfle blanc	White Clover	Weissklee
X Triticosecale Wittmack	Triticale	Triticale	Triticale	Triticale
Triticum aestivum L. emend. Fiori et Paol.	Zachte tarwe	Blé tendre	Wheat, Soft Wheat, Bread Wheat	Weichweizen
Triticum durum Desf.	Harde tarwe	Blé dur	Durum Wheat, Macaroni Wheat, Hard Wheat	Hartweizen
Triticum spelta L.	Spelt	Epeautre	Spelt	Spelz
Tulipa L.	Tulp	Tulipe	Tulip	Tulpe
Valerianella locusta (L.) Laterrade	Veldsla	Mâche	Cornsalad, Lamb's Lettuce	Feldsalat
Vicia faba L. var. major Harz	Tuinboon	Fève	Broad Bean, Horse Bean	Dicke Bohne (Puffbohne)
Vicia faba L. var. minor Harz	Veldhoon	Féverole	Field Bean, Tick Bean	Ackerbohne
Zea mays L.	Maïs	Maïs	Maize	Mais
Zygocactus K. Schum., Schlumbergera Lem., Epiphyllopsis Berger, Rhipsalidopsis Britt. et Rose	Lidcactussen behorende tot de geslachten en hun onderlinge hybri- den	Cactus à tiges à articles appar- tenant aux genres et à leurs hybrides mutuels	Cacti with jointed stems belonging to the genera and to their mutual hybrids	Gliederkakteen, die zu den Gattungen und ihren wechsel- seitigen Hybriden gehören

## ISRAEL

## Law on the Rights of the Breeders of Plant Varieties

Consolidated Text of the Plant Breeders' Rights Law, 5733-1973,\*  
as Amended by the Plant Breeders' Rights (Amendment) Law, 5744-1984\*\*

## CHAPTER ONE

INTERPRETATION AND APPLICATIONSection 1

## Definitions

In this Law-

"examiner" means any person or institution approved by the Minister as an examiner or adviser for the purposes of applications and oppositions filed under all or part of the provisions of this Law;

"foreign application" means an application filed by a breeder or a previous holder of the breeder's right for protection of the right in a Convention state;

"the Convention" means the International Convention for the Protection of New Varieties of Plants, 1961, as revised at Geneva in 1972 and 1978;

"variety" means a group of plants capable of reproduction which may be regarded as an independent unit for purposes of propagation or be reconstituted each time in accordance with its defined characters, and includes an individual plant capable of reproduction and any such selection, strain or hybrid of a higher plant as is capable of being bred;

"registered variety" means a variety in respect of which a breeder's right has been registered;

"this Law" includes regulations made thereunder;

"Convention state" means a foreign state in respect of which the Registrar has given notice in Reshumot that it is a member of the International Union for the Protection of New Varieties of Plants by virtue of the Convention and that the Minister regards it as granting protection to breeders of varieties in Israel on a basis of reciprocity;

"breeder" means a person who has developed a new variety, within the meaning of section 7, and includes those taking title from him by operation of law or by assignment or agreement;

---

\* Passed by the Knesset on July 24, 1973, and published in Sefer Ha-Chukkim No. 713 of August 23, 1973.

\*\* Passed by the Knesset on December 6, 1983, and published in Sefer Ha-Chukkim No. 1098 of December 15, 1983.

Consolidated text prepared by the Office of the Union.



"utilisation" of a variety means-

- (1) the cultivation, propagation or marketing thereof;
- (2) the derivation of a benefit therefrom in any other manner if the Minister, with the approval of the Economic Committee of the Knesset, so prescribes by regulations;

"development" of a variety means the development thereof by means of the artificial narrowing or expansion of genetic variability, the isolation of spontaneous genetic variability through self-fertilization, crossing, back-crossing or vegetative isolation or any other similar procedure;

"fundamental character" means any such character or combination of characters as is capable of being distinguished and described and sets a variety apart from the other varieties of its species;

"the Minister" means the Minister of Agriculture;

"Breeders' Rights Committee" means a committee appointed under section 18.

## Section 2

### Application

(a) The provisions of this Law shall apply to the botanical genera and species specified in the Schedule.

(b) the Minister may add to, or replace, the Schedule, provided that he does not delete any part of it.

## CHAPTER TWO

### RIGHTS AND ELIGIBILITY THEREOF FOR REGISTRATION

## Section 3

### Breeder's Right

(a) A breeder's right in a variety bred in Israel is capable of registration in the Register of Rights in the name of the breeder of the variety upon his application.

(b) An Israeli national or a resident in Israel may apply for registration of a breeder's right in the Register of Rights in respect also of a variety bred outside Israel.

## Section 4

### Safeguarding of Right

A breeder's right in a variety accrues to a person when it has been registered in his name in the Register of Rights and, subject to the provisions of this Law, it shall exist so long as the registration exists.

## Section 5

### Register of Plant Breeders' Rights

(a) There shall be kept for the registration of breeders' rights a "Register of Plant Breeders' Rights" (in this Law referred to as "the Register of Rights"), in which the following particulars shall be recorded in respect of each variety:

- (1) the name and address of the holder of the right;
  - (2) the denomination of the variety;
  - (3) a description and summary specification of the fundamental characters of the variety;
  - (4) in the case of a hybrid variety - the denominations of the parents, if the Council so decides or upon the application of the breeder;
  - (5) the claims under section 20(a)(5) which have been accepted for the purposes of the registration;
  - (6) any other particulars which have been prescribed.
- (b) The Registrar may record additional particulars, which, in his opinion, deserve registration, in the Register of Rights.
- (c) The Register of Rights shall be kept at such place as the Minister has directed and shall be open for inspection by the public.
- (d) The Minister may by regulations prescribe the modes of arranging and keeping the Register of Rights.

### Section 6

#### Eligibility for Registration

A variety eligible for registration of a breeder's right therein in the Register of Rights is a variety in respect of which all of the following apply:

- (1) it is new;
- (2) it is sufficiently uniform as to its fundamental characters as indicated in the application;
- (3) its fundamental characters are stable, i.e. its description and characters are preserved also after reproduction or, where breeding involves a whole cycle, its characters are preserved at the termination of each cycle.

### Section 7

#### What is a New Variety

A new variety is a variety which is different as to at least one fundamental character from any other variety which was a known variety at the time the application for registration of a breeder's right therein was filed; for this purpose, "known variety" means a variety in respect of which, at or before the time the application as aforesaid was filed, one of the following applied:

- (1) its reproduction material had been utilised, except for utilisation being marketing or other commercial use, for a period not extending the following periods:
  - (a) in Israel--one year;
  - (b) outside Israel, in the case of vines, forest trees, fruit trees and ornamental trees--six years, and, in the case of other plants--four years;
- (2) it had been the subject of a publication--in or outside Israel--setting out its mode of production or characters in such a way that a person with professional training can reproduce it in accordance with the particulars so made known.

### Section 8

#### Publications not Preventing Registration

Notwithstanding anything provided in this Law, the right of a breeder to registration of a breeder's right in his name shall not be affected by reason

only that the variety was published by giving particulars thereof, during the period of breeding, for the purpose of examination or testing-

- (1) with a view to filing an application for registration of a breeder's right therein;
- (2) with a view to a recommendation under the Seeds Law, 5716-1956<sup>1</sup>.

### Section 9

#### Priority Right

Where several breeders have applied for registration of a breeder's right in the same variety, the right shall be registered in the name of the one who first validly applied for its registration.

### CHAPTER THREE

#### THE COUNCIL, THE REGISTRAR AND THE BREEDERS' RIGHTS COMMITTEE

### Section 10

#### Appointment of Council and its Committees

- (a) The Minister shall appoint a Plant Breeders' Rights Council (in this Law referred to as "the Council") consisting of nine members, of whom three shall be representatives of the Government and six shall be scientists, researchers, seed growers or plant variety breeders.
- (b) The Minister shall appoint one of the members of the Council to be the chairman thereof.
- (c) The Minister may, with the approval of the Economic Committee of the Knesset, increase the number of the members of the Council up to thirteen.
- (d) The Council may appoint committees, from among its members or otherwise, to make recommendations to it on such matters or classes of matters as it shall prescribe.
- (e) The term of office of the Council shall be three years from the date of its appointment.
- (f) Where a member of the Council has died, resigned or been removed from office, the Minister shall appoint another person in his stead who shall serve until the expiration of the term of office of the Council.
- (g) The Council shall prescribe its rules of procedure and those of the committees appointed by it in so far as they are not prescribed by this Law.

### Section 11

#### Functions of Council

The Council shall-

- (1) consider and decide upon applications;
- (2) guide the Registrar as to any matter relating to the exercise of his powers and the carrying out of his functions;
- (3) make recommendations to the Minister as to the making of regulations for the purposes of this Law;

---

<sup>1</sup> Sefer Ha-Chukkim of 5716, p.97; LSI vol. X, p.99.

- (4) carry out any other function and exercise any other power prescribed by the Minister under this Law.

### Section 12

#### Validity of Acts

- (a) Half of the number of the members of the Council shall be a quorum at its meetings, and it shall be sufficient if such a quorum is present at the time of the opening of the meeting.
- (b) The existence of the Council, its powers and the validity of its decisions shall not be affected by the vacancy of the place of a member of the Council or by a defect in the appointment or continued tenure of a member.

### Section 13

#### Deliberations and Voting

- (a) Voting in the Council shall be secret: Provided that, at the request of a majority of the members, voting shall be by a show of hands in respect of the subject of the request.
- (b) A person who has filed an application with the Council may be present at its deliberations thereon: Provided that the Council may direct that he shall not be present during the whole or part of the deliberations even if he is a member of the Council.
- (c) A member of the Council who directly or indirectly, himself or through his relative, agent or partner or through a relative of any of these, has any share or interest in any matter to be considered by the Council shall give written or oral notice of such fact to the chairman immediately after learning that the matter is to be considered and shall not take part in the voting on any question connected therewith. Where notice is given orally, it shall be recorded in the minutes of the next meeting of the Council.
- (d) For the purposes of subsection (c), "relative," in relation to a particular person, has the same meaning as in the Land Appreciation Tax Law, 5723-1963<sup>1</sup>.

### Section 14

#### The Registrar and his Functions

- (a) The Minister shall appoint an employee of the Ministry of Agriculture to be the Registrar of Plant Breeders' Rights (in this Law referred to as "the Registrar").
- (b) The Registrar shall-
- (1) keep the Register of Rights and deal with any matter relating to entries therein;
  - (2) issue certificates and other documents for the purpose of the registration or deletion of a breeder's right in or from the Register of Rights;
  - (3) carry out any function and exercise any power prescribed by the Minister under this Law.
- (c) The Registrar shall report to the Council on his activities at such times as it shall prescribe.
- (d) The Registrar shall take part in the meetings of the Council to which it invites him, and may take part in all its meetings.

---

<sup>1</sup> Sefer Ha-Chukkim of 5723, p. 156; LSI vol. XVII, p. 193

### Section 15

#### Filing of Application

- (a) In this chapter, "application" means any application or opposition under Chapter Four or Ten.
- (b) Every application shall be filed with the Registrar.
- (c) Where it appears to the Registrar that an application contains the particulars required to be contained therein under this Law, he shall refer it to the Council for consideration and decision.
- (d) Where it appears to the Registrar that an application does not contain the particulars required to be contained therein under this Law, he shall notify the applicant of the defects. If the applicant does not remedy within the time prescribed the defects notified to him by the Registrar, the Registrar shall reject the application.

### Section 16

#### Examination of Application

- (a) For the purpose of examining an application, the Council shall take such measures as it thinks fit, and it may, inter alia-
- (1) invite testers and other experts to give an opinion as to technical questions;
  - (2) carry out, itself or through testers acting at its request, any research, testing or examination required for making a decision; the applicant may watch the carrying out of field tests at such time, in such manner and on such conditions as shall be prescribed;
  - (3) transmit particulars of the application to an international institution for the purpose of a search for material enabling an examination.
- (b) The applicant shall pay the expenses involved in examining his application under this section, as the Registrar may decide, and the Registrar may require him to make advance payments on account of such expenses. The Registrar may withhold the examination of the application until payment of expenses or down-payments at the rate of the day of payment.

### Section 17

#### Hearing

Before giving a decision on an application, the Council shall enable the applicant to testify before it.

### Section 18

#### Plant Breeders' Rights Committee

- (a) The Minister of Justice shall appoint a Plant Breeders' Rights Committee. The Committee shall consist of three members, viz. a Judge of a District Court, who shall be the chairman of the Committee, the Registrar and a person with professional training in plant variety breeding appointed upon the proposal of the Minister of Agriculture.
- (b) The Minister of Justice may make regulations as to procedure and fees in proceedings before the Plant Breeders' Rights Committee, in so far as the same are not prescribed by this Law.

## Section 19

### **Secrecy**

Save for the purpose of the implementation of this Law, a person shall not disclose anything that comes to his knowledge in proceedings thereunder; a person who alleges that something came to his knowledge otherwise than in proceedings under this Law shall bear the burden of proof.

## **CHAPTER FOUR**

### REGISTRATION PROCEEDINGS

## Section 20

### **Application for Registration of Breeder's Right**

(a) An application for registration of a breeder's right in the Register of Rights shall be filed in the manner and on the conditions prescribed by regulations and shall contain the following:

- (1) the name of the applicant;
- (2) an address for service of documents in Israel or, if the applicant is not resident in Israel, the name of a representative resident in Israel authorised to represent him in any matter relating to the application;
- (3) a description and particulars of the variety which has been bred, including a detailed statement of its characters;
- (4) the denomination proposed for the variety;
- (5) a claim or claims setting out the distinctiveness of the variety in such manner that each claim reasonably arises out of the particulars given under paragraph (3);
- (6) any such other particular relating to the implementation of this Law as has been prescribed.

(b) Where the applicant is a person taking title from the breeder, he shall indicate the basis of his right in the application.

## Section 21

### **Further Particulars**

(a) For the purpose of examining an application under section 20, the Registrar may request from the applicant reproduction material or any further material or particulars relating to the subject of the application.

(b) If the applicant does not furnish the reproduction material or any further material and particulars requested from him, on such conditions, in such manner and at such time as has been prescribed, the Registrar may decide not to forward the application to the Council for consideration.

## Section 22

### **Publication of Application**

(a) Where an application for registration of a breeder's right has been filed and the Registrar has decided to forward it to the Council, the Registrar shall, within thirty days from the date of his decision, publish a notice in Reshumot and in an agricultural journal, specifying the following:

- (1) the name of the applicant;
- (2) the denomination proposed by the applicant for the variety in respect of which the application has been filed;

(3) a description of the variety and a specification of its characters as submitted by the applicant.

(b) Subject to the provisions of this Law, the Registrar may include in the notice any other particular which in his opinion should be included therein.

### Section 23

#### Opposition to Registration

(a) Where a notice has been published under section 22, any person may, within thirty days from the date of publication of the notice in Reshumot, file reasoned opposition in writing to the registration of the right.

(b) The following are grounds for opposition under this section:

- (1) the opponent's right to be registered as the holder of the breeder's right in the variety is better than the applicant's right;
- (2) the variety is not new.

(c) Notwithstanding the provisions of section 15, where the opposition is not based on one of the grounds indicated in subsection (b), the Registrar shall reject it in limine.

### Section 24

#### Registration

Subject to the provisions of section 25, where it appears to the Council that the variety has been tested and examined, that it possesses the characters specified in section 6, that all material and all technical literature relating to the variety and properly supplied to the Council have been examined and that no opposition that has been filed should be allowed, it shall direct the Registrar to register in the Register of Rights a breeder's right in the variety in the name of the applicant, and when the Registrar has registered the right, he shall publish a notice of the fact in Reshumot.

### Section 25

#### Referral to Court

(a) Where an opponent alleges, under section 23(b)(1), that his right to registration is better than that of the applicant, the Council shall suspend its deliberations and refer the opponent to the Court; where it does so, and the opponent files an action with the Court within the time prescribed to him by the Council, the Council shall not finally decide upon the registration of the application save after termination of the proceedings in the action and in accordance with the judgment given therein.

(b) If the Council has reasonable grounds for believing that an application filed with it is tainted with fraud, it shall notify such grounds to the Attorney-General and shall suspend consideration of the application. The Attorney-General may, in the light of the material placed before him by the Council and of any other material he sees fit to collect-

- (1) file an action with the Court for a declaratory judgment that the application is tainted with fraud; and the Council shall not decide upon the application save after termination of the proceedings in the action and in accordance with the judgment given therein; or
- (2) notify the Council that in his opinion the material does not contain sufficient evidence of fraud; such notification shall bind the Council and it shall continue consideration of the application.

(c) The provisions of this section shall only apply where it appears to the Council that the variety in question is prima facie eligible for registration in the Register of Rights.

## Section 26

### **Application for Amendment of Register of Rights**

(a) The holder of a breeder's right in a particular variety may apply for an amendment of any specification or description of the variety in the Register of Rights if the same is required for the clarification of claims of the holder of the right or for the elimination of any mistake, other than a mere clerical error, in the registration in the Register of Rights; but this shall not involve an extension of the scope of the claims stated in the application under section 20 or an addition of something not originally contained therein in substance.

(b) Within thirty days of filing of an application under subsection (a), the Registrar shall publish a summary thereof in Reshumot and shall forward the application to the Council for consideration.

(c) Where an application for an amendment under this section is filed while a proceeding for infringement or revocation is pending in court, the Council shall not consider the application save with the permission of the Court.

(d) Where permission has been given, the Council shall decide upon the application after giving all the parties in that proceeding an opportunity to present their arguments to it.

(e) Where court proceedings for infringement are instituted after an application for an amendment of particulars has been filed under this section, the consideration of that application shall continue unless the Court otherwise directs.

## Section 27

### **Opposition to Registration of Amendment**

Any person may file opposition to an application under section 26 within thirty days from the date of publication in Reshumot on the ground that the amendment does not achieve the purpose of the application.

## Section 28

### **Decision as to Amendment to be Recorded in Register of Rights**

Where the Council has decided upon an application under section 26, the Registrar shall record the decision in the Register of Rights and shall inform the applicant accordingly and, unless the decision is a refusal, notice thereof shall be published in Reshumot.

## Section 29

### **Revocation of Breeder's Right**

(a) The Council may, on its own initiative or on the application of a person interested in a registered variety, revoke the breeder's right therein if one of the following appears to it to be the case:

- (1) the variety no longer meets the requirements stated in section 6;
- (2) the breeder has not furnished it upon its request, within a period, not shorter than one growing season, prescribed by it, with reproduction material of the variety or, in the case of a hybrid variety, of the parents, whose fundamental characters are identical with those of the variety specified in the Register of Rights, in such quantity as it may have prescribed, as well as with documents and information, as may be required for a re-examination of the variety;



- (3) the breeder has not permitted an examination of the measures taken by him for the preservation of the variety;
- (4) a court has decided that the right of another to be registered as the holder of the right is better than the right of the registered holder; the date of the coming into force of the better right and the procedure of its registration shall be as prescribed by regulations.
- (b) Notice that the Council will consider an initiative to revoke a breeder's right or an application for revocation filed as aforesaid shall be given to the holder of the right and shall be published in Reshumot.
- (c) The Council shall not decide to revoke a breeder's right before it has enabled the holder of the right and the applicant for its revocation to be heard before it.
- (d) The Council shall not consider an application for revocation filed after the expiration of twenty-four months from the date of registration of the right in the Register of Rights: Provided that the time when court proceedings, of which notice was given to the Council upon their institution, were pending under subsection (a)(4) shall not be taken into account in calculating that period.
- (e) Save with the permission of the Court, the Council shall not consider an application for revocation filed while a court proceeding for infringement or revocation is pending.
- (f) Where court proceedings for infringement are instituted after an application for revocation has been filed with the Council, the Council shall continue its consideration of the application unless the Court otherwise directs.
- (g) For the purpose of this section, the Council shall have all the powers mentioned in section 16 even if it acts on its own initiative only.

### Section 30

#### Coming into Force and Registration of Revocation

- (a) A decision to revoke a breeder's right shall come into force at the expiration of fifteen days after the period of appeal under section 86. But where an appeal has been filed, the Court may stay the coming into force of the revocation or attach such conditions as it may think fit to the coming into force or the stay.
- (b) Where a breeder's right has been finally revoked, the Registrar shall register the fact of the revocation in the Register of Rights and the right shall be deemed not to have existed.
- (c) Notice of the revocation of a breeder's right under this section shall be published in Reshumot.

## CHAPTER FIVE

### REGISTERED DENOMINATIONS OF VARIETIES

### Section 31

#### Restrictions on Registration of Denominations of Varieties

- (a) The denomination of a variety shall not be registered in the Register of Rights if an identical or similar denomination or description is still registered under the Trade Marks Ordinance (New Version), 5732-1972<sup>1</sup>, in respect

---

<sup>1</sup> Dinei Medinat Yisrael (Nusach Chadash) No. 26, p. 511; NV vol. II, p.292

of agricultural crops of the same species, and a denomination shall not be registered under the said Ordinance in respect of crops as aforesaid if an identical or similar denomination of a variety has at any time been registered in the Register of Rights.

(b) The denomination of a variety shall not be registered under this Law if one of the following applies to it:

- (1) it is identical with the denomination of a registered variety of the same species or so similar to such a denomination as to be misleading;
- (2) it is identical with the denomination of a variety of the same species mentioned in any enactment within the jurisdiction of the Minister;
- (3) it is identical with a denomination accepted by the public as the denomination of a variety of the same species even though such variety may not be mentioned in an enactment as aforesaid;
- (4) it is identical with the denomination of a variety of the same species registered in a Convention state or so similar to such a denomination as to be misleading;
- (5) it is likely to be injurious to public order or morality;
- (6) it is likely to mislead the public with regard to the variety or to its characters or to its difference from other varieties of the same species;
- (7) it does not conform to accepted international rules regarding denominations of varieties.

### Section 32

#### Approval of Denomination of Variety

Where the Registrar is satisfied that no bar exists under section 31 to the registration of the denomination of the variety proposed by the applicant in his application for the registration of a breeder's right, he shall approve the proposed denomination and it shall be included in the notice under section 24. Where a bar as aforesaid exists, the applicant shall be requested to propose another denomination within the time prescribed by the Registrar; if he does not do so, the Registrar shall prescribe the denomination of the variety.

### Section 33

#### Contestation of Determination of Denomination of Variety

A person who considers himself aggrieved by a decision prescribing the denomination of a variety may, before the expiration of one year from the date of publication of the notice under section 24, file with the Registrar a reasoned contestation in writing. The Registrar shall decide the matter and shall notify the contestor, in writing, of his decision.

### Section 34

#### Protection of Denomination of Variety

(a) When a variety has been given a denomination, such denomination shall be used for it whether or not a trade mark is coupled with such denomination.

(b) The registered denomination of a variety or a denomination so similar to it as to be misleading may be used only for a variety which has characters identical with those of the first-mentioned variety.

(c) For the purpose of the provisions of this section, it shall be immaterial whether or not at the time of the use of the denomination the breeder's right is still registered.

(d) On application made to him in writing, the Registrar may recommend to a person appointed in that behalf by the Minister to authorise the applicant to use a secret mark, instead of the denomination of the variety, on conditions prescribed in the authorisation. The Registrar shall in every case forward the application to that person, whose decision shall be final.

### Section 35

#### Registered Denomination to be the Only Denomination

When the denomination of a variety has been registered, it can only be changed in proceedings under section 33.

## CHAPTER SIX

### PROTECTION OF BREEDERS' RIGHTS

### Section 36

#### Scope of Breeder's Right

(a) Subject to the provisions of this chapter and of Chapter Seven, the holder of a breeder's right may prevent any other person from utilising without his permission or unlawfully the variety in respect of which the right has been registered. Utilisation as aforesaid shall be called infringement.

(b) A breeder's right shall be valid vis-à-vis the State, but the Civil Procedure Amendment (The State as a Party) Law, 5718-1958<sup>1</sup>, shall apply.

### Section 37

#### Permitted Use of Registered Variety

Notwithstanding the provision of section 36, a person may without the consent of the holder of the breeder's right-

(1) utilise reproduction material of a registered variety for the sole purpose of experiments towards the development of a new variety; however, no person shall without permission from the holder of the breeder's right utilise the reproduction material of a registered variety recurrently for the commercial production of another variety;

(2) use a registered variety for purposes of research, science or laboratory tests only.

### Section 38

#### Period of Breeder's Right

(a) Subject to the provisions of sections 2 and 4-

(1) the period of a breeder's right is fifteen years from the date of its registration;

(2) the period of a breeder's right in varieties of vines, fruit trees, forest trees and any other perennial plant is eighteen years from the date of its registration.

(b) The Minister may, in respect of any particular plant or class of plants, prescribe a longer period than that prescribed by this section.

---

<sup>1</sup> Sefer Ha-Chukkim of 5718, p. 118; LSI vol. XII, p.138

### Section 39

#### Evidential Value of Registration

Notwithstanding the registration of a breeder's right in a variety and the specification of its characters in the Register of Rights, it shall be permissible to prove that the variety constitutes no innovation or that the specification does not conform with the actual characters of the variety.

### Section 40

#### Compulsory Pharmaceutical Licence

(a) Where it appears to the Council that it is necessary so to do in order that medical supplies may be available to the public in reasonable quantities and at reasonable prices, it may, in consultation with the Breeders' Rights Committee, without the consent of the holder of the breeder's right, permit a registered variety to be utilised for the sole purpose of manufacturing a medicament.

(b) A licence under this section may be issued only to a person having the ability and know-how to utilise the variety under the conditions prescribed by the Council.

### Section 41

#### Compulsory Agricultural Licence or Revocation of Right

(a) Where it appears to the Council that the holder of a breeder's right has not utilised the registered variety or has utilised it under circumstances and under conditions not in the public interest, it may, in consultation with the Breeders' Rights Committee, permit such variety to be utilised under conditions prescribed by it and without the consent of the holder of the right.

(b) The Council may revoke the breeder's right in a variety if it has requested the holder of the right to present and supply reproduction material of the variety or, in the case of a hybrid variety, reproduction material of its parents, and the holder of the right has not proved that he has done so. The Council may prescribe in the request to whom the reproduction material is to be presented and supplied, the conditions of its presentation and supply, including quantity, and the period, not shorter than one growing season, within which it is to be presented and supplied; the Council may extend the period prescribed as aforesaid.

(c) The Council shall not exercise its power under this section within two years from the date of registration of the breeder's right unless, in its opinion, there are special reasons for doing so.

### Section 42

#### Supplementary Provisions

A licence under section 40 or 41-

(1) shall be issued on the application of a person qualified to receive it and after the holder of the right has been given an opportunity to state his case;

(2) shall specify its period and conditions, including payment to the holder of the right;

(3) shall, with its conditions, become an agreement between the holder of the right and the licensee, in addition to or without any other agreement between them;

(4) may be revoked by the Council if it appears to it that an infringement of any of the conditions of the licence justifies its revocation.

### Section 43

#### **Transfer of Breeder's Right**

A breeder's right and the right to apply for its registration are transferable in writing and pass by operation of law, but the passing of a breeder's right otherwise than by operation of law shall be of no effect vis-à-vis any person other than the transferor and the transferee unless it has been registered in the Register of Rights.

### Section 44

#### **Utilisation Permitted in Consequence of Bona Fide Earlier Use**

(a) A person who proves to the satisfaction of the Registrar that for at least three years immediately preceding the determining date he utilised in Israel in good faith the variety to which an application for registration of a breeder's right relates may utilise such variety personally and in the course of his business only. Where the Registrar has certified that proof as aforesaid has been produced to him, the Breeder's Rights Committee shall, on the application of the holder of the breeder's right, prescribe the consideration to be paid by that person for utilisation of the variety. The Committee's decision shall be enforceable in like manner as a final judgment of a court.

(b) For the purpose of this section, "the determining date" means the date on which the application for registration of a breeder's right was filed in Israel or, where a priority right is claimed for that application under Chapter Ten, the date on which the application on the basis of which the priority right is claimed was filed.

(c) The right to utilise a variety under this section is not capable of transfer, devolution or transmission by way of inheritance save together with the business in which the variety was used.

## **CHAPTER SEVEN**

### VARIETY BRED DURING OR IN CONSEQUENCE OF SERVICE

### Section 45

#### **Notification of Breeding of Variety**

An employee shall notify his employer in writing-

- (1) of any variety bred by him in the period of his service or in consequence of his service as soon as possible after completing the breeding of the variety and before filing an application under section 20;
- (2) of the filing of any application by him under section 20.

### Section 46

#### **Variety Bred in Consequence of Service**

(a) Where an employee has bred a variety in consequence of his service, the right to register a breeder's right in such a variety shall accrue to the employer unless otherwise agreed between them or unless the employer waives such first-mentioned right in writing within six months from the date on which the employee's notification under section 45 is delivered to him.

(b) Where in a notification under section 45 the employee states that failing a written reply to the contrary by the employer within six months from the date of such notification the breeder's right will accrue to the employee, and the employer does not give a reply as aforesaid, the right shall not accrue to the employer.

### Section 47

#### Dispute in Connection with Breeding of Variety

Where a dispute arises as to whether a variety in respect of which notification has been made under section 45 was bred in consequence of service, the employee or the employer may, upon the expiration of three months from the date of delivery of the notification, request the Registrar to decide the question.

### Section 48

#### Presumption of Breeding in Service

Where an employee has bred a variety in the period of his service, he shall, pending proof to the contrary, be presumed to have bred it in consequence of his service.

### Section 49

#### Determination by Breeders' Rights Committee

(a) In the absence of agreement between an employee and his employer as to the consideration to which the employee is entitled for a variety bred by him in consequence of his service, the Breeders' Rights Committee shall determine whether, to what extent and on what conditions the employee is entitled to a consideration.

(b) The Breeders' Rights Committee may on application reconsider a decision under subsection (a) if, in its opinion, the circumstances which existed at the time of the decision have changed; but it may order the applicant to pay costs if in its opinion there was no occasion for the application.

(c) The Breeders' Rights Committee shall take into account, inter alia:

- (1) the capacity in which the employee was employed;
- (2) the nature of the connection between the breeding of the variety and the employee's work;
- (3) the initiative of the employee in breeding the variety;
- (4) the possibilities of utilising the variety and its actual utilisation;
- (5) expenses which according to the circumstances were reasonably incurred by the employee to secure protection of the variety in Israel.

(d) The deliberations of the Breeders' Rights Committee under this section shall be held in camera unless the Committee otherwise directs.

(e) Decisions of the Committee under this section shall be enforceable, in like manner as a final judgment of a court.

### Section 50

#### Duties of State Employee

(a) A State employee, or an employee of a State enterprise or agency designated by the Minister, or any other person who receives payment for service from the State or from any such enterprise or agency as aforesaid, who has bred a variety in the period of his service or in consequence of his service shall notify the same to his superior, as well as to the State Service Commissioner or to some other public servant, as may be prescribed.

(b) Notification under this section shall be made, in the manner prescribed in consultation with the Minister of Finance, as soon as possible after the breeding of the variety, but not later than the time at which the employee proposes to file an application under section 20 in respect of the variety.

(c) A person bound to make notification under this section shall not file outside Israel an application for registration of a breeder's right or an application for other protection of the variety bred by him unless-

(1) he has received advance permission therefor from the State Service Commissioner or from some other public servant designated in that behalf, or

(2) within six months from the date on which he notified the breeding of the variety under this section it has not been decided that his rights in the variety have accrued, wholly or in part, under section 46 or by agreement, to the State or to the State enterprise or agency at which he worked.

#### Section 51

##### **Duty of Notification to Continue**

The duty of notification under this chapter shall continue until its fulfilment, even though the time prescribed for it may have elapsed.

#### Section 52

##### **Duty to Disclose Particulars**

A person who has made or is bound to make notification under this chapter shall always disclose to his employer all the particulars of the variety bred by him and any further detail relevant to the purposes of sections 46 and 53.

#### Section 53

##### **Duty to Assist Employer**

Where a person has bred a variety during service and the right to register a breeder's right therein has wholly or partly passed to his employer under section 46 or by agreement, such person shall do everything required of him by the employer in order to obtain protection of the variety, in any place, in favor of the employer, and shall sign every document required therefor. If he fails to do so, the Registrar may permit the employer to do so after giving the employee an opportunity to be heard.

#### Section 54

##### **Duty of Secrecy**

So long as application for registration of a breeder's right in a variety bred in consequence of service has not been filed, the employee, the employer or any person to whom particulars of the variety have been communicated in confidence shall not disclose the same.

### **CHAPTER EIGHT**

#### INDICATION OF NAME OF ACTUAL BREEDER

#### Section 55

##### **Definition**

In this chapter, "person who has bred a variety" means a person who has developed a new variety, within the meaning of section 7, but does not include those taking title from him by operation of law or by transfer or agreement.

### Section 56

#### Indication of Name of Breeder

Where a person has bred a variety, and an application for registration of a breeder's right therein has been filed, he or his survivors may request that his name be indicated in the Register of Rights, and the Registrar shall accede to the request subject to the provisions of section 57 and 58, provided that the request has been filed at the time and in the manner prescribed. Notwithstanding the provisions of sections 98 to 100, when the name of the person who has bred a variety has been indicated in the Register of Rights, it shall not be deleted save by decision of the Court.

### Section 57

#### Hearing of Breeder and Holder of Right

Where a request under section 56 is filed while the person making it is not entitled to apply for registration of the breeder's right in his name, the Registrar shall give notice thereof to the holder of the breeder's right or the person entitled to apply for registration as aforesaid and, if opposition proceedings under section 23 are pending at the time, to every person who is a party to such proceedings. The Registrar shall give his decision after hearing the persons concerned if they apply therefor within the time prescribed.

### Section 58

#### Non-Entertainment of Request

The Registrar shall not entertain a request under section 56 if he is of the opinion that it should be dealt with like an application on the ground stated in section 23(b)(1) or 29(a)(4).

### Section 59

#### Indication of Name Cannot be Waived

A stipulation by which a person who has bred a variety waives his right to request the indication of his name shall be of no effect.

### Section 60

#### Indication of Name not to Confer Rights

A person whose name has been indicated as that of the person who has bred a variety shall not for that reason alone have any right in the variety or in the breeder's right therein.

## CHAPTER NINE

### INFRINGEMENT OF BREEDER'S RIGHT

### Section 61

#### Action for Infringement

Only the holder of a breeder's right or his agents shall be entitled to file an action for infringement.



## Section 62

### **Time for Filing Actions for Infringement**

An action for infringement shall not be filed before the breeder's right has been registered. However, when an action for infringement has been filed, the Court may grant relief for an infringement committed after the date of publication under section 22.

## Section 63

### **Utilisation of Forfeited Product**

The utilisation of a validly forfeited product of a registered variety shall not constitute infringement save in the case of recurrent cultivation.

## Section 64

### **Invalidity of Registration a Defence in Action for Infringement**

Any ground on which the registration of a breeder's right may be opposed shall be a good defence in an action for infringement. If the Court allows the defence, it shall order that the particulars of registration in the Register of Rights be amended or that the breeder's right be revoked, as the case may be.

## Section 65

### **Relief for Infringement**

(a) In an action for infringement, the plaintiff shall be entitled to relief by way of injunction or compensation.

(b) In awarding compensation, the Court shall have regard to the act constituting the infringement and to the position of the plaintiff in consequence of that act, and it may take into account, inter alia-

- (1) the direct damage caused to the plaintiff;
- (2) the extent of the infringement;
- (3) the profits derived by the infringer from the act constituting the infringement;
- (4) reasonable royalties which the infringer would have had to pay if he had been granted a licence to utilise the breeder's right to the extent to which he infringed it.

(c) Where an infringement is committed after the plaintiff has warned the infringer, the Court may order the infringer to pay punitive damages, in addition to the compensation fixed under subsection (b), but the amount thereof shall not exceed the amount of the compensation.

(d) Where compensation is claimed, the Court may order the defendant to make a report as to the extent of the infringement; however, in fixing the amount of the compensation, the Court shall not be bound by the report but may fix the amount in accordance with all the circumstances of the case. This provision shall not derogate from the rules of procedure concerning the rendering of accounts.

## Section 66

### **Compensation Where Specification has been Amended**

Where a breeder's right was infringed before leave was given to amend one of the claims in the specification, and compensation for the infringement is

claimed after the giving of such leave, the Court need not take the giving of leave into account if the claims in the original specification were not drafted in good faith and clearly.

#### Section 67

##### **Restriction on the Award of Compensation in the Case of Partially Revoked Breeder's Right**

Where part of a breeder's right in respect of which an action for infringement has been brought is revoked, such fact shall not by itself debar the plaintiff from receiving compensation for the infringement; but the Court may refuse to award compensation if the claims in the specification of the original right were not drafted in good faith and clearly.

#### Section 68

##### **Compensation in the Case of Renewed Breeder's Right**

Where the Court is satisfied that there was no just cause for non-payment of the fee under section 74, it may refuse to award compensation for the infringement of a breeder's right committed in the period between the time for payment of the fee under section 74 and its actual payment under section 75. A person who alleges that there was just cause for non-payment of the fee shall bear the burden of proof.

#### Section 69

##### **Declaration of Non-Infringement**

(a) A person who intends to do any act in respect of a variety may apply to the Court for a declaration that such act does not constitute an infringement of a breeder's right specified in the application.

(b) The holder of the breeder's right shall be the respondent to the application.

(c) The Court shall not grant the declaration unless the applicant has given the holder of the breeder's right full particulars of the act or variety in respect of which the application has been filed and has requested of him the declaration for which he is applying to the Court, and the holder of the right has refused to make the declaration or has not made it within a reasonable period; but the Court shall not dismiss an application by reason only that it was filed before the expiration of such time as, in the opinion of the Court, is reasonable for the making of the declaration by the holder of the right.

(d) The costs of the parties shall be borne by the applicant for the declaration unless the Court otherwise directs.

(e) In proceedings under this section, the plea that the breeder's right is invalid shall not be heard, and the grant or refusal of the declaration shall not be deemed to decide the question of validity.

#### Section 70

##### **Powers of Court on Referral to Council**

Where the Court has given the Council permission to consider an application for amendment under section 26(c) or an application for revocation under section 29(d), it may, for such period and on such conditions as it shall prescribe, stay the proceedings in a case pending before it in respect of the same breeder's right; but each party may at any time apply to the Court for variation or revocation of the stay order.

## CHAPTER TEN

FOREIGN APPLICATIONSSection 71**Application by Non-Resident**

Notwithstanding the provision of section 3(b), the Minister may direct that a person who is not an Israeli national or resident may apply for registration of a breeder's right in the Register of Rights in respect of a variety bred outside Israel if-

- (1) it is necessary to do so in order to fulfil obligations relating to international agreements between Israel and another state and it appears to the Minister that such state accords reciprocity to Israel in this matter, or
- (2) the Minister considers that it is in the public interest to do so.

Section 72**Priority Right**

Where a breeder files an application for registration of a breeder's right in a variety after he or his predecessor in title has already filed a foreign application in respect thereof, he may apply for a priority right under which, for the purposes of sections 7 and 9, the date of the foreign application should be deemed to be the date of the application filed in Israel, provided that the application in Israel is filed within twelve months after the filing of the foreign application or the coming into force of this section, whichever is later, and that other conditions prescribed by regulations are fulfilled.

Section 73**Extension of Application**

Notwithstanding the provisions of section 72 and 102, the Minister may, by order, apply the provisions of section 72 to any state, whether or not it is a Convention state, if it appears to him that such state accords reciprocity to Israel in this matter.

## CHAPTER ELEVEN

FEESSection 74**Payment of Fees**

A breeder's right shall be valid if its holder has paid the prescribed fee at the prescribed times. Where the fee is not paid, the right shall lapse at the time prescribed for payment of the fee.

Section 75**Extension of Time for Payment of Fees**

Notwithstanding the provisions of section 74, a fee may be paid within six months from the time prescribed for its payment together with an additional fee of a prescribed amount, and where this is done, the fee shall be deemed to have been paid at the time prescribed for payment and the breeder's right shall be deemed not to have lapsed.

## Section 76

### Publication of Notice of Lapse of Right

Where the period stated in section 75 has passed without the fee having been paid as provided therein, the Registrar shall publish a notice of the lapse of the breeder's right in Reshumot.

## Section 77

### Application for Restoration of Lapsed Right

The holder of a breeder's right which has lapsed by reason of non-payment of a fee in accordance with section 75 may apply to the Registrar, in the manner and form prescribed, for the restoration of the right, provided that on filing the application he pays the prescribed restoration fee.

## Section 78

### Publication of Application for Restoration

Where the Registrar is satisfied that the fee has not been paid for reasonable cause, that the holder of the breeder's right was not aware of and did not desire the lapse of the right and that the application for restoration of the right under section 77 was filed as soon as possible after the fact of non-payment of the fee had become known to the holder of the right or the person responsible on his behalf for payment of the fee, he shall direct publication of the application in Reshumot after the holder of the breeder's right has paid the outstanding fee.

## Section 79

### Opposition to Restoration

Any person may, within three months from the date of publication under section 78, file with the Registrar reasoned opposition in writing to the application for restoration of the right.

## Section 80

### Order for Restoration

(a) Where no opposition has been filed under section 79 or where opposition has been filed but has been dismissed, the Registrar shall make an order for restoration of the breeder's right (in this section referred to as "the order"), and he may make restoration subject to conditions, including, inter alia-

- (1) the payment of compensation to any person adversely affected by the order;
- (2) permission for a person who utilised the registered variety in respect of which the order is made to continue utilising it in the course of his business only, with or without consideration, for such period as the Registrar shall prescribe.

(b) A person who considers himself aggrieved in respect of compensation under subsection (a)(1) or in respect of consideration for permission to continue utilising the variety under subsection (a)(2) may, instead of appealing under section 86, lodge objection with the Breeders' Rights Committee.

### Section 81

#### **Transfer of Right of Utilisation**

The right to utilise a breeder's right under section 80 is not capable of transfer, devolution or transmission by way of inheritance, save together with the business in which the registered variety was used as aforesaid.

## CHAPTER TWELVE

### PENALTIES

### Section 82

#### **Infringement Committed Knowingly**

A person who knowingly infringes a breeder's right registered under this Law is liable to imprisonment for a term of one year or a fine of 25,000 shekalim or, if he has once before been convicted of an offence under this section, imprisonment for a term of two years or a fine of 30,000 shekalim.

### Section 83

#### **Act in Respect of Variety Prior to Registration**

A person who, in the period between publication under section 22 and the registration of the breeder's right, knowingly commits an act in respect of the variety which, had the variety been a registered variety at the time, would have constituted an infringement of a breeder's right is liable to imprisonment for a term of six months or a fine of 15,000 shekalim or, if he has once before been convicted of an offence under this section, imprisonment for a term of one year or a fine of 15,000 shekalim.

### Section 84

#### **Non-Fulfilment of Duty**

A person who does not fulfil any duty imposed on him by section 13(c), 19, 34, 45, 50, 52, 53 or 54 or who discloses any part of deliberations of the Breeders' Rights Committee under section 49 held in camera is liable to imprisonment for a term of six months or a fine of 2,000 shekalim.

### Section 85

#### **Competent Court**

The court competent to try offences under this chapter shall be the District Court of Jerusalem.

## CHAPTER THIRTEEN

### JURISDICTION, PROCEDURE AND PRACTICE

### Section 86

#### **Appeal**

A person who considers himself aggrieved by a decision of the Council or the Registrar not open to contestation or opposition under this Law may appeal

against it to the District Court of Jerusalem, and a person who considers himself aggrieved by a decision of the Breeders' Rights Committee may appeal against it to the Supreme Court, within thirty days from the day on which the decision came to his knowledge as prescribed.

#### Section 87

##### Proceedings in Camera

An appeal against a decision of the Registrar dismissing an application under section 15(d) shall be heard in camera unless the Court, on the application of the appellant, otherwise directs.

#### Section 88

##### Evidence on Appeal

The Court which hears the appeal may take evidence, both evidence already taken by the Registrar or Council and other evidence, and may require that such evidence be presented by affidavit or in such manner as it may think fit. Where evidence is presented by affidavit, the Court shall, upon request, permit the deponent to be cross-examined unless it sees reasonable cause not to permit it.

#### Section 89

##### Scientific Adviser

(a) In proceedings under this Law, the Court may appoint a scientific adviser, who shall assist it in taking evidence and advise it, but shall not take part in giving judgment.

(b) The remuneration of the scientific adviser shall be fixed by the Court and shall be paid out of the Treasury.

#### Section 90

##### Power to Direct Amendment of Specification

In any civil proceedings under this Law, the Court may, on the application of the holder of the breeder's right, direct an amendment of the specification for one of the reasons stated in section 26(a) or 99, and the provisions of sections 26(a) and (b) shall mutatis mutandis apply thereto.

#### Section 91

##### Extension of Times

(a) The Registrar may, if he sees reasonable cause for doing so, extend any time prescribed by this Law or by regulations made thereunder for doing anything otherwise than before the Court, except the time prescribed by section 23, 72, 74 or 75: Provided that the Registrar may extend the time under section 72 if he is satisfied that the application in Israel was not filed in time because of circumstances over which the applicant and his representative had no control and which they could not have prevented.

(b) The Registrar may grant an extension of time subject to such conditions as he may think fit.

(c) An application for extension of time may be filed either within or after the time originally allowed.

## Section 92

### Collection of Evidence

The Council, its committees, the Breeders' Rights Committee and the Registrar may collect evidence to the extent deemed necessary by them for the carrying out of their functions and the exercise of their powers.

## Section 93

### Proceedings in Contested Case

(a) In any contested case brought before the Council, its committees, the Breeders' Rights Committee or the Registrar under this Law, the parties shall be given an opportunity to produce their evidence and to present their arguments in writing and orally in such manner and form and at such times as shall be prescribed.

(b) The payment of reasonable expenses may be ordered-

(1) by the Registrar in proceedings before him or before the Council or its committees;

(2) by the Breeders' Rights Committee in proceedings before it;

they may also direct by order which of the parties shall pay the expenses and how they shall be paid.

(c) An order under subsection (b) shall be enforceable as if it were a court judgment.

(d) Subject to the provision of subsection (a), the Minister of Justice may by regulations prescribe the rules of procedure for any contested case under this Law.

## Section 94

### Special Representation

(a) The Minister of Justice and the Minister of Agriculture may issue a permit to represent a person for the purpose of any proceeding under this Law, except a proceeding before a court.

(b) The Minister of Justice and the Minister of Agriculture shall, with the approval of the Economic Committee of the Knesset, prescribe the conditions of eligibility for holding a permit under this section.

(c) The provisions of this section shall not derogate from the right of representation granted to an advocate by the Chamber of Advocates Law, 5721-1961<sup>1</sup>.

## Section 95

### Preservation of Documents

(a) All documents in the possession of the Registrar, the Council or the Breeders' Rights Committee relating to the examination of an application for a breeder's right or to the validity of, or any rights in or connected with, a breeder's right or to any other matter likely to affect the validity of, or any rights in or connected with, a breeder's right shall be preserved for at least seven years from the day on which the validity of the breeder's right expires.

---

<sup>1</sup> Sefer Ha-Chukkim of 5721, p. 178; LSI vol. XV, p. 196.

(b) The provisions of subsection (a) shall not apply to internal correspondence of the members of the Council, its employees and the Registrar among themselves or to other documents otherwise provided for by regulations.

#### Section 96

##### **Inspection by Public and Receipt of Certified Extracts**

(a) The documents to be preserved under section 95 shall be open for inspection by the public except-

(1) documents relating to any application for registration of a breeder's right which has not yet been published under section 22 or to deliberations of the Breeders' Rights Committee under section 49;

(2) documents specifying the denominations of the parents of a hybrid variety which are not indicated in the Register of Rights, unless the Council otherwise decides or the breeder otherwise requests.

(b) Every person shall on application in the prescribed manner and payment of the prescribed fee be entitled to receive a certified extract, with the Registrar's seal, from anything contained in the Register of Rights or from the documents open for inspection under this section.

#### Section 97

##### **Registration of Transfer of Rights**

(a) A person to whom any rights in a variety have been transferred, whether it be a registered variety or a variety in respect of which an application for registration of a breeder's right has been filed, may apply to the Registrar for registration as the holder of those rights, and if the transfer has been proved to the satisfaction of the Registrar and the prescribed fee paid, the transfer of the rights shall be registered in the Register of Rights or in the application file, as the case may be.

(b) The Minister of Justice may prescribe procedure for the service of judgments prescribing a transfer of rights as referred to in this section, and when he has done so and a judgment is served upon the Registrar in accordance with such procedure, the Registrar shall, notwithstanding the provisions of subsection (a), register the transfer prescribed by the judgment.

#### Section 98

##### **Amendment of Records and Documents**

(a) The Registrar may, on the application of an interested person, filed in the manner and form prescribed, amend an entry in the Register of Rights or in any document issued by him or filed with him or with the Council, if in his opinion the Register of Rights or document does not reflect the facts and if no other procedure for making the amendment is prescribed by this Law.

(b) The Registrar shall publish in Reshumot a notice of any application under this section and shall also give notice thereof to every person who in his opinion is likely to be adversely affected by the amendment, calling upon him to submit to him, within the prescribed time, his arguments as to such amendment; and he shall not decide upon the application before the expiration of that time.

#### Section 99

##### **Correction of Clerical Errors**

The Registrar may, on application in the manner and form prescribed, correct a clerical error in a specification, the Register of Rights or any document issued by him.



### Section 100

#### Rectification on the Initiative of the Registrar

The Registrar may make a rectification under section 98 or 99 of his own motion in the manner prescribed for the purposes of the section concerned.

### Section 101

#### Restriction on Admission of Documents Attesting to Breeders' Rights

(a) No document or deed transferring any right in a variety--whether such variety be registered or whether an application for a breeder's right or an interest has been filed in respect thereof--shall be admitted in court as evidence of title to the variety or the breeder's right or of the transfer of the interest unless the transfer has been registered under section 97 or the Court sees reason to admit such document or deed.

(b) Notwithstanding the provision of subsection (a), documents as aforesaid shall be admitted as evidence in any proceeding concerning a correction of the Register of Rights under section 98.

## CHAPTER FOURTEEN

### MISCELLANEOUS

### Section 102

#### Commencement

(a) This Law, except section 72, shall come into force at the expiration of six months from the date of its publication in Reshumot.

(b) Section 72 shall come into force on the date announced by the Minister, by notice in Reshumot, at least thirty days in advance.

### Section 103

#### Transitional Provisions

(a) Where a breeder files an application for registration of a breeder's right in a variety after he or his predecessor in title, before the coming into force of this Law, has received a confirmation from a government agency in Israel that the variety is a recommended variety under the Seeds Law, 5716-1956<sup>1</sup>, he may apply for a priority right by virtue of which, for the purposes of sections 7 and 9, the date of confirmation shall be deemed to be the date of filing of the application for registration under this Law, provided that the application for registration under this Law is filed within six months of the coming into force thereof and other conditions prescribed by regulations are fulfilled. If the application for a priority right is granted, the period of the breeder's right shall be reckoned from the date of confirmation as aforesaid.

(b) Where a breeder files an application for registration of a breeder's right in a variety after a breeder's right in that variety has been registered in a Convention state in his name, or in that of his predecessor in title, before the coming into force of this Law, he may apply for a priority right by virtue of which, for the purposes of sections 7 and 9, the date of the application for the right in that Convention state shall be deemed to be the date of filing of

---

<sup>1</sup> Sefer Ha-Chukkim of 5716, p. 97; LSI vol. X, p. 99.

the application for registration under this Law, provided that the application for registration under this Law is filed within twelve months from the date of the coming into force of section 72 and other conditions prescribed by regulations are fulfilled. If the application for a priority right is granted, the period of the breeder's right shall be reckoned from the date of registration of the breeder's right in that Convention state.

(c) Notwithstanding the provisions of subsection (b) and section 102, the Minister may, by regulations, apply subsection (b) in respect of any state, whether or not it is a Convention state, if it appears to him that that state accords reciprocity to Israel in this matter.

(d) Nothing in this Law shall be construed as granting relief for infringement of a breeder's right in respect of the period before the coming into force of this Law.

#### Section 104

##### Implementation and Regulations

The Minister is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation, including-

- (1) registration procedure;
- (2) procedure in proceedings before the Council or the Registrar under this Law;
- (3) forms for applications under this Law, the mode of drawing up specifications, and the mode of representing a variety in the specification;
- (4) the fees payable in respect of applications filed under this Law, acts of the Registrar or the Council, the registration and renewal of registration of a breeder's right, and other services under this Law;
- (5) payment for an opinion or the carrying out of research;
- (6) the preparation, readying for the press, printing, publication and sale of abridgments of specifications, specifications of breeders' rights and other publications by or on behalf of the Council or the Registrar;
- (7) the issue of certificates under this Law attesting to registration of a breeder's right in the Register of Rights;
- (8) the payment of expenses incurred by the members of the Council in respect of their participation in the activities thereof;
- (9) the payment of expenses to witnesses and experts who have given evidence or opinions before the Council or the Registrar;
- (10) the assignment of experimental plots, and laboratories, for the testing of new varieties, within the framework of farms of the Ministry of Agriculture or otherwise;
- (11) the circumstances of the discontinuance of the tenure of a member of the Council.

#### Section 105

##### Publication

This Law shall be published in Reshumot within thirty days from the date of its adoption by the Knesset.

## SCHEDULE\*

(Section 2)

## Plants to Which the Law Applies

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Allium cepa L.	Onion	Oignon	Zwiebel
Allium sativum L.	Garlic	Ail	Knoblauch
Alstroemeria L.	Alstroemeria	Alstroemère, Lis des Incas	Inkalilie,
Amygdalus communis L.	Almond	Amandier	Mandel
Anemone L.	Anemone	Anémone	Anemone, Windröschen
Annona cherimola Mill.; A. squamosa L.	Annona, Cherimoya; Annona, Sugar Apple, Sweet Sop	Chérimolier; Pommier-cannelle	"Cherimoya"; Rahmapfel, Süß- sack, Zuckerapfel
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume
Arachis hypogaea L.	Peanut	Arachide	Erdnuss
Aster L.	Aster	Aster	Sommeraster
Avena sativa L.	Oat	Avoine	Hafer
Begonia L.	Begonia	Bégonia	Begonie
Brassica oleracea L. convar. botrytis (L.) Alef.	Cauliflower	Chou-fleur	Blumenkohl
Capsicum annum L.	Sweet Pepper, Cap- sicum, Chili	Poivron, Piment	Paprika
Carthamus tinctorius L.	Safflower	Carthame, Safran bâtard	Saflor, Färberdistel
Carica papaya L.	Papaya, Pawpaw	Papayer, Arbre à melon	Melonenbaum, Papaya
Carum carvi L.	Caraway	Carvi, Cumin des prés	Kümmel
Carya illinoensis (Wangenh.) C. Koch	Pecan Nut	Pacancier	Pekan, Pekannuss

\* This list is based on a translation from the originals in Hebrew published in Reshumot (original list) and in Kovetz Hatakanot (subsequent amendments made by means of orders).

Cette liste est fondée sur une traduction des textes originaux en hébreu publiés dans Reshumot (liste initiale) et dans Kovetz Hatakanot (modifications ultérieures faites par voie d'ordonnances).

Diese Liste stützt sich auf eine Übersetzung der in Reshumot (Originalliste) und in Kovetz Hatakanot (spätere durch Verordnungen erlassene Änderungen) in hebräisch veröffentlichten Originaltexte.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Catharanthus roseus (L.) G. Don	Vinca	Catharanthus	Catharanthus
Chrysanthemum L.	Chrysanthemum	Chrysanthème	Chrysantheme
Cicer arietinum L.	Chick-pea	Pois chiche	Kichererbse
Citrullus lanatus (Thunb.) Matsum. et Nakai	Watermelon	Pastèque	Wassermelone
Citrus spec.	Citrus	Agrumes	Zitrus
Cucumis melo L.	Muskmelon	Melon	Melone
Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cucurbita pepo L.	Pumpkin, Marrow, Courgette	Courge, Pâtisson, Citrouille	Gartenkürbis, Olkürbis
Cynara spp.	Artichoke, Cardoon	Artichaut, Cardon	Artischoke, Kardone
Dianthus L.	Carnation	Oeillet	Nelke
Diospyros kaki L. f.	Japanese Persimmon, Kaki	Plaqueminier, Kaki	Kakipflaume
Duboisia leichardtii F. Moell.	Duboisia	Duboisia	Duboisie
Eriobotrya japonica (Thunb.) Lindl.	Loquat	Néflier du Japon	Japanische Mispel, Loquate
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Fragaria L.	Strawberry	Fraisier	Erdbeere
Freesia Klatt	Freesia	Freesia	Freesie
Gerbera L.	Gerbera	Gerbera	Gerbera
Gladiolus L.	Gladiolus	Glaïeul	Gladiole
Gossypium L.	Cotton	Cotonnier	Baumwolle
Gypsophila L.	Gyp, Gypsophila, Baby's Breath	Gypsophile	Gipskraut, Schleierkraut
Helianthus annuus L.	Common Sunflower	Tournesol, Soleil	Sonnenblume
Hordeum vulgare L.	Barley	Orge	Gerste
Impatiens L.	Impatiens, Busy Lizzie, Balsam, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
Iris L.	Iris	Iris	Iris, Schwertlilie
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë
Lactuca sativa L.	Lettuce	Laitue	Salat
Leucadendron R. Br.	Leucadendron	Leucadendron	Leucadendron
Leucospermum R. Br.	Leucospermum	Leucospermum	Leucospermum

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Liatris Gaertn. ex Schreb.</i>	Liatris, Blazing Star, Gayfeather	Liatris	Prachtscharte
<i>Lilium L.</i>	Lily	Lis	Lilie
<i>Limonium Mill.</i>	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
<i>Litchi sinensis Sonn.</i>	Litchi	Litchi	Litschi
<i>Lycopersicon esculentum P. Mill.</i>	Tomato	Tomate	Tomate
<i>Malus sylvestris Mill.</i>	Apple	Pommier	Apfel
<i>Mangifera indica L.</i>	Mango	Manguier	Mango
<i>Medicago hispida Gaertn.;</i> <i>M. sativa L.</i>	Alfalfa (Hairy Medick and Lucerne)	Luzerne (hérissée et cultivée)	Schneckenklee (Sichelluzerne und Blaue Luzerne)
<i>Musa L.</i>	Banana	Bananier	Banane
<i>Narcissus L.</i>	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
<i>Nicotiana tabacum L.</i>	Tobacco (common)	Tabac	Tabak
<i>Olea europaea L.</i>	Olive	Olivier	Oelbaum, Olive
<i>Orchidaceae Juss.</i>	Orchids	Orchidées	Orchideen
<i>Oryzopsis holciformis (N. B.) Hack.</i>	Oryzopsis	Petit millet, Oryzopsis, Faux-millet	Grannenhirse
<i>Pelargonium L'Hér. ex Ait.</i>	Pelargonium	Pelargonium	Pelargonie
<i>Persea americana Mill.</i>	Avocado	Avocatier	Avocado
<i>Petunia Juss.</i>	Petunia	Pétunia	Petunie
<i>Phalaris tuberosa L.</i>	Hardings Grass	Herbe de Harding, Alpiste tubéreux	Knolliges Glanzgras
<i>Phaseolus vulgaris L.</i>	French Bean	Haricot	Gartenbohne
<i>Prunus armeniaca</i>	Apricot	Abricotier	Aprikose
<i>Prunus domestica L.;</i> <i>P. salicina Lindl.</i>	Plum	Prunier	Pflaume
<i>Prunus persica (L.) Batsch</i>	Peach	Pêcher	Pfirsich
<i>Pyrus communis L.</i>	Pear	Poirier	Birne
<i>Ranunculus L.</i>	Ranunculus, Buttercup	Renoncule	Hahnenfuss
<i>Raphanus sativus L.</i>	Radish	Radis	Rettich
<i>Ricinus communis L.</i>	Castorbean	Ricin	Wunderbaum, Palma Christi
<i>Rosa L.</i>	Rose	Rosier	Rose
<i>Saintpaulia ionantha H. Wendl.</i>	African Violet	Saintpaulia	Usambaraveilchen

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Sesamum indicum</i> L.	Sesame	Sésame	Sesam
<i>Simmondsia chinensis</i> (Link) Schneid.	Jojoba	-	-
<i>Solanum melongena</i> L. var. <i>esculentum</i> Nees	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
<i>Solanum tuberosum</i> L.	Potato	Pomme de terre	Kartoffel
<i>Sorghum vulgare</i> Pers.	Sorghum	Sorgho	Mohrenhirse
<i>Trifolium alexandrinum</i> L.; <i>T. berytheum</i> Boiss.; <i>T. repens</i> L.; <i>T. subterraneum</i> L.	Clover	Trèfle	Klee
<i>Triticum aestivum</i> L. emend. Fiori et Paol. ( <i>T. aestivum</i> L. ssp. <i>vulgare</i> (Vill., Host) Mac Kay); <i>Triticum durum</i> Desf.	Wheat	Blé	Weizen
<i>Vicia faba</i> L.	Horse Bean	Fève	Dicke Bohne
<i>Vicia sativa</i> L.	Common Vetch	Vesce commune	Saatwicke
<i>Vitis vinifera</i> L.	Vine	Vigne	Rebe
<i>Zea mays</i> L.	Maize	Maïs	Mais

**Denmark: Modification of Variety Listing Fees**

Pursuant to the powers conferred by the Order No. 80 of March 2, 1984, Concerning the Fees for the Entry of Varieties of Agricultural Plants in the Variety List, the fees have been increased according to inflation with effect from January 1, 1985. The new tariff is as follows.

Type of Fee	Fee (in kroner)
a) Application	4,000
b) Examination for distinctness, homogeneity and stability*	6,000 per year
c) Examination for value for cultivation and use:	
- Annual species	first year 8,000
	second year 4,000
	third year 4,000
- Perennial species	first sowing 4,000 per year
	second sowing 2,000 per year
	third sowing 2,000 per year
d) Annual fee	for first to fifth year 800 per year
	for sixth to tenth year 1,200 per year
	for an extended entry 1,600 per year

\* If an examination report is taken over from a foreign country, the fee due is that charged by the foreign country. If a variety is the subject of both an application for entry in the Variety List and an application for protection, the requisite fee is that mentioned above. If the fee due in connection with the application for protection has already been paid, the difference between that fee and the fee mentioned above is to be made up.

**United States of America: Modification of Fees Under the Plant Variety Protection Act**

A new tariff of fees for services provided under the Plant Variety Protection Act has been published in Volume 49, No. 45, page 8233 of the Federal Register, dated March 6, 1984. The main fees now are as follows:

Type of Fee	Amount (in US \$)
a) Filing application and notifying public of filing	200
b) Search or examination	1,600
c) Allowance and issuance of certificate and notifying public of issuance	200

**MISCELLANEOUS INFORMATION****Colloquium on Plant Genetic Resources**

A Colloquium on 15 Years Collection and Utilisation of Plant Genetic Resources by the Institute of Crop Science and Plant Breeding FAL Braunschweig (Federal Republic of Germany) will be held at that Institute from December 3 to 6, 1985.

The provisional program comprises the following subjects which may be of particular interest to the plant breeding community: plant genetic resources at the Institute of Crop Science and Plant Breeding - review and outlook; the importance of plant genetic resources for human food; biotechnology as an instrument for the utilisation of plant genetic resources; concepts and pathways for the employment of plant genetic resources for breeding purposes.

Further information may be obtained from the Institute of Crop Science and Plant Breeding (FAL), Bundesallee 50, D-3300 Braunschweig (telephone 0531/596 601).

#### COOPERATION IN EXAMINATION

#### CONCLUSION OF AGREEMENTS

##### Belgium and Switzerland

An Administrative Agreement providing for cooperation in the examination of plant varieties for distinctness, homogeneity and stability has been concluded between the Service de la protection des obtentions végétales (SPOV - Service for the Protection of New Plant Varieties) of Belgium and the Bureau de la protection des variétés (Office for the Protection of Varieties) of Switzerland. Under that Agreement, which entered into force on June 1, 1985, the Swiss authorities will examine varieties of the following species on behalf of the Belgian authorities:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Foeniculum vulgare P. Mill.	Fennel	Fenouil	Fenchel

#### EXTENSION OF AGREEMENTS

##### Belgium and France

The Administrative Agreement providing for cooperation in the examination of plant varieties for distinctness, homogeneity and stability concluded between the Service de la protection des obtentions végétales (SPOV - Service for the Protection of New Plant Varieties) of Belgium, on the one hand, and the Comité de la protection des obtentions végétales (CPOV - Committee for the Protection of New Plant Varieties) and the Groupe d'étude et de contrôle des variétés et des semences (GEVES - Group for the Study and Control of Varieties and Seeds) of France, on the other hand (see UPOV Newsletter No. 16, page 13, and Plant Variety Protection No. 27, page 16, and No. 32, page 49) has been extended, with effect from May 1, 1985, to the following, which will be examined by the French authorities on behalf of the Belgian authorities for plant variety protection purposes.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Berberis L.	Berberis, Barberry	Berberis	Berberitze
Capsicum annuum L.	Sweet Pepper, Capsicum, Chili	Piment, Poivron	Paprika
Hydrangea L.	Hydrangea	Hortensia	Hortensie
Pyracantha M.J. Roem.	Firethorn	Pyracantha	Feuerdorn
Valerianella locusta (L.) Laterrade	Cornsalad, Lamb's Lettuce	Mâche	Feldsalat

The species now covered by this Agreement are listed on page 65 below.



Administrative Agreement on Cooperation in Examination between Belgium and France

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

<u>Purpose</u>	<u>Latin</u>	<u>English</u>	<u>French</u>	<u>German</u>
P	Berberis L.	Berberis, Barberry	Berberis	Berberitze
P	Capsicum annum L.	Sweet Pepper, Capsicum, Chili	Piment, Poivron	Paprika
L - P	Cichorium endivia L.	Endive	Chicorée frisée, Scarole	Winterendivie
L - P	Cucumis sativus L.	Cucumber, Gherkin (outdoor varieties only)	Concombre, Cornichon (variétés de pleine terre seulement)	Gurke (nur Freilandsorten)
L - P	Cydonia Mill.	Quince (including rootstocks)	Cognassier (y compris les porte-greffes)	Quitte (einschl. Unterlagen)
P	Hordeum vulgare L.	Barley	Orge	Gerste
P	Hydrangea L.	Hydrangea	Hortensia	Hortensie
L - P	Lactuca sativa L.	Lettuce (outdoor varieties only)	Laitue (variétés de serre seulement)	Salat (nur Freilandsorten)
P	Linum usitatissimum L.	Flax, Linseed	Lin	Lein
L - P	Lycopersicon lycopersicum L.	Tomato (outdoor varieties only)	Tomate (variétés de pleine terre seulement)	Tomate (nur Freiland- sorten)
L - P	Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
L - P	Pisum sativum L. (sensu lato)	Pea	Pois	Erbse
L - P	Prunus L.	Apricot, Cherry, Myrobalan, Plum, Peach	Abricotier, Cerisier, Myrobolan, Prunier, Pêcher	Aprikose, Kirsche, Myrobalane, Pflaume, Pfirsich
P	Pyracantha M.J. Roem.	Firethorn	Pyracantha	Feuerdorn
L - P	Pyrus L.	Pear	Poirier	Birne
P	Rosa L.	Rose	Rosier	Rose
P	Triticum aestivum L. ssp. vulgare (Vill., Host) Mac Kay	Wheat, Soft Wheat, Bread Wheat	Blé tendre	Weichweizen
P	Triticum durum Desf.	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Durumweizen (Hartweizen)
P	Valerianella locusta (L.) Laterrade	Cornsalad, Lamb's Lettuce,	Mâche	Feldsalat
L - P	Zea mays L.	Maize	Maïs	Mais

<sup>1</sup> L = National List/Catalogue/Sortenliste      P = Protection/Sortenschutz

CALENDAR
----------

UPOV Meetings

October 14	Consultative Committee
October 15 and 16	Meeting with International Organisations
October 17 and 18	Council
November 12 and 13	Technical Committee
November 14 and 15	Administrative and Legal Committee

Symposia

December 3 to 6 Braunschweig (Federal Republic of Germany)	Colloquium on 15 Years Collection and Utilisa- tion of Plant Genetic Resources by the Institute of Crop Science and Plant Breeding FAL Braunschweig
--	--

1986

February 17 to 20 Lincoln (New Zealand)	Department of Scientific and Industrial Research (DISR) Plant Breeding Symposium
--	---

---

The International Union for the Protection of New Varieties of Plants (UPOV)--an international organization established by the International Convention for the Protection of New Varieties of Plants--is the international forum for States interested in plant variety protection. Its main objective is to promote the protection of the interests of plant breeders--for their benefit and for the benefit of agriculture and thus also of the community at large--in accordance with uniform and clearly defined principles.

"Plant Variety Protection" is a UPOV publication that reports on national and international events in its field of competence and in related areas. It is published in English only--although some items are trilingual (English, French and German)--at irregular intervals, usually at a rate of four issues a year. Subscription orders may be placed with:

The International Union for the Protection of New Varieties of Plants  
34, chemin des Colombettes, 1211 Geneva 20 (POB 18)  
(Telephone: (022) 999.111 - Telex: 22 376-OMPI)

The price per issue is 2 Swiss francs, to be settled on invoice by payment to our account, No. C8-763.163/0 at the Swiss Bank Corporation, Geneva, or by deduction from the subscriber's current account with the World Intellectual Property Organization (WIPO).