



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. 56

July 1988

Geneva

CONTENTS

Page

GAZETTE

Extension of Protection to Further Genera and Species

- Israel	2
- Switzerland	2

NEWSLETTER

UPOV

Development of Plant Variety Protection Throughout the World in 1987	11
Twenty-First Session of the Administrative and Legal Committee ..	20
UPOV Recommendations on Variety Denominations	41
UPOV Recommendations on the Harmonization of the Lists of Protected Species	45

Legislation

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) - Replacement Pages	21
Switzerland: Federal Law on the Protection of New Plant Varieties (Consolidated Text of the Federal Law of March 20, 1975, as Amended by the Federal Law of October 10, 1980)	27

Publications by the Office of the Union

Test Guidelines	46
-----------------------	----

<u>Calendar</u>	52
-----------------------	----

GAZETTE
EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Israel

By virtue of the Plant Breeders' Rights Order (Amendment of Schedule), 5749-1987 (Kovetz Hatakanot 5073, of December 31, 1987), the list of species to which the Law on the Rights of the Breeders of Plant Varieties applies has been extended to the following (the Latin names appear in the Order, whereas the English, French 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>
Solidago L.	Golden Rod	Verge d'or	Goldrute
X Solidaster Wehrh.	Solidaster	Solidaster	Solidaster
Trachelium Tourn.	Throatwort	Trachélie	Halskraut

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 Plant Variety Protection No. 47.

The list of taxa covered by plant variety protection legislation is given in the "Legislation" subsection of this issue, starting on page 22.

Switzerland

By virtue of the Amendment of February 29, 1988, to the Plant Variety Protection Order of May 11, 1977, which entered into force on April 1, 1988, protection was extended to the following (the Latin, French, German and Italian names appear in the above-mentioned text, whereas the English 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>	<u>Italiano</u>
Actinidia chinensis Planch. ¹	Kiwifruit	Groseille de Chine	Kiwifrucht	Kiwi
Allium ascalonicum L.	Shallot	Echalote	Schalotte	Scalogno
Allium porrum L.	Leek	Poireau	Porree	Porro
Alopecurus pratensis L.	Meadow Foxtail	Vulpin des prés	Wiesenfuchsschwanz	Coda di volpe
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume	Anturia
Apium graveolens L. var. rapaceum Gaud.	Celeriac	Céleri-rave	Knollensellerie	Sedano rapa
Asparagus officinalis L.	Asparagus	Asperge	Spargel	Asparago

¹ Only varieties which are already protected in another UPOV member State /
Seulement variétés qui sont déjà protégées dans un autre Etat membre de
l'UPOV / Nur Sorten, die in einem anderen UPOV-Staat schon geschützt sind /
Soltanto le varietà già protette in un altro Stato membro della UPOV.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>
Brassica oleracea var. capitata f. alba	White Cabbage	Chou cabus	Weisskohl	Cavolo bianco
Brassica oleracea var. sabauda L.	Savoy Cabbage	Chou de Milan	Wirsing	Verza (Cavolo di Milano)
Calluna Salisb. vulgaris (L.) Hull	Heather, Ling	Callune	Besenheide	Calluna
Chamaecyparis Spach	Chamaecyparis	Chamaecyparis	Scheinzypresse	Cipresso falso
Cichorium intybus foliosum	(Salad) Chicory	Chicorée amère	Salatzichorie	Cicoria
Cotoneaster (B. Ehrh.) Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster
Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke	Cetriolo
Cydonia Mill. (oblonga Mill.) ¹	Quince	Cognassier	Quitte	Mela cotogna
Delphinium L. partim	Perennial Delphinium	Pied d'alouette vivace	Ausdauernder Rittersporn	Cappuccio
Erica L. gracilis Salisb.	Heath	Bruyère	Glockenheide	Erica
Euphorbia-Milii- Hybridi	Christ's Thorn	Epine du Christ	Christusdorn	Marruca
Exacum	Exacum	Exacum	Blaues Lieschen	Exacum
Glycine max (L.) Merrill	Soya Bean, Soybean	Soja	Sojabohne	Soja
Impatiens-Neu-Guinea- Hybridi	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea- Impatiens	Balsamino, ibrido della Nuova Guinea
Lilium L.	Lily	Lis	Lilie	Giglio
Lycopersicon lycopersicum L.	Tomato	Tomate	Tomate	Pomodoro
Medicago sativa L.	Alfalfa, Lucerne	Luzerne	Blaue Luzerne	Erba medica
Pelargonium-Grandiflo- rum-Hybridi	Show and Fancy Pelargoniums	Pelargonium des fleuristes	Edelpelargonie	Pelargonium
Phleum pratensis L.	Timothy	Fléole des prés	Wiesenlieschgras	Fleolo pratense
Poa pratensis L.	Kentucky Blue- grass, Smooth Stalked Meadow- grass	Pâturin des prés	Wiesenrispengras	Poa pratense
Prunus armeniaca L. ¹	Apricot	Abricotier	Aprikose	Albicocco
Prunus persica (L.) Batsch ¹	Peach	Pêcher	Pfirsich	Pesco
Pyrus L. ¹	Pear	Poirier	Birne	Pero
Rheum L.	Rhubarb	Rhubarbe	Rhabarber	Rabarbaro

¹ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes / Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>
Thuja L.	Thuja	Thuya	Lebensbaum	Albero della vita (tuia)
Vicia faba var. major Harz	Broad Bean, Horse Bean	Fève	Dicke Bohne	Fava
Vicia faba var. minor Harz	Field Bean, Tick Bean	Féverole	Ackerbohne	Favetta

Concerning the availability of protection to foreigners, reference is made to Article 2 of the Law on the Protection of New Plant Varieties, published in the "Legislation" subsection of this issue, starting on page 27.

Pursuant to Article 53 of the Law, applications that relate to recently created varieties of the above-mentioned taxa and are to benefit from the transitional limitation of the requirement of novelty must be filed within the year following the extension of protection, i.e. before April 1, 1989.

The list of taxa covered by plant variety protection legislation is given hereunder with some details on the duration of protection and on the examination fee, and with the same proviso as for the above list. In the case of rose, protection extends to cut flowers. Pursuant to the second sentence of Article 13(2) of the Law, such extended protection is only available to Swiss holders and to nationals of States granting reciprocity in that respect.

Explanations to the List Starting on Page 5

Column A indicates the duration in years as from the grant of the title; protection expires at the end of the calendar year mentioned in the table.

Column B indicates the examination fee in Swiss francs, for each growing cycle. Where examination is carried out by another UPOV member State, the tariff applicable is that charged by the foreign service to the Swiss office (see list below). Where an examination report is purchased, an administrative fee of 350 Swiss francs is charged.

Notes explicatives sur la liste commençant à la page 5

La colonne 1 indique la durée en années à compter de la délivrance du titre, la protection expirant à la fin de l'année civile mentionnée dans le tableau.

La colonne 2 indique la taxe d'examen en francs suisses, pour chaque cycle de végétation. Lorsque l'examen est effectué par un autre Etat membre de l'UPOV, le tarif applicable est celui qui est facturé par le service étranger au Bureau suisse (voir la liste ci-dessous). Lorsqu'un rapport d'examen est acheté, une taxe administrative de 350 francs suisses est perçue.

Erläuternde Anmerkungen zu der auf Seite 5 ff. wiedergegebenen Liste

Spalte 1 gibt die Dauer des Schutzes in Jahren ab Schutzrechtserteilung an; der Schutz endet mit dem in der Tabelle angegebenen vollen Kalenderjahr.

Spalte 2 gibt die Prüfungsgebühr in Schweizer Franken, pro Wachstumsperiode, an. Wird die Prüfung auf Antrag in einem anderen UPOV-Verbandsstaat durchgeführt, so gilt der Tarif, den die ausländische Stelle dem schweizerischen Büro in Rechnung stellt (siehe die nachstehende Liste). Wird ein Prüfungsbericht übernommen, so wird eine Verwaltungsgebühr von 350 Schweizer Franken erhoben.

<u>BSA</u>	Bundessortenamt (Federal Republic of Germany / République fédérale d'Allemagne / Bundesrepublik Deutschland)
<u>CPOV</u>	Comité de la protection des obtentions végétales (France / Frankreich)
<u>CPVR</u>	Controller of Plant Variety Rights (United Kingdom / Royaume-Uni / Vereinigtes Königreich)
<u>PN</u>	Plantenyhedsnaevnet (Denmark / Danemark / Dänemark)
<u>RKR</u>	Raad voor het Kwekersrecht (Netherlands / Pays-Bas / Niederlande)
<u>UPOV</u>	Appropriate UPOV member State / Etat membre de l'UPOV approprié / Entsprechender UPOV-Verbandsstaat

Plant Variety Protection in Switzerland*
Protection des obtentions végétales en Suisse*
Sortenschutz in der Schweiz*
Protezione delle novità vegetali in Svizzera

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
Actinidia chinensis Planch. ¹	Kiwifruit	Groseille de Chine	Kiwifrucht	Kiwi	20	UPOV
Allium ascalonicum L.	Shallot	Echalote	Schalotte	Scalogno	20	RKR
Allium cepa ²	Onion	Oignon	Zwiebel	Cipolla	20	BSA
Allium porrum L.	Leek	Poireau	Porree	Porro	20	CPVR
Alopecurus pratensis L.	Meadow Foxtail	Vulpin des prés	Wiesenfuchsschwanz	Coda di volpe	20	BSA
Anthurium Schott	Anthurium, Tail Flower	Anthurium	Flamingoblume	Anturia	20	RKR
Apium graveolens L. var. rapaceum Gaud.	Celeriac	Céleri-rave	Knollensellerie	Sedano rapa	20	BSA
Asparagus officinalis L.	Asparagus	Asperge	Spargel	Asparago	20	BSA
Avena sativa	Oats	Avoine	Hafer	Avena sativa	20	CPOV
Begonia-Elatior-Hybridi	Begonia	Bégonia	Begonie	Begonia	20	BSA
Brassica oleracea var. capitata f. alba	White Cabbage	Chou cabus	Weisskohl	Cavolo bianco	20	BSA
Brassica oleracea var. gongylodes	Kohlrabi	Chou-rave	Kohlrabi	Cavolo rapa	20	BSA

* See explanations on page 4 / Voir les explications à la page 4 / Siehe Erläuterungen auf Seite 4

¹ Only varieties which are already protected in another UPOV member State / Seulement variétés qui sont déjà protégées dans un autre Etat membre de l'UPOV / Nur Sorten, die in einem anderen UPOV-Staat schon geschützt sind / Soltanto le varietà già protette in un altro Stato membro della UPOV.

² Long-day types only / Seulement variétés à jours longs / Nur Langtagstypen / Solo varietà per giorni lunghi.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
Brassica oleracea var. sabauda L.	Savoy Cabbage	Chou de Milan	Wirsing	Verza (Cavolo di Milano)	20	BSA
Calluna Salisb. vulgaris (L.) Hull	Heather, Ling	Callune	Besenheide	Calluna	20	BSA
Chamaecyparis Spach	Chamaecyparis	Chamaecyparis	Scheinzypresse	Cipresso falso	25	PN
Chrysanthemum	Chrysanthemum, Aster	Chrysanthème, Aster	Chrysanthem, Aster	Crisantemo, Aster	20	CPVR
Cichorium intybus foliosum	(Salad) Chicory	Chicorée amère	Salatzichorie	Cicoria	20	RKR
Cotoneaster (B. Ehrh). Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster	20	RKR
Cucumis sativus L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke	Cetriolo	20	BSA/ CPOV
Cydonia Mill. (oblonga Mill.) ³	Quince	Cognassier	Quitte	Mela cotogna	25	CPOV
Dactylis glomerata	Cocksfoot	Dactyle	Knäulgras	Pannochina	20	BSA
Daucus carota	Carrot	Carotte	Möhre	Carota	20	BSA
Delphinium L. partim	Perennial Delphinium	Pied d'alouette vivace	Ausdauernder Rittersporn	Cappuccio	20	CPVR
Dianthus L. ⁴	Carnation	Oeillet	Nelke	Garofano	20	CPOV
Erica L. gracilis Salisb.	Heath	Bruyère	Erika	Erica	20	BSA
Euphorbia-Milii-Hybridi	Christ's Thorn	Epine du Christ	Christusdorn	Marruca	20	BSA
Euphorbia pulcherrima	Poinsettia	Poinsettia	Weihnachtsstern	Stella di Natale	20	PN
Exacum	Exacum	Exacum	Blaues Lieschen	Exacum	20	PN

³ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes / Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

⁴ Vegetatively propagated varieties only / Seulement variétés multipliées végétativement / Nur vegetativ vermehrte Sorten / Solo le varietà moltiplicate vegetativamente.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
<i>Festuca pratensis</i>	Meadow Fescue	Fétuque des prés	Wiesenschwingel	Festuca dei prati	20	BSA
<i>Foeniculum vulgare</i> ⁵	Fennel	Fenouil	Fenchel	Finocchio	20	400
<i>Fragaria</i>	Strawberry	Fraise	Erdbeere	Fragola	20	BSA
<i>Gerbera</i> Cass. ⁶	Gerbera	Gerbera	Gerbera	Gerbera	20	RKR
<i>Glycine max</i> (L.) Merrill	Soya Bean, Soybean	Soja	Sojabohne	Soja	20	CPOV
<i>Helianthus annuus</i> ⁷	Common Sunflower	Tournesol	Sonnenblume	Girasole	20	CPOV
<i>Hordeum vulgare</i>	Barley	Orge	Gerste	Orzo	20	CPOV
<i>Hydrangea</i>	Hydrangea	Hortensia	Hortensie	Ortensia	20	CPOV
Impatiens-Neu-Guinea-Hybridi	New Guinea Impatiens	Impatiente de Nouvelle-Guinée	Neu-Guinea- Impatiens	Balsamino, ibrido della Nuova Guinea	20	BSA
<i>Kalanchoë</i>	Kalanchoë	Kalanchoë	Kalanchoë	Kalanchoë	20	BSA
<i>Lactuca sativa</i>	Lettuce	Laitue	Salat	Lattuga	20	BSA/ RKR
<i>Lilium</i> L.	Lily	Lis	Lilie	Giglio	20	RKR
<i>Lolium</i>	Kyegrass	Ray-grass	Raigras	Loglio	20	BSA
<i>Lycopersicon lycopersicum</i> L.	Tomato	Tomate	Tomate	Pomodoro	20	CPOV
<i>Malus</i> ⁸	Apple	Pomme	Apfel	Melo	25	CPVR

⁵ Varieties that are adapted to the climate of the North of the Alps / Seulement variétés adaptées au climat du nord des Alpes / Nur Sorten, die dem Klima nördlich der Alpen angepasst sind / Soltanto le varietà adattate al clima del Nord delle Alpi.

⁶ Vegetatively propagated varieties only / Seulement variétés multipliées végétativement / Nur vegetativ vermehrte Sorten / Solo le varietà moltiplicate vegetativamente.

⁷ Except ornamental varieties / Sauf variétés d'ornement / Ausser Ziersorten / Escluse le varietà ornamentali.

⁸ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes / Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
Medicago sativa L.	Alfalfa, Lucerne	Luzerne	Blaue Luzerne	Erba medica	20	CPOV
Pelargonium-Grandiflorum-Hybridi	Show and Fancy Pelargoniums	Pelargonium des fleuristes	Edelpelargonie	Pelargonium	20	BSA
Pelargonium peltatum	Ivy-leaved Pelargonium	Géranium-lierre	Efeupelargonie	Geranio edera	20	BSA
Pelargonium zonale	Zonal Pelargonium	Géranium (Pelargonium zonale)	Zonalpelargonie	Geranio	20	BSA
Pelargonium peltatum x Pelargonium zonale	-	-	Halbpeltate	Geranio ederaceo	20	BSA
Phaseolus vulgaris var. nanus	Dwarf French Bean	Haricot nain	Buschbohne	Fagiolo nano	20	CPOV
Phaseolus vulgaris var. vulgaris	Climbing French Bean	Haricot à rames	Stangenbohne	Fagiolo comune	20	CPOV
Phleum pratensis L.	Timothy	Fléole des prés	Wiesenlieschgras	Fleolo pratense	20	PN
Pisum sativum (sensu lato)	Pea	Pois	Erbse	Pisello	20	BSA
Poa pratensis L.	Kentucky Blue-grass, Smooth Stalked Meadow-grass	Pâturin des prés	Wiesenrispengras	Poa pratense	20	RKR
Prunus ⁹	Sweet and Sour Cherry	Cerise et griotte	Süss- und Sauerkirsche	Ciliegia dolce e ciliegia amara (amaresca)	25	CPOV
Prunus ⁹	Plum, Quetsch, Japanese Plum and other diploid plum varieties	Prune, quetsche, prune japonaise et autres variétés diploïdes	Pflaume, Zwetschge, Ostasiatische Pflaume und andere diploide Pflaumensorten	Susine, Prugne, Susine dell'Asia orientale ed altre varietà di susine diploidi	25	CPOV
Prunus armeniaca L. ⁹	Apricot	Abricotier	Aprikose	Albicocco	25	CPOV
Prunus persica (L.) Batsch ⁹	Peach	Pêcher	Pfirsich	Pesco	25	CPOV

⁹ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes / Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
Pyrus L. ¹⁰	Pear	Poirier	Birne	Pero	25	CPOV
Rheum L.	Rhubarb	Rhubarbe	Rhabarber	Rabarbaro	20	CPVR
Rhododendron ¹¹	Azalea	Azalée	Azalee	Azalea	20	BSA
Ribes ¹²	Black Currant, Red Currant, Gooseberry and hybrids	Cassis, Gro- seillier rouge, Groseillier à maquereau et hybrides	Johannisbeere, Stachelbeere, Josta-Beere und andere	Ribes, Uva spina, uva crispa ed altri	20	BSA
Rosa ¹³	Rose	Rose	Rose	Rosa	20	BSA
Rubus ¹²	Raspberry, Black- berry and hybrids	Framboise, mûre et hybrides	Himbeere, Brom- beere und andere	Lampone, more ed altri	20	BSA
Saintpaulia ionantha	African Violet	Saintpaulia	Usambaraveilchen	Violetta africana	20	BSA
Secale cereale	Rye	Seigle	Roggen	Segale	20	BSA
Solanum tuberosum	Potato	Pomme de terre	Kartoffel	Patata	25	RKR
Streptocarpus	Streptocarpus, Herb Lily	Streptocarpus	Drehfrucht	Streptocarpus	20	BSA
Thuja L.	Thuja	Thuya	Lebensbaum	Albero della vita (tuia)	25	PN
Trifolium pratense	Red Clover	Trèfle violet	Rotklee	Trifoglio pratense violetto	20	PN
Trifolium repens	White Clover	Trèfle blanc	Weissklee	Trifoglio bianco	20	PN

¹⁰ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes / Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

¹¹ Pot and garden varieties / Variétés en pot et en plein air / Topf- und Freilandsorten / Varietà in vaso e in terreni aperti.

¹² Except ornamental varieties / Sauf variétés d'ornement / Ausser Ziersorten / Escluse le varietà ornamentali.

¹³ Ornamental varieties only / Seulement les variétés d'ornement / Nur Ziersorten) / Solo le varietà ornamentali.

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Italiano</u>	<u>A</u>	<u>B</u>
Triticale	Triticale	Triticale	Triticale	Triticale	20	BSA
Triticum aestivum	Spring and Winter Wheat	Froment de prin- temps et d'automne	Sommer- und Winterweizen	Frumento primave- rile, frumento autunnale	20	CPOV
Triticum spelta L.	Spelt	Epeautre	Spelz, Dinkel	Spelta	20	BSA
Valerianella locusta et eriocarpa	Lamb's Lettuce, Cornsalad	Doucette, Mâche	Nüssler, Feldsalat	Formentino, Lattughella	20	CPOV
Vicia faba var. major Harz	Broad Bean, Horse Bean	Fève	Dicke Bohne	Fava	20	BSA
Vicia faba var. minor Harz	Field Bean, Tick Bean	Féverole	Ackerbohne	Favetta	20	BSA
Vitis ¹⁴	Vine	Vigne	Rebe	Vite	25	CPOV
Zea mays	Maize	Maïs	Mais	Granoturco	20	CPOV

¹⁴ Excluding ornamental varieties, including rootstocks / Sauf variétés d'ornement, y compris porte-greffes /
Ausser Ziersorten, einschliesslich Unterlagen / Escluse le varietà ornamentali, compresi i portinnesti.

NEWSLETTER

UPOV

Development of Plant Variety Protection Throughout the World in 1987

Following established practice, the representatives of the States and organizations having participated in the twenty-first ordinary session of the Council (October 15 and 16, 1987) reported on the development of plant variety protection and related matters in their country or at the international level.

A summary of the statements, as recorded in the report on the session, is given below.

a. Statements by the Representatives of Member States

Belgium.- There have been no new developments in connection with the draft Law approving the 1978 Revised Act of the Convention and amending the Law of May 20, 1975, on the Protection of New Plant Varieties. There has been no change in the implementing provisions.

The first-instance ruling of the Court of Nancy (France) of May 15, 1987 (see paragraph 39 below), has had repercussions in Belgium: the Belgian section of ASSINSEL published in the farming press at the beginning of August an attack on seed cleaning by contractors ("trilage à façon") and the abuses committed as a result of the fact that the breeders' rights are applicable only to the production of seeds for the purposes of commercial marketing.

The agreement on cooperation in examination with the Federal Republic of Germany has been extended to celeriac, rape and streptocarpus. The agreements with other States will have to be adapted to recent developments.

With regard to the use of the plant variety protection system by breeders, things seem to have settled down somewhat, although some of the after-effects of the 1985 extension of protection are still noticeable. Between January 1 and July 1, 1987, 111 applications for protection were filed and 37 titles granted. As of the latter date, 318 titles were in force; they concerned 38 of the 168 taxa eligible for protection. Since the system came into operation, a total of 744 applications have been filed for varieties of 48 taxa, and 494 titles have been granted.

Denmark.- The Committee entrusted with writing a draft revised Law on the Protection of Plant Breeders' Rights completed its work at the beginning of the year. It was not possible to put the draft before Parliament in its spring session, however; it is expected to be considered in the course of the session that has just started.

The draft is a compromise between the two sides involved, the breeders and the producers. Among the more important provisions, it should be mentioned that the proposed term of protection is 25 years for all species, that there is to be provisional protection with payment of license royalties into a closed account, and that there would be no means of charging trademark license royalties throughout the (theoretical) life of the breeder's rights. In addition, particular care has been taken to adapt the Law to prevailing legislative practice.

A new committee has been set up, composed of representatives of organizations of breeders and producers with an interest in plant variety protection. Its task will be to advise the Minister of Agriculture on general questions of plant variety protection, and it will undoubtedly be a forum for discussions on the revision of the Convention.

A study group has also been set up at Nordic Council level to consider matters concerning the protection of biotechnological inventions. It is composed of a patent expert and a plant variety protection expert from each country.

The Law on the Protection of Plant Breeders' Rights provides the possibility of having protection extended to the propagation of a variety effected not for the purposes of commercial marketing but for the professional purposes of

the propagator. This provision has been applied to apple, and also to certain ornamental plants. It is about to be extended to strawberry, raspberry and blackberry.

Protection was extended to Chinese cabbage and buckwheat with effect from June 18, 1987. Another extension, to naked oats and gerbera, is about to be made.

A new agreement on cooperation in examination has been concluded with the Federal Republic of Germany with effect from February 1, 1987, with extension to buckwheat on June 15. It is hoped that revised agreements can shortly be concluded with France, the Netherlands and the United Kingdom, and that the agreements with Belgium, Sweden and Switzerland can thereafter be adapted.

The pilot project for the examination of varieties by breeders was put into operation this month for Christmas cactus. It will be remembered that it was set up in response to the wish that protection be extended to a greater number of ornamental species, and also as a means of estimating the cost of such an examination system as compared with the established one. The tests have been entrusted to three experienced producers and/or breeders, with a control test done by the official body. The descriptions are drawn up by those persons, by a person without any particular skills in variety examination and by a government expert. They are drawn up on the basis of the test guidelines, but it is also intended to have them drawn up without any predetermined plan or guiding principle. The descriptions will also be evaluated by members of the official body who do not usually do the testing. The statistical methods that could be used will also be decided upon.

An administrative reorganization will be taking place on January 1, 1988. A new department will be put in charge of examination for both agricultural and horticultural species, and it will also take care of the day-to-day management of the plant variety protection system; the Plant Variety Protection Office will be eliminated. General questions such as the amendment of legislation and cooperation in examination will come under a new department created within the central administration. This reorganization will not entail any substantial staff changes, so that there is no risk of a loss of continuity.

The use of the plant variety protection system by breeders is summarized in the table below:

	1986	1987 (up to September 17)
Number of applications for protection including:	189	179
- agricultural crops	70	
- vegetable crops	4	
- fruit crops	4	
- ornamentals	111	
Number of certificates issued including:	107	114
- agricultural crops	33	
- fruit crops	3	
- ornamentals	71	

The Representative of the Federal Republic of Germany pointed out that the UPOV Convention did not deal expressly with the matter of trademarks. It did however have implications for trademark law, which was also directly connected, on account of marketing practices, with the exercise of the rights deriving from the Convention. It invited the Delegation of Denmark to continue to inform the other member States on the development of the proposals put forward in that country.

France.- Protection was extended on July 24, 1987, to some 15 taxa in response to requests from French breeders or representatives of foreign (European) breeders. Another extension, in the field of ornamental plants in particular, is under consideration. However, the difficulty lies in the fact that, for a number of species, the varieties involved are reproduced by sexual means.

Examination fees were increased by 2.5% in January 1987, and are now 2,390 francs or 1,330 francs depending on whether species with great commercial potential or ornamental plants for amateurs (garden or pot-grown) are involved. They will be readjusted in 1988, within the limits of governmental authorizations, according to price developments.

The Committee for the Protection of New Plant Varieties is at present considering the possibility of introducing a new definition of the scope of breeders' rights which, by being less precise, would make it possible to respond better to the evolution of technology and to the needs of breeders.

In a first-instance judgment dated May 15, 1987, the Court of Nancy ruled that seed cleaning by contractors ("trilage à façon")--that is, the fact of a firm or cooperative transforming a bulk crop of grain into sorted, graded and treated seed--is an infringement of breeders' rights. In view of the jurisdictional level involved, it is still too early to comment on the decision.

The Committee for the Protection of New Plant Varieties decided that a line forming part of the formula of a hybrid variety lost its novelty as soon as the hybrid variety was first marketed. The Paris Court of Appeal accepted that reasoning, but the Supreme Court of Appeal asked for reasons why a confidentiality clause covering lines, written into contracts for the production of the hybrid variety, could not be invoked against loss of novelty. The case was therefore referred back to an appeal chamber, which has just handed down its decision, on October 7, confirming the Committee's ruling.

In 1986, 729 applications for protection were filed and 316 certificates granted.

The Committee for the Protection of New Plant Varieties is approached more and more for participation in meetings concerned with the protection of biotechnological inventions in the plant world. No conclusion has yet emerged, but reflections abound, which in itself suggests that no form of protection existing at present is really suited.

Federal Republic of Germany.-- In the course of the past year, the list of protected taxa has increased by four (sprouting broccoli, Exacum, white and yellow sweet clover) and completed with a clause according to which protection applies also to the hybrids of taxa mentioned in the list or of mentioned and unmentioned taxa. That is an important step towards the achievement of the objective written into Article 4(1) of the UPOV Convention. A further extension of protection is at present being considered with the professional organizations.

Negotiations with other member States on the subject of cooperation in examination have continued. A new agreement has been concluded with the United Kingdom; it provides that 27 taxa will be examined in the Federal Republic of Germany and 13 in the United Kingdom, and that examination reports will be exchanged in respect of 15 taxa. The agreements with Belgium, Denmark, Sweden and Switzerland have been extended to some other taxa.

In the course of the past year, 863 applications have been filed, including 423 for asexually reproduced ornamentals. As already mentioned at the previous session of the Council, the use of in vitro propagation methods is encountering more and more homogeneity problems, particularly with varieties of ornamentals for which protection is applied for. The effect of this is that homogeneity can only be properly examined by means of growing trials. For that purpose the Federal Office of Plant Varieties is asking for mother plants for certain species such as Pelargonium, African violet and Streptocarpus, and is carrying out propagation itself in order to produce the necessary plants.

Hungary.-- There has been no change in plant variety protection legislation and practice in 1987. However, the National Office of Inventions and the Institute for Plant Production and Qualification have published a book on "Qualification and Patent Protection of New Plant Varieties." A paper was presented at the conference of the Hungarian Society for Industrial Patents on the subject of patents for plant varieties and animal breeds, and it was followed by a lively discussion.

Between January 1986 and September 1987, 40 patent applications were filed for new plant varieties (two-thirds of national origin and one-third of foreign origin). At the end of August 1987 there were 56 patents in force; they related to 15 species.

Examinations were carried out in 1987 on varieties of maize, soft wheat, durum wheat, oats, white and blue lupin, sorghum, tobacco, onion and foxglove.

In reply to a question from the President, the Delegation of Hungary pointed out that the provisions on the protection of plant varieties applied mutatis mutandis to animal breeds, but that practical experience on the latter was still lacking.

Ireland.- There has been no change in legislation or administration since the last session of the Council.

In the course of the past year, 20 applications have been filed and 23 titles granted. During the same period, 16 titles of protection have been abandoned. A total of 246 applications in due form have been filed since the introduction of the plant breeders' rights system, and 181 titles have been granted.

Israel.- Most of the administrative and examination work has now been computerized.

The Law applies to 94 taxa at present. With regard to applications for protection, there have been 186 filings. This year the majority came from local breeders, mainly of ornamental plants, whereas 76 were of foreign origin. Protection was granted to 66 varieties, four of them agricultural and vegetable crops and 62 ornamentals, including 46 of foreign origin.

Italy.- A Ministerial Decree dated March 16, 1987, extended protection to 26 taxa, bringing the total to 110.

Between August 1, 1986, and August 15, 1987, 163 patents were granted.

Japan.- There have been no legislative changes in the course of the past year.

As of September 30, 1987, 198 test guidelines have been adopted, 20 more should be by next March, and a further 11 are in preparation.

Between October 1, 1986, and September 30, 1987, 440 applications for protection were filed and 239 titles of protection granted, bringing the total to 1,433 (including 153 titles granted for foreign varieties).

In August a title of protection was granted to a major firm in Japan for a sterile male tobacco variety. The sterility, derived from a wild species, had been introduced into the variety by protoplast fusion.

Netherlands.- Once again, faster progress has been made in plant breeding techniques during the past year than in the search for adequate solutions for the protection of the intellectual property. The discussions that have been going on in various countries and at the international level show that there is a more and more marked trend towards adaptation of patent legislation and plant variety protection legislation, which should result in the near future in a balanced and uniform intellectual property protection system.

In the Netherlands, the discussions are taking place at the level of the Department of Agriculture, between the various departments concerned and also between the Department of Agriculture and users, that is, the members of the Netherlands Seeds and Seedlings Board. The discussions within the Board are on three main subjects:

- (i) Extension of protection to the marketed product;
- (ii) Availability of the protected variety as an initial source of variation for the purposes of variety creation;

(iii) Scope of protection in the case of use of the variety by farmers (private use, non-commercial use).

The Netherlands Delegation considers the main task of UPOV to be that of promoting the protection of new varieties, and thereby satisfying the vital needs of breeders throughout the world. It has emerged from the various debates that two stipulations should underlie any legal solution: on the one hand the breeder has to be able to earn adequate remuneration for the development of his variety, which is a very costly operation, and on the other hand the availability of plants for the development, propagation and marketing of a new variety will always be an essential prerequisite of an active, stable agriculture. The UPOV Convention must therefore be adapted if necessary, apart from which many more States should become members of UPOV.

There is another debate going on in the Netherlands concerning the possibility of having examination carried out under official supervision on the premises of breeders or in a predetermined place. The certainty of the examination being objective and reliable will obviously be a prior condition, as will the further assurance that the rules of UPOV and the agreements on cooperation in examination will be respected.

The creation this year of a Center for Genetic Resources was an important event. Its task is to preserve genetic variability, which is an essential task for breeders throughout the world, and it has been given responsibility for the collection of samples of a number of species, including cabbage, onion, lettuce and beetroot.

On March 9, 1987, 26 taxa were added to the list of protected taxa. A further extension is in preparation.

The new agreement on cooperation in examination concluded with the Federal Republic of Germany is satisfactory. The negotiations on the updating of the agreements concluded with other States are continuing and in some cases are on the point of completion.

In the course of the past year 1,010 applications for protection have been filed, which represents an increase of almost 100% in relation to 1976 and 40% in relation to 1983. During the same period, 507 titles of protection have been granted.

New Zealand.- A considerable amount of work has been done in recent years on the revision of the plant variety rights legislation. An important stage has been reached with the promulgation, in February 1987, of the Plant Varieties Act 1987. Unfortunately the drafting of the new Implementing Regulations has fallen behind schedule, so that protection is still governed by the old texts.

A fee increase of about 26% came into effect on December 25, 1986.

During the year ending on September 30, 1987, the number of applications for protection fell by about 15%. The table below summarizes the position.

	Applications received	Titles granted	Titles in force
Arable crops	1	11	66
Fodder plants	6	4	15
Ornamentals	58	32	193
Fruit crops	9	6	31
TOTAL	74	53	305

In reply to an inquiry from the Delegation of Denmark, the Delegation of New Zealand announced that there had been a serious decrease in the number of applications relating to agricultural crops, which dropped from 17 to 1. It was difficult to explain the drop, which could well be entirely fortuitous.

Yet one could also point to the increase in fees, the disenchantment of breeders with their protection--notably the scope of their rights--and the slump in the staple crop sector. With regard to the scope of rights, New Zealand was favorably disposed towards the principle of a revision of the Convention.

South Africa.- With regard to legislation, protection was extended to 12 taxa (*Agroticum*, Savoy cabbage, tall fescue, curly kale, fodder kale, fodder radish, rape, rescue grass, Rhodesgrass, Smuts Digitaria, swede and teff) by Regulations dated November 14, 1986.

South Africa is in the process of negotiating bilateral agreements on cooperation in examination. On the subject of examination, it has been noted that certain characteristics mentioned in the test guidelines, and above all example varieties, are not really suited to local conditions; work is therefore being done on adjustments. In certain cases characteristics should be added; the Technical Working Parties will be informed in good time of those characteristics once they have been evaluated. It should moreover be noted that the experts from South Africa have taken a very active part in the development of test guidelines for tropical and subtropical fruit and ornamental species.

Between September 1986 and September 1987, 73 titles of protection were granted and 81 applications were filed, including 54 for local varieties. That is an indication of the growing interest in plant variety protection in South Africa.

Spain.- Work continues within the Plant Variety Protection Board on the revision of the Plant Variety Protection Law; it is hoped that a draft will be submitted to the government authorities before the end of the year. Fees have been increased with effect from January 1, 1987.

A new Patent Law has come into force in the course of the past year. It provides that species covered by the Plant Variety Protection Law are excluded from patent or utility model protection.

At present 25 taxa are protected. There has been a proposal to extend protection to almond, red clover, lentil, melon, ryegrass and watermelon, and it is hoped that the extension may yet come into effect before the end of the year.

Spain continues to carry out examinations for itself. It will consider the possibility of entering into cooperation agreements when the financial problems have been solved.

Since the last ordinary session of the Council, 170 applications for protection have been filed, which brings the total since the entry into force of the Law to 1,771. During the same period 118 titles of protection have been granted.

Sweden.- There has been no legislative change, apart from an increase in administrative fees.

The Swedish authorities will shortly be approaching the authorities of the other member States with a view to the broadening of cooperation in examination to accommodate a greater number of taxa.

On July 1, 1987, there were 244 protected varieties (122 varieties of agricultural crops, 15 vegetable varieties and 107 ornamental and fruit varieties). In the course of the year that ended on that date, 85 applications for protection were filed.

Switzerland.- It is hoped that the extension of the list of protected taxa, which has been planned for some time already, can actually take place in the spring of 1988. Subject to the approval of the Federal Justice Department, the list will be extended from 44 to 77 taxa. The agreements on cooperation in examination necessary for that extension have been concluded for practically all the taxa concerned.

To date, 420 applications for protection have been filed (including 35 subsequently withdrawn), and 265 titles of protection have been granted (including 40 that have already expired). This year 53 applications have been filed, including 46 relating to ornamental plants.

United Kingdom.- There has been no major change in United Kingdom legislation during the past year. However, the Agriculture Ministers have asked for an evaluation to be made of examination systems for varieties and seeds. The report on the evaluation is expected to be handed in towards the end of the year.

As mentioned by the Delegation of the Federal Republic of Germany, a new cooperation agreement has been concluded with that country. It is hoped that similar agreements may yet be concluded before the end of the year with Denmark and the Netherlands, and that negotiations may be started with France.

In-depth discussions have taken place among those responsible for plant variety protection and for patents. They have resulted in an agreement that has yet to be sealed in an official document. The authorities of the United Kingdom firmly hope that this agreement will be reported at the international level, as it is important for international bodies not to stand aloof from developments occurring at national level.

In the course of the year that ended on March 31, 1987, 1,056 varieties were under examination, and 218 titles of protection were granted.

United States of America.- In the United States of America, statistics are being compiled on the activities of the Patent Office--based on the Plant Patent Law and the (utility) Patent Act--and those of the Plant Variety Protection Office.

With regard to the administration of the patent legislation, draft guidelines have just been published on the deposit of biological material. Those guidelines apply also to plants. In general it may be said that the requirements deriving from the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure apply also to plant material with respect to industrial patents for inventions in the plant world.

Guidelines will soon be published for variety denominations as well. They will apply both to varieties protected under the Plant Patent Law and to those protected under the (utility) Patent Act.

(b) Statements by the Representatives of Non-Member States

Australia.- After many years of effort, a Plant Variety Rights Act was finally approved by Parliament last March. On September 31, the Registrar and the members of the Advisory Committee responsible among other things for advising the Minister on the taxa to be protected were appointed.

The Law provides that all taxa may be protected. However, in view of the fact that barely three weeks have elapsed since the appointments, no decision has yet been taken regarding the first taxa to which the Law is to be applied. Examination will be carried out by the breeder, although the Registrar will be empowered by the Law to carry out examinations if necessary. With regard to novelty, the Law provides that varieties must not have been marketed in Australia before the filing of the application. There is therefore no period of grace.

The Law provides also for accession to UPOV, and it is hoped that it may take place rapidly.

The Delegation of New Zealand welcomed the introduction of plant variety protection in Australia. Close relations had been maintained throughout the years during which the Australian authorities had worked towards that objective. The authorities of both States wished to continue along the same path and to explore the further possibilities of close cooperation in the field of plant variety protection.

The President, speaking on behalf of all the member States and the Office of the Union, assured the Delegation of Australia and also those of the other non-member States that the member States and the Office of the Union were entirely willing to give their assistance in the various steps that were necessary for a country to accede to UPOV.

China. - China is participating for the first time in a meeting of the Council to familiarize itself with UPOV and its activities.

Morocco. - The Moroccan authorities are aware of the importance of the protection of new plant varieties as a means of promoting research investment and thereby improving agricultural production. Against that background, the Ministry of Agriculture and Agrarian Reform is in the process of organizing structures, arranging for staff training and preparing draft legislation on the protection of new plant varieties for presentation to Parliament.

Poland. - On October 10 last, the Parliament adopted the new Law that deals with all seed problems and, in that framework, with the protection of new plant varieties. The Law conforms to the 1978 Revised Text of the Convention.

The new Law enters into force on January 1, 1988. The final texts of the implementing orders are now being drawn up.

The Delegation of Poland considered that it would be possible, as of the present time, to embark on the official steps towards Poland's accession to the Convention, in other words to request the advice of the Council on the conformity of Polish legislation with the UPOV Convention, pursuant to the latter's Article 32. It considered however that, when those steps were taken, it would perhaps also be useful to invite a delegation from the Council and from the Office of the Union to Poland, to discuss certain legal and technical matters and to visit the department responsible for plant variety protection. It considered that such a visit could usefully take place before the next ordinary session of the Council.

The Delegation of Poland thanked the Council and the Office of the Union for their assistance in the drafting of the Law. The invitations to UPOV meetings and the literature provided had also been very useful in that connection.

The President expressed pleasure at the adoption of the Law by the Parliament of Poland, and commended the Polish Delegation for the work that it had done. He repeated the offer of cooperation that had already been made, and said that the sending of an UPOV delegation to Poland would be on the agenda of the next session of the Consultative Committee.

Portugal. - Portugal continues to follow the work and the development of UPOV with great interest. Portugal does not yet have any legislation on plant variety protection, but it does have legislation on the catalogue of varieties passed for marketing. This catalogue is open to varieties of seed-propagated agricultural and horticultural plants, and at present applies to 12 species, with 1,230 varieties on record. The catalogue is a first stage towards the protection of plant varieties inasmuch as the inclusion of a variety requires the agreement of the breeder or his representative, and the production and marketing of seed of unregistered varieties is prohibited.

Following Portugal's accession to the European Community, a growing interest in specific legislation to safeguard their interests has been noted among national and foreign breeders. Representations have been made to the Government: they have resulted in the creation of a working group responsible for submitting proposals. Moreover, the Ministry of Foreign Affairs has declared itself willing to take the necessary steps for accession to UPOV.

(c) Statements by the Representatives of Organizations

Food and Agriculture Organization of the United Nations (FAO). - The second session of the Commission on Plant Genetic Resources was held in March of this year. The objective of the International Undertaking embodied in Resolution 8/83 of the Conference of FAO is to ensure the preservation and

utilization of genetic resources, that is, in practice, to assist States with plant improvement and seed production. The Undertaking is based on the universally accepted principle according to which genetic resources are part of the heritage of mankind and therefore have to be available. Article 11 of the Undertaking is flexible enough to allow very different national circumstances and legislation to be taken into account, and thereby to ensure that no State is excluded from the system.

The International Undertaking is not incompatible with the protection of new plant varieties; indeed a certain number of States that have endorsed it are members of UPOV. Moreover it was agreed at the second session of the Commission that negotiations should begin with a view to working out a concerted interpretation of the Undertaking, which would contain express recognition of the rights of breeders and farmers (see below).

It should however be mentioned that the question of patent protection for genes is of a very different nature, and may sooner or later be dealt with by FAO.

With regard to the International Fund for Plant Genetic Resources, it was mentioned in the discussions of the second session of the Commission that its main purpose should be to support the preservation and utilization of plant genetic resources in developing countries. It provides a mechanism to compensate developing countries for their contribution through the free availability of their plant genetic resources to the world agricultural development. The Fund will be financed by voluntary contributions. The first donation has been received from a foundation related to the General Motors corporation.

The Commission also embarked on a question that has yet to be made more specific, known by the expression "farmers' rights": it is recognized that crop genetic resources have been improved and preserved by thousands of generations of farmers in the areas of origin and domestication of cultivated plants, and that their contribution deserves to be recognized. It was suggested in this respect that one should abide by an expression such as "rights of farmers" or "rights of the countries of the center of origin of the species."

It is considered at FAO that the increased amount of resources in developing countries earmarked for plant improvement could strengthen those countries' interest in accession to UPOV, which in turn would be beneficial to both UPOV and FAO.

European Community.- Two projects initiated last year within the Commission of the European Communities fall into UPOV's area of concern:

(i) The first has to do with a concerted, binding interpretation at Community level of certain provisions of the European Patent Convention, for the purpose of extending the patent system to biological material in the broadest sense of the term, or at least facilitating such extension.

(ii) The second has to do with the creation of a European Community breeder's right.

With regard to the second project, which comes into the sphere of competence of the Representative of the Communities, its purpose is to ensure that breeders can obtain protection with immediate, direct and uniform effect throughout the territory of the Community on the basis of a single application and a single decision. The characteristics of the project are the following:

(i) The proposed system is aligned on the provisions of the UPOV Convention. In particular it relies on Article 5(3) of the Convention, and leaves farmers free to produce their own seed. However, the latter provision will be made more specific in order to prevent over-use or misuse of the faculty.

(ii) Protection will be greatly enhanced. In particular: it is envisaged that the system will be applied to all botanical genera and species; protection will not necessarily be confined to reproductive or vegetative propagating material, as extension to other types of material is now planned in order to cover the movement of plant material of a variety protected within the Community from a country without protection; the duration of protection will be increased; protection will be offered for new methods of plant breeding.

(iii) The creation of a Community Office for the Protection of New Plant Varieties is planned. It will make use of the present structures of the various member States of the Community for the conduct of variety examinations.

(iv) The system provides for Community protection that relies on the Court of Justice of the European Communities.

(v) The system will be optional for breeders, who may continue to make use of national plant breeders' rights legislation.

(vi) It is planned that the system will be introduced by means of a legal enactment of the Community and not an international convention.

(vii) The system provides the possibility for non-Community States to participate under certain conditions. Its similarity in this respect to the single market concept as applied to the Community will play an important part.

The two projects are being developed in parallel and in cooperation by the competent departments. The objectives of each have been approved within the Commission. At the moment, certain questions relating to the practical demarcation of the rights protected according to the two systems are in the process of being settled. On completion of the work, details of the projects will be communicated to UPOV.

International Seed Testing Association (ISTA).- A standard reference method for the identification of wheat and barley varieties by means of electrophoresis on polyacrylamide gel came into effect on July 1, 1987.

The Working Group on Biochemical Methods for the Identification of Varieties held its third Symposium on the Identification of Varieties in Leningrad from September 1 to 8, 1987. The various methodic approaches were discussed (electrophoresis of reserve proteins, genetic markers, electrophoresis of enzymes, immunochemical methods, antibodies), and a broad range of species were considered. The Working Group decided to set up a pilot project. Further information is obtainable from issue No. 88 (October 1987) of the ISTA News Bulletin.

The third edition of the ISTA List of Stabilized Plant Names will be published shortly. It contains the names stabilized at the 21st Congress of ISTA in 1986.

Twenty-First Session of the Administrative and Legal Committee

The Administrative and Legal Committee held its twenty-second session from April 18 to 21, 1988, under the chairmanship of Mr. F. Espenhain (Denmark).

All member States except Israel and New Zealand were represented. The European Economic Community (EEC) and the European Free-Trade Association (EFTA) were represented by observers.

The main business of the session was as follows:

The Committee had been requested to examine further the question of priorities in relation to extending protection to further genera and species. It considered that this was a matter within the competence of member States and that the recommendations adopted by the Council at its twentieth ordinary session (see page below, page 45) provided sufficient guidance in that respect.

The Food and Agriculture Organization of the United Nations (FAO) had requested UPOV to contribute to the elaboration of an agreed interpretation of the International (FAO) Undertaking on Plant Genetic Resources. The Committee discussed the matter and decided to leave the reply to the discretion of the Secretary-General.

The Committee had a first discussion on the revision of the Convention. It based itself in this respect on a document in which the Office of the Union had set out detailed proposals, already in treaty language, which took into account the suggestions made in the documents that had been submitted to the Third Meeting with International Organizations (October 12 and 13, 1987) and the outcome of that meeting. One delegation also submitted a written contribution to the session. The Committee also noted the statement of the International Chamber of Commerce (ICC) adopted by its Executive Board on December 1, 1987.

Subject to any new matter arising, the next session will be devoted entirely to the revision of the Convention.

ISRAEL

[These pages replace the corresponding pages published in Plant Variety Protection No. 53]

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	Aster
Avena sativa L.	Oat	Avoine	Hafer
Begonia L.	Begonia	Bégonia	Begonie
Brassica oleracea L. convar. botrytis (L.) Alef.	Cauliflower	Chou-fleur	Blumenkohl
Callistephus Cass.	Aster (China)	Aster, Aster de Chine, Reine-marguerite	Sommeraster
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

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

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

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Raphanus sativus L.	Radish	Radis	Rettich
Ricinus communis L.	Castorbean	Ricin	Wunderbaum, Palma Christi
Rosa L.	Rose	Rosier	Rose
Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Sesamum indicum L.	Sesame	Sésame	Sesam
Simmondsia chinensis (Link) Schneid.	Joboba	-	-
Solanum melongena L. var. esculentum Nees	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Solidago L.	Golden Rod	Verge d'or	Goldrute
X Solidaster Wehrh.	Solidaster	Solidaster	Solidaster
Sorghum vulgare Pers.	Sorghum	Sorgho	Mohrenhirse
Trachelium Tourn.	Throatwort	Trachélie	Halskraut
Trifolium alexandrinum L.; T. berytheum Boiss.; T. repens L.; T. subterraneum L.	Clover	Trèfle	Klee
Triticum aestivum L. emend. Fiori et Paol. (T. aestivum L. ssp. vulgare (Vill., Host) Mac Kay); Triticum durum Desf.	Wheat	Blé	Weizen
Vicia faba L.	Horse Bean	Fève	Dicke Bohne
Vicia sativa L.	Common Vetch	Vesce commune	Saatwicke
Vitis vinifera L.	Vine	Vigne	Rebe
Zea mays L.	Maize	Maïs	Mais

SWITZERLAND

Federal Law on the Protection of New Plant Varieties*

Consolidated Text of the Federal Law of March 20, 1975,
as Amended by the Federal Law of October 10, 1980**

CHAPTER I

GENERAL PROVISIONS

Section 1: ScopeArticle 1

Scope of Application in Respect of Subject Matter

(1) The breeding of new plant varieties ("varieties") shall be protected by virtue of the International Convention of December 2, 1961, for the Protection of New Varieties of Plants ("the Convention") and by virtue of this Law and of regulations made under it.

(2) The word "variety" shall mean any cultivar, clone, line, stock or hybrid, whatever the origin, artificial or natural, of the initial variation which gave rise to it.

(3) The protected new variety shall be defined by its official description and by the sample grown in the reference collection of the Authority Responsible for the Examination.

Article 2

Scope of Application in Respect of Persons

(1) The rights conferred by this Law may be acquired by:

- (a) Swiss nationals and persons having their place of residence or registered office in Switzerland;
- (b) nationals of another member State of the International Union for the Protection of New Varieties of Plants (hereinafter referred to as "member State") if that State protects varieties of the same species or if the variety belongs to a species mentioned in the list referred to in Article 4(3) of the Convention.

(2) States which grant reciprocity to Switzerland shall be treated on the same footing as member States. Persons having their place of residence or registered office in one of the former States shall enjoy the same treatment as the nationals of the latter States.

Article 3

Agent in Switzerland

No person having neither residence nor registered office in Switzerland can be party to an action instituted pursuant to this Law and enforce the

* Titles in National Official Languages: Loi fédérale sur la protection des obtentions végétales; Bundesgesetz über den Schutz von Pflanzenzüchtungen; Legge federale sulla protezione delle novità vegetali.

** Source: Feuille fédérale, 1974, I.1409, and 1980, I.1338.

rights derived therefrom unless he has an agent established in Switzerland. Such an agent shall have power to act on his principal's behalf before the Plant Variety Protection Office (the "Office" referred to in Article 23) and in legal proceedings relating to the protection of varieties. Nothing in this Law shall affect the provisions governing the exercise of the legal profession.

Article 4

Reservation in Favor of International Instruments

Applicants for protection ("applicants") and the owners of protection ("owners") may invoke the provisions of the most recent text ratified by Switzerland of multilateral conventions, when these are more favorable than the provisions of this Law.

Section 2: Conditions Attached to the Protection of Varieties

Article 5

Varieties Eligible for Protection

(1) Protection shall be allowed and must be granted to varieties which are new, stable and sufficiently homogeneous; such varieties must, in addition, belong to a botanical genus or species which the Federal Council has included in the list of species.

(2) A variety shall be considered to be new if it is clearly distinguished, by one or more important characteristics, from any other variety whose existence is a matter of common knowledge at the time the application for variety protection ("application") is filed.

(3) A generally known variety shall be considered to be new unless, at the time the application was filed, it had already been offered for sale or marketed in Switzerland or--for more than four years--abroad, with the consent of the breeder or his successor in title. The Federal Council may extend this period to six years at the most for certainⁿ species or genera.

Article 6

Variety Denomination

(1) A variety shall be given a denomination.

(2) Such denomination shall not:

- (a) be liable to mislead or to cause confusion with another denomination which has already been filed or registered in a member State for a variety of the same or a botanically related species;
- (b) be contrary to public order or morality nor infringe federal law or international conventions;
- (c) consist exclusively of figures.

(3) If the same variety has already been the subject of an application or a registration in another member State, the same denomination shall be used unless it is improper for linguistic or other reasons.

Article 7

Trademark

(1) In addition to the denomination, a trademark differing from the denomination may be used in connection with the variety.

(2) If, for a particular variety, the applicant announces a denomination that is identical or liable to be confused with the trademark for which he has obtained registration in respect of that variety or another variety of the same or a botanically related species, he can no longer, from the time when he obtains variety protection in a member State, avail himself, within the limits of the protection resulting from the variety denomination, of the rights deriving from the trademark.

Article 8

Use of the Variety Denomination

(1) Anyone offering for sale or marketing propagating material on a commercial basis shall use the denomination of the variety, even after the termination of protection.

(2) The rights of third parties shall remain unaffected.

Section 3: The Entitlement to Variety Protection

Article 9

Principle

(1) The entitlement to variety protection shall belong to the breeder or his successor in title. Article 332 of the Code of Obligations and Article 16 of the Federal Law on the Status of Federal Officials shall apply mutatis mutandis.

(2) If several persons have created a variety jointly, the entitlement shall belong to them jointly.

(3) If the variety has been obtained by several persons independently, the entitlement shall belong to the one who can prove that his application was filed first or enjoys priority.

1 Article 332 of the Code of Obligations reads as follows:

"(1) Inventions, whether patentable or not, which the worker has made or in which he has participated in the exercise of his activities in the service of his employer and in compliance with his contractual obligations, shall belong to the employer.

"(2) By written agreement, the employer may reserve for himself a right to inventions made by the worker during the exercise of his activities in the service of the employer but outside the fulfillment of his contractual obligations.

"(3) A worker who has made an invention referred to in the preceding paragraph shall inform the employer thereof in writing; the latter shall let him know in writing within six months whether he intends to acquire the invention or leave it to the worker.

"(4) Where the invention is not left to the worker, the employer shall pay to him a special equitable consideration taking into account all circumstances, particularly the economic value of the invention, the collaboration of the employer and his agents, the use made of his installations and of the worker's expenditure and his position within the undertaking."

Article 16 of the Federal Law on the Status of Federal Officials contains a similar provision.

Article 10

Position of Applicant

Anyone who has filed an application shall be considered, pending proof to the contrary, as being authorized to apply for protection.

Article 11

Priority

(1) Anyone who files an application for a variety within twelve months of the date on which he or his predecessor in title has filed, for the first time, a regular application for the same variety in another member State, shall enjoy the priority deriving from the first application. In such a case, any facts arising since the first application shall not constitute grounds for objection to the second application.

(2) Priority shall be claimed when filing the application for the variety. Certified copies of the documents which constitute the first application shall be submitted to the Office within three months. If these conditions are not fulfilled the priority shall lapse.

Section 4: The Effects of Variety Protection

Article 12

General

(1) The effect of variety protection shall be that no one may, without the consent of the owner, produce propagating material of the protected variety for purposes of commercial marketing, offer it for sale or sell it in the course of business.

(2) "Propagating material for the production of plants" shall mean:

- (a) reproductive propagating material (seeds, fruits, etc.); or
- (b) vegetative propagating material (plants or parts of plants such as cuttings, tubers, bulbs, etc.).

(3) The consent of the breeder or his successor in title shall not be required for the use of propagating material of a protected variety for the purpose of creating or marketing a new variety. Such consent shall be required, however, when the propagating material of the protected variety must be used repeatedly to produce the new variety.

Article 13

Ornamental Plants

(1) No one may, without the consent of the owner, commercially produce ornamental plants or cut flowers through the vegetative propagation of plants or parts of plants which are customarily marketed for purposes other than propagation.

(2) For certain species of ornamental plants, the Federal Council may extend such protection to the marketed product if the interests of the owners so require. In such cases, the extended protection shall apply only to Swiss owners and to the nationals of States which grant the same right.

Section 5: Modifications Relating to the Existence
of Protection

Article 14

Expiry of the Period of Protection

Variety protection shall expire at the end of the twentieth calendar year following the grant. The Federal Council may, in the case of certain species or groups of plants, increase the period of protection to twenty-five years at the most.

Article 15

Premature Expiration

- (1) Variety protection shall expire when:
 - (a) the owner renounces his right by a written declaration addressed to the Office;
 - (b) an annual fee is not paid by the due date.
- (2) The renunciation may be revoked if it has not yet been published by the Office.

Article 16

Declaration of Nullity

- (1) On an action to that effect, the judge shall declare variety protection null and void if it is proved that the variety is not new or has already been protected by virtue of an earlier application or an application enjoying priority.
- (2) Anyone who establishes an interest in a declaration of nullity may bring an action to that effect.
- (3) Where variety protection has been granted in Switzerland on recognition of the priority derived from an application abroad and the title of protection has not been obtained abroad, the owner shall elucidate the reasons, producing documentary proof. If he refuses to do so, the judge may decide the case at his discretion.

Article 17

Forfeiture

- (1) The Office shall declare variety protection forfeit when the owner:
 - (a) cannot supply propagating material capable of producing the variety with its morphological and physiological characteristics as defined when protection was granted;
 - (b) fails to produce within the period prescribed by the Office and after being requested to do so the propagating material, the documents and the information necessary for checking the variety, or does not allow inspection of the measures which have been taken for the maintenance of the variety.
- (2) The forfeiture of variety protection shall take effect from the time of its entry in the Variety Protection Register ("the Register").

**Section 6: Modifications Relating to the
Entitlement to Variety Protection
and the Right to Protection**

Article 18

Transfer

(1) The entitlement to protection and the right to protection may be transferred in whole or in part to third parties and shall pass to the heirs.

(2) Unless they have been recorded in the Register the rights of third parties cannot be set up against anyone who, in good faith, has acquired rights to protection.

Article 19

Assignment

(1) When an application has been filed by a person not entitled to protection, the entitled person may bring an action for the assignment of the application or of variety protection, if already granted.

(2) The action shall be brought within two years from the date of publication of the grant of protection. An action brought against a defendant who has acted in bad faith shall not be subject to any time limit.

(3) If the action succeeds, any rights granted by the defendant to third parties shall become null and void.

Article 20

Expropriation

(1) If the national supply situation so requires, the Federal Council may order the total or partial expropriation of variety protection.

(2) The expropriated person shall be entitled to full and complete compensation. In case of dispute, the compensation shall be fixed by the Federal Court (Tribunal fédéral / Bundesgericht). Chapter II of the Federal Law on Expropriation shall apply mutatis mutandis.

Section 7: Licenses

Article 21

Granting of Licenses, General

(1) The owner may authorize a third person to use a protected variety (granting of a license). If the variety belongs to several persons jointly, a license can only be granted by agreement between them.

(2) Unless they have been recorded in the Register, licenses cannot be set up against anyone who, in good faith, has acquired rights to variety protection.

Article 22

Compulsory Granting of a License

(1) Any person whose request for a license is rejected by the owner on insufficient grounds may bring an action before the courts for the issue of a license. The granting of a license may be ordered only if it is in the public interest to do so.

(2) The judge shall fix the scope and duration of the license and the compensation to be paid. A compulsory license cannot be exclusive and cannot be assigned.

(3) Where an action appears well-founded, the judge may, after hearing the defendant and subject to a final decision, grant the license at the request of the claimant, provided he furnishes adequate security to the defendant.

CHAPTER II

ORGANIZATION AND PROCEDURE

Section 1: Organization and Competence

Article 23

The Plant Variety Protection Office

The Plant Variety Protection Office ("the Office") shall be attached to the Agricultural Division of the Federal Department of the Public Economy. Unless this Law provides otherwise, the Office is empowered to issue titles of protection and to examine questions concerning them.

Article 24

Authorities Responsible for the Examination

(1) It shall be the responsibility of federal agricultural research stations to investigate whether a variety is new, sufficiently homogeneous, and stable. In the case of varieties developed by the stations themselves, the Office shall entrust the task to some other authority fulfilling the required conditions. International agreements made pursuant to Article 30(2) of the Convention shall apply notwithstanding anything to the contrary herein.

(2) The Authority Responsible for the Examination may, with the agreement of the Office, call on the assistance of knowledgeable third parties and take into consideration the findings of examinations conducted abroad.

Article 25

Appeal Authority

(1) The decisions of the Office concerning the admissibility of a variety to protection under Article 5 shall be subject to an appeal to the Appeals Section of the Federal Bureau of Intellectual Property. The decisions of the Section shall be final.

(2) An appeal under administrative law shall lie to the Federal Court against all other decisions of the Office.

(3) The appeals procedure shall be governed by the general provisions of the legislation on administrative justice.

Section 2: Filing of Applications and Examination of Variety

Article 26

Form of Application and Filing Date

(1) Anyone wishing to have a variety protected shall submit to the Office, in the prescribed manner, an application accompanied by the required indications and documents, and pay the application fee.

(2) The filing date shall be taken to be the day on which all the file documents have been produced and the application fee has been paid.

Article 27

Rectification Procedure

(1) An improper application shall be rectified if the Office so requires. In case of need, the Office may at any time require other rectifications.

(2) If the defects are not removed within the time limit stipulated, the application shall be rejected.

Article 28

Publication of Applications

(1) A properly filed application shall be published by the Office. Such publication shall include at least:

- (a) the filing date;
- (b) the name or designation and the address of the applicant and of his agent, if any;
- (c) the name or designation and the address of the breeder, if he is not the applicant;
- (d) the proposal concerning the denomination of the variety;
- (e) the genus or species to which the variety concerned belongs;
- (f) where applicable, the country and date of a previous application giving priority.

(2) Where an application is withdrawn or rejected after publication, or where the published terms of an application are subsequently amended, a new publication shall be made.

Article 29

Objections

(1) Any person may, within three months from the date of publication, lodge objections to an application with the Office. Such objections shall be made in writing, giving reasons. The documents and plants serving as evidence shall be attached or indicated.

(2) Objections may only be based on the allegation that the variety for which an application has been filed is not eligible for protection under Article 5 or that its denomination is inadmissible under Article 6.

(3) The applicant may state his views about the objections presented. In particular, he shall state whether he intends to maintain his application, amend it or withdraw it.

Article 30

Examination of Varieties

(1) The Office shall transmit the application, after its publication, to the competent Authority Responsible for the Examination for the purpose of having the variety examined, informing it of any objections presented.

(2) The applicant shall, within a fixed time limit, supply the Authority Responsible for the Examination with the required propagating material, provide it with all the necessary particulars and authorize their verification. The

breeder or his successor in title who claims priority for the application shall supply the propagating material within four years from the expiry of the priority period.

(3) Where the variety is subjected to a growing test, the applicant shall have the right to inspect the test in progress on the spot and to express his views on the results of the test.

Article 31

Granting of Variety Protection

(1) Once the examination is completed, the Office shall grant protection when all the requirements are fulfilled. Otherwise, it shall reject the application.

(2) Variety protection shall be granted, without guarantee on the part of the Confederation, by the entry in the Register. As title of protection, the applicant shall receive an extract from the Register ("title of protection of the variety").

(3) Until proof is produced to the contrary, the title shall be considered lawful and its holder as the rightful holder thereof.

Section 3: Variety Protection Register, Publication and Fees

Article 32

Contents of the Register

(1) The Office shall keep the Register in which titles of protection are recorded, with the necessary indications, in particular:

- (a) the denomination of the variety;
- (b) the description of the variety;
- (c) the name or designation and address of the holder and of his agent, if any;
- (d) the name or designation and address of the breeder, if he is not the holder;
- (e) the filing date of the application and its date of publication;
- (f) where applicable, the country and date of a prior application giving priority.

(2) All changes affecting variety protection or the right to protection shall likewise be recorded in the Register. Complete copies of final decisions which give rise to such changes shall be delivered to the Office by the courts, free of charge.

(3) Provided it has previously informed the holder thereof, the Office may supplement the description of a variety where this is required by the description of another variety.

Article 33

Publication

(1) The Office shall publish the entries made in the Register.

(2) No one may avail himself of the claim that he was unaware of an entry in the Register.

Article 34

Publicity of Register

(1) Anyone may, on payment of a fee, consult the Register or obtain information concerning its contents and request extracts.

(2) Apart from the report of the Authority Responsible for the Examination, the documentary basis of the Register shall be confidential. The documents may not be consulted by third persons without the authorization of the holder. The courts do not require such authorization.

(2) Apart from the report of the Authority Responsible for the Examination, the documentary basis of the Register shall be confidential. Third parties may be granted access to the documents only after the holder has given his consent. The courts do not require such authorization.

Article 35

Preservation of Files

The Office shall preserve the originals or copies of the documents in the variety protection files until five years after the termination of protection; the Register, however, shall be preserved indefinitely.

Article 36

Fees

(1) The competent services shall collect the following fees in relation with the grant of variety protection:

- (a) an application fee;
- (b) fees for the examination of the variety;
- (c) annual fees during the duration of protection.

(2) Fees are payable in advance and fixed at such a level as to cover costs.

(3) The Federal Council shall lay down rules concerning the amount and due date of fees and the time limits within which they shall be paid. It may declare other services relating to variety protection to be subject to the payment of fees.

CHAPTER III: PROTECTION IN CIVIL LAW

Section 1: Claims

Article 37

Action for Restraining Injunctions, for Injunctions for the Elimination of the Unlawful Situation, and for Damages

(1) Anyone whose right deriving from variety protection or whose right to the denomination of a variety is threatened with violation or violated may bring an action for a restraining injunction or an injunction for the elimination of the unlawful situation resulting from the act complained of.

(2) In the event of negligence, the aggrieved party may also claim damages; the amount of the damages need not be indicated in the plaintiff's pleadings.

Article 38

The Right to Bring an Action Before the Grant of Variety Protection

(1) As soon as the application has been published and before variety protection has been granted, the applicant may bring an action for a restraining injunction or an injunction for the elimination of the unlawful situation resulting from the act complained of, provided he furnishes adequate security to the opposing party.

(2) Actions for damages may be brought only when variety protection has been granted, but they may then include damage caused by the defendant's negligence since the publication of the application.

Article 39

Action for Declaratory Judgment

Anyone who can prove an interest may bring an action with a view to establishing the existence or absence of a legal relation falling to be judged in accordance with this Law.

Article 40

Safeguard of Manufacturing or Business Secrets

(1) The manufacturing or business secrets of the parties concerned shall be safeguarded.

(2) Evidence liable to disclose such secrets may be made available to the opposing party only in so far as this is compatible with their safeguard.

Article 41

Jurisdiction

(1) The actions provided for under this Law shall be brought before the judge of the defendant's place of residence in Switzerland.

(2) If the defendant does not have a place of residence in Switzerland, the competent judge shall be:

- (a) in the case of actions brought against third persons by the applicant or the holder: the judge of the place in which the act was committed, or of the place in which the result was produced;
- (b) in the case of actions brought by third persons against the applicant or the holder: the judge of the place of business of the agent named in the Register or, if the mention of the agent has been deleted in the Register, the judge of the place where the Office has its headquarters.

(3) If more than one place is eligible, the competent judge shall be the one before whom the action is initiated first.

Article 42

Exclusive Cantonal Jurisdiction

(1) Each canton shall appoint for the whole of its territory a court which shall have exclusive cantonal jurisdiction over the actions governed by this Law.

(2) Appeal to the Federal Court shall be admissible irrespective of the amount in dispute.

Section 2: Provisional Measures**Article 43****Conditions**

(1) Provisional measures may be ordered at the request of a person entitled to bring an action, in particular with a view to ensuring the provision of evidence or the continued existence of a state of affairs, or with a view to the provisional enforcement of requests for restraining injunctions or for injunctions for the elimination of the unlawful situation resulting from the act complained of.

(2) The petitioner shall produce prima facie evidence that the opposing party has infringed or intends to infringe the provisions of this Law and that he is consequently threatened with loss difficult to make good and which can only be prevented by provisional measures.

(3) The opposing party shall be heard; if there is danger in delay, interim orders may be made in advance.

Article 44**Security**

(1) Provisional measures which are liable to cause damage to the opposing party shall be subject to an obligation to provide security.

(2) Where the opposing party provides adequate security to the petitioner, the making of interim orders may be waived or such orders, if already made, may be revoked.

Article 45**Time Limit for Bringing Action**

Where an interim order is made before an action has been initiated, the petitioner shall be given a time limit of up to 60 days in which to institute proceedings with a notice that failure to institute proceedings within this period shall entail the provisional measures to lapse.

Article 46**Responsibility of Petitioner**

(1) The damage resulting from provisional measures shall be made good if the claim on the grounds of which the order was made proves to be ill-founded.

(2) The action for damages shall be barred one year from the day on which the provisional measure lapsed.

(3) If the petitioner has provided security, this shall be returned to him only when it is certain that no action for damages will be brought; in case of doubt, the judge may, even if the petitioner does not so request, fix a time limit for bringing an action.

Article 47**Competence and Procedure**

(1) So long as proceedings have not been instituted, competence based on place shall be determined by the rules which apply to the action.

(2) Once proceedings have started, the judge before whom they have been instituted shall alone be competent.

(3) The cantons shall appoint the authority competent to order provisional measures and shall prescribe the relevant procedure.

CHAPTER IV

PROTECTION IN PENAL LAW

Article 48

Infringement of Variety Protection

(1) Anyone who, without being entitled to do so, produces for commercial purposes propagating material of a protected variety, offers it for sale or sells it in the course of business,

anyone who, without being entitled to do so, uses repeatedly propagating material of a protected variety with a view to producing propagating material of a new variety,

anyone who, without being entitled to do so, uses plants or parts of plants of a protected variety customarily marketed for purposes other than propagation for the commercial production of ornamental plants or cut flowers,

anyone who, without being entitled to do so, sells in the course of business ornamental plants or cut flowers of species for which protection under Article 13(2) has been extended to the marketed product,

shall, if he has acted intentionally, be punished on the complaint of the aggrieved party by imprisonment for up to one year, or by a fine.

(2) If he has acted negligently, he shall be punished by a fine.

(3) The right to lodge a complaint shall lapse on the expiry of a period of six months from the date on which the identity of the person responsible is known to the aggrieved party.

Article 49

Misleading Publicity and Other Offenses

(1) Anyone who, in advertisements, on his business papers or in the marketing of products, gives indications liable to give rise to the false belief that there is variety protection,

anyone who does not use the denomination of the variety when selling in the course of business propagating material of a protected variety,

anyone who uses in the course of business the denomination of a protected variety or a designation liable to be confused with it for another variety of the same or a botanically related species,

anyone who infringes this Law or its implementing regulations in any other way,

shall be punished by a fine, if he has acted intentionally.

(2) The attempt to commit an offense and complicity in an offense shall also be punishable.

Article 50

Confiscation of Material

Even in cases where no specific person can be prosecuted and sentenced, the judge may order the confiscation of products manufactured unlawfully.

Article 51

Penal Prosecution

Penal prosecution shall be the responsibility of the cantons.

CHAPTER V

FINAL PROVISIONS

Article 52

Amendments to Existing Law

...*

Article 53

Protection of Known Varieties

(1) Notwithstanding Article 5(3), varieties which, with the consent of the breeder or his successor in title, have been offered for sale or marketed in Switzerland for less than four years may also be the subject of an application for protection during a transitional period of one year from the entry into force of this Law. If protection is granted, its duration shall be reduced by the number of whole years which have elapsed between the first time the variety was offered for sale or marketed and the date of the application.

(2) The same rule shall apply mutatis mutandis to varieties of species newly included in the list of species after the entry into force of this Law.

Article 54

Implementation

The Federal Council shall lay down the required regulations for the implementation of this Law.

Article 55

Committee of Variety Protection Experts

The Federal Council shall appoint a committee of variety protection experts on which the interested groups shall be fairly represented. The function of the committee shall be to advise the authorities in the application of this Law and to make proposals to them.

Article 56

Referendum and Entry into Force

(1) This Law is subject to the optional referendum.

(2) The Federal Council shall fix the date of its entry into force.

* Not reproduced here. The provisions referred to in this Article have been incorporated in the codified texts of the Federal Law of April 11, 1889, on Prosecution for Debts and Bankruptcy and the Judicature Law of December 16, 1943, respectively.

** June 1, 1977 (original Law); April 5, 1983 (amendment).

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

Designations that do not show clearly enough their status of variety denomination are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with designations that are identical or may be confused with other indications, in particular those that are commonly used in trade.

Recommendation 2

(1) Designations that the average user cannot recognize or reproduce in speech and/or writing are not suitable as generic designations and thus also as variety denominations.

* Adopted by the UPOV Council at its twenty-first ordinary session, held on October 15 and 16, 1987.

(2) In the case of varieties whose propagating material is exclusively marketed within a limited circle of specialists, as in the case of parent varieties for the production of hybrids, the average user should be taken to mean the average specialist in that circle.

Recommendation 3

Designations whose use is to remain free are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with 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.

Recommendation 4

Designations whose use may be forbidden in the marketing of propagating material of the variety are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with:

(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 to oppose use of the--registered--variety denomination, either at any time or at least after the expiration of protection;

(ii) designations in which third parties have asserted a prior right;

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

Recommendation 5

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

Recommendation 6

A designation is not suitable as variety denomination on the ground of liability to mislead if there is a risk of it giving rise to misconceptions concerning the characteristics or value of the variety. This may be the case in particular with:

(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 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 designation is not suitable as variety denomination on the ground of liability to mislead 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:

(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

* Not reproduced here.

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 1/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

UPOV Recommendations on the Harmonization of the Lists of Protected Species*

The Council of the International Union for the Protection of New Varieties of Plants,

Considering that Article 4(1) of the International Convention for the Protection of New Varieties of Plants provides that the Convention may be applied to all botanical genera and species;

Considering that the member States have undertaken under Article 4(2) of the Convention to adopt all measures necessary for the progressive application of the provisions of the Convention to the largest possible number of botanical genera and species;

Considering further that Article 7(1) of the Convention requires that protection be granted after examination of the variety in the light of the criteria defined in Article 6 and that such examination is to be appropriate to each botanical genus or species;

Referring to the statement noted with approval by the Council at its tenth ordinary session in 1976 that "it is clear that it is the responsibility of the member State to ensure that the examination required by Article 7(1) of the UPOV Convention includes a growing test and the authorities in the present UPOV States [in 1976] normally conduct these tests themselves";

Taking into account the fact that the main obstacle to the application of the Convention in the member States to the largest possible number of botanical genera and species is the limitation on the economic and technical and on the scientific possibilities of carrying out variety examination;

* Adopted by the UPOV Council at its twentieth ordinary session, on December 2, 1986.

Referring to the fact that Article 30(2) of the Convention specifically sets out the possibility of the competent authorities of the member States concluding special contracts with a view to the joint utilization of the services of the authorities entrusted with the examination of varieties in accordance with the provisions of Article 7 and with assembling the necessary reference collections and documents;

Noting with satisfaction that the member States have already made extensive use of that possibility, both in order to keep the cost of protection for new plant varieties at the lowest possible level and also to extend their lists of protected species;

Convinced that further progress can be achieved in this field and that such progress is also called for to maintain or even improve the effectiveness of new plant variety protection as a tool in the development of agriculture and the safeguarding of breeders' interests;

Recommends the member States of the Union:

(a) to extend protection to every genus or species for which the following conditions are met:

(i) The genus or species is the subject of plant breeding work, or it is expected that the extension of protection will be an incentive for such work to be undertaken;

(ii) There is a real or potential market in the member State of the Union concerned for reproductive or vegetative propagating material of varieties from that genus or species;

(iii) Examination facilities are existing or will be set up for the genus or species, either in the member State of the Union concerned or in another member State which offers its services for examination pursuant to the provisions of Article 30(2) of the Convention;

(iv) There are no legal, climatic or other obstacles to such extension;

(b) to offer their services to the other member States for the examination of varieties, particularly in those cases in which the other States participating in the cooperation system do not yet protect the genus or species concerned, by means of concerted action to concentrate examination of the varieties at an optimum number of the authorities concerned;

(c) to inform the other member States as early as possible of their intentions to extend protection to a given genus or species, giving sufficient details, and to offer the services of their authorities for the examination of varieties of such genus or species to enable the other States, as appropriate, to put in hand the procedures required by their legislation for an extension of the same kind.

PUBLICATIONS BY THE OFFICE OF THE UNION

Test Guidelines

The table overleaf contains the full list of Guidelines for the Conduct of Tests for Distinctness, Homogeneity and Stability (Test Guidelines) which have been published by the Office of the Union in a trilingual--English, French and German--edition.

<u>Document</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Latine</u>
TG/01/2	General Intro- duction	Introduction générale	Allgemeine Ein- führung	
TG/02/4	Maize	Maïs	Mais	<i>Zea mays</i> L.
TG/03/1	Wheat (only applicable to <i>Triticum durum</i> Desf.)	Blé (applicable à <i>Triticum durum</i> Desf. seulement)	Weizen (nur anwendbar auf <i>Triticum</i> <i>durum</i> Desf.)	<i>Triticum durum</i> Desf.
TG/03/8	Wheat	Blé	Weizen	<i>Triticum aestivum</i> L.
TG/04/4	Ryegrass	Ray-grass	Weidelgras	<i>Lolium multiflorum</i> Lam., <i>L. perenne</i> L. & hybrids/ hybrides/Hybriden
TG/05/4	Red Clover	Trèfle violet	Rotklee	<i>Trifolium pratense</i> L.
TG/06/1	Lucerne	Luzerne	Luzerne	<i>Medicago sativa</i> L., <i>Medicago X varia</i> Martyn
TG/07/4	Peas	Pois	Erbsen	<i>Pisum sativum</i> L. sensu lato
TG/08/4 + Corr.	Broad Bean, Field Bean	Fève, Féverole	Dicke Bohne, Ackerbohne	<i>Vicia faba</i> L.
TG/09/1	Runner Bean	Haricot d'Espagne	Prunkbohne	<i>Phaseolus coccineus</i> L.
TG/10/4	<i>Euphorbia fulgens</i>	<i>Euphorbia fulgens</i>	Korallenranke	<i>Euphorbia fulgens</i> Karw. ex Klotzsch
TG/11/4	Rose	Rosier	Rose	<i>Rosa</i> L.
TG/12/4	French Bean	Haricot	Bohne	<i>Phaseolus vulgaris</i> L.
TG/13/4	Lettuce	Laitue	Salat	<i>Lactuca sativa</i> L.
TG/14/5	Apple	Pommier	Apfel	<i>Malus</i> Mill.
TG/15/1 + Corr.	Pear	Poirier	Birne	<i>Pyrus communis</i> L.
TG/16/4	Rice	Riz	Reis	<i>Oryza sativa</i> L.
TG/17/3	African Violet	Saintpaulia	Usambaraveilchen	<i>Saintpaulia ionantha</i> H. Wendl.
TG/18/4	Elatior Begonia	Bégonia elatior	Elatior-Begonie	<i>Begonia</i> - <i>Elatior</i> -hybrids/ hybrides/Hybriden, Syn.: <i>Begonia X hiemalis</i> Fotsch
TG/19/7	Barley	Orge	Gerste	<i>Hordeum vulgare</i> L. sensu lato
TG/20/7	Oats	Avoine	Hafer	<i>Avena sativa</i> L. & <i>Avena</i> <i>nuda</i> L.
TG/21/7	Poplar	Peuplier	Pappel	<i>Populus</i> L.
TG/22/6	Strawberry	Fraisier	Erdbeere	<i>Fragaria</i> L.
TG/23/5	Potato	Pomme de terre	Kartoffel	<i>Solanum tuberosum</i> L.
TG/24/5	Poinsettia	Poinsettia	Poinsettie	<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch
TG/25/5	Carnation (vegetatively propagated vari- eties)	Oeillet (variétés à multi- plication végé- tative)	Nelke (vegetativ ver- mehrte Sorten)	<i>Dianthus</i> L.

<u>Document</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Latine</u>
TG/26/4	Chrysanthemum (Perennial)	Chrysanthème (vivace)	Chrysantheme (mehrfährig)	Chrysanthemum spec.
TG/27/6	Freesia (vegetatively prop- agated varieties)	Freesia (variétés à multi- plication végétative)	Freesie (vegetativ vermehrte Sorten)	Freesia Eckl. ex Klatt
TG/28/8	Zonal Pelargonium, Ivy-leaved Pelar- gonium	Pélargonium zonal, Géranium- lierre	Zonalpelargonie, Efeupelargonie	Pelargonium zonale hort. non (L.) L'Hérit. ex Ait., P. peltatum hort. non (L.) L'Hérit. ex Ait.
TG/29/6	Alstroemeria	Alstroemère	Inkalilie	Alstroemeria L.
TG/30/3	Bent	Agrostide	Straussgras	Agrostis canina L., A. gi- gantea Roth, A. stolonifera & A. tenuis Sibth.
TG/31/6	Cocksfoot	Dactyle	Knautgras	Dactylis glomerata L.
TG/32/3	Common Vetch	Vesce commune	Saatwicke	Vicia sativa L.
TG/33/3	Kentucky Bluegrass (apomictic vari- eties)	Pâturin des prés (variétés apo- mictiques)	Wiesenrispe (apomiktische Sorten)	Poa pratensis L.
TG/34/6	Timothy	Fléole	Lieschgras	Phleum pratense L. & Phleum bertolonii DC.
TG/35/3	Cherry (Sweet, Sour & Duke Cherries, fruit varieties only)	Cerisier (Cerise douce, cerise acide et cerise proprement dite, variétés à fruits seulement)	Kirsche (Sorten von Süß- kirsche, Sauer- kirsche und Weichselkirsche, nur Obstsorten)	Prunus avium (L.) L., P. cerasus L. & hybrids/ hybrides/Hybriden
TG/36/3 + Corr.	Rape (forage rape included)	Colza (y compris colza fourrager)	Raps (einschliesslich Futterraps)	Brassica napus L.
TG/37/3	Turnip	Navet	Herbst-, Mairübe	Brassica rapa L. var. rapa
TG/38/6	White Clover	Trèfle blanc	Weissklee	Trifolium repens L.
TG/39/6	Meadow Fescue, Tall Fescue	Fétuque des prés, Fétuque élevée	Wiesen-, Rohr- schwingel	Festuca pratensis Huds. & Festuca arundinacea Schreb.
TG/40/3	Black Currant	Cassis	Schwarze Johannisbeere	Ribes nigrum L.
TG/41/4	European Plum (fruit varieties, rootstocks ex- cluded)	Prunier européen (variétés à fruits à l'exclusion des porte-greffes)	Pflaume (fruchttragende Sorten, Unterlagen ausgeschlossen)	Prunus domestica L. & Prunus insititia L.
TG/42/3	Rhododendron	Rhododendron	Rhododendron	Rhododendron L.
TG/43/6	Raspberry	Framboisier	Himbeere	Rubus idaeus L. & hybrids/ hybrides/Hybriden
TG/44/3	Tomato	Tomate	Tomate	Lycopersicon lycopersicum (L.) Karst. ex. Farw.
TG/45/3	Cauliflower	Chou-fleur, Brocoli (Brocoli à jets exclu)	Blumenkohl	Brassica oleracea L. con- var. botrytis (L.) Alef. var. botrytis
TG/46/3	Onion	Oignon	Zwiebel	Allium cepa L.
TG/47/5	Streptocarpus	Streptocarpus	Drehfrucht	Streptocarpus X hybridus Voss

<u>Document</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Latine</u>
TG/48/3 + Corr.	Cabbage (White cabbage, red cabbage and Savoy cabbage)	Chou pommé (Chou cabus, chou rouge et chou de Milan)	Kopfkohl (Weisskohl, Rot- kohl und Wirsing)	Brassica oleracea L. var. capitata L. f. alba DC.; B. oleracea L. var. capita- ta L. f. rubra (L.) Thell.; B. oleracea L. var. bullata DC. & B. oleracea L. var. sabauda L.
TG/49/3	Carrot	Carotte	Möhre	Daucus carota L.
TG/50/5	Vine	Vigne	Rebe	Vitis L.
TG/51/6	Gooseberry	Groseillier à maquereau	Stachelbeere	Ribes uva-crispa L., R. grossularia L.
TG/52/2	Red and White Currant	Groseillier à grappes	Rote und Weisse Johannisbeere	Ribes sylvestre (Lam.) Mert. & W. Koch, R. niveum Lindl.
TG/53/3	Peach	Pêcher	Pfirsich	Prunus persica (L.) Batsch
TG/54/3	Brussels Sprouts	Chou de Bruxelles	Rosenkohl	Brassica oleracea L. convar. oleracea var. gemmifera DC.
TG/55/3	Spinach	Epinard	Spinat	Spinacia oleracea L.
TG/56/3	Almond	Amandier	Mandel	Prunus amygdalus Batsch
TG/57/3	Flax, Linseed	Lin	Lein	Linum usitatissimum L.
TG/58/3	Rye	Seigle	Roggen	Secale cereale L.
TG/59/3	Lily (vegetatively propagated)	Lis (à multiplication végétative)	Lilie (vegetativ vermehrte)	Lilium L.
TG/60/3	Beetroot	Betterave rouge	Rote Rübe	Beta vulgaris L. var. esculenta
TG/61/3	Cucumber, Gherkin	Concombre, Cornichon	Gurken	Cucumis sativus L.
TG/62/3	Rhubarb	Rhubarbe	Rhabarber	Rheum rhabarbarum L.
TG/63/3	Black Radish	Radis d'été, d'au- tomne et d'hiver	Rettich	Rhaphanus sativus L. var. niger (Mill.) S. Kerner
TG/64/3	Radish	Radis de tous les mois	Radieschen	Rhaphanus sativus L. var. radicola Pers.
TG/65/3	Kohlrabi	Chou-rave	Kohlrabi	Brassica oleracea L. var. gongylodes L.
TG/66/3	Lupins	Lupins	Lupinen	Lupinus albus, L. angusti- folius, L. luteus
TG/67/4	Sheep's Fescue (including Hard Fescue), Red Fescue	Fétuque ovine (y compris Fétuque durette), Fétuque rouge	Schafschwingel (einschliesslich Härtlicher Schwin- gel), Rotschwingel	Festuca ovina L. sensu lato & F. rubra L.
TG/68/3	Berberis (vegetatively propagated)	Berberis (à multiplication végétative)	Berberitze (vegetativ vermehrte)	Berberis L.
TG/69/3	Forsythia	Forsythia	Forsythie	Forsythia Vahl
TG/70/3	Apricot	Abricotier	Aprikose	Prunus armeniaca L.

<u>Document</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Latine</u>
TG/71/3	Hazelnut	Noisetier	Haselnuss	<i>Corylus avellana</i> L. & <i>C. maxima</i> Mill.
TG/72/4	Willow (tree varieties only)	Saule (variétés arbores- centes seulement)	Weide (nur Sorten von Baumweide)	<i>Salix</i> L.
TG/73/3	Blackberry	Ronce fruitière	Brombeere	<i>Rubus</i> subgenus <i>Eubatus</i> Sect. <i>Moriferi</i> & <i>Ursini</i> hybrids/hybrides/Hybriden
TG/74/3	Celeriac	Céleri-rave	Knollensellerie	<i>Apium graveolens</i> L. var. <i>rapaceum</i> (Mill.) Gaud.
TG/75/3	Cornsalad	Mâche	Feldsalat	<i>Valerianella locusta</i> L. & <i>V. eriocarpa</i> Desv.
TG/76/3	Sweet Pepper	Piment	Paprika	<i>Capsicum annuum</i> L.
TG/77/3	Gerbera (vegetatively propagated)	Gerbera (à multiplication végétative)	Gerbera (vegetativ vermehrte)	<i>Gerbera</i> Cass.
TG/78/3	Kalanchoe (vegetatively propagated)	Kalanchoë (à multiplication végétative)	Kalanchoe (vegetativ vermehrte)	<i>Kalanchoë blossfeldiana</i> v. Poelln. & its hybrids/ ses hybrides/ihre Hybriden
TG/79/3	White Cedar	Thuya du Canada	Lebensbaum	<i>Thuya occidentalis</i> L.
TG/80/3	Soya Bean	Soja	Sojabohne	<i>Glycine max</i> (L.) Merrill
TG/81/3	Sunflower	Tournesol	Sonnenblume	<i>Helianthus annuus</i> L. & <i>Helianthus debilis</i> Nutt.
TG/82/3	Celery	Céleri-branche	Bleichsellerie	<i>Apium graveolens</i> L. var. <i>dulce</i> (Mill.) Pers.
TG/83/3	Citrus (varieties of Oranges, Manda- rins, Lemons and Grapefruit; ex- cluding rootstock varieties)	Agrumes (variétés d'oran- ger, de mandari- nier, de citron- nier et de limet- tier, de pomélo; à l'exclusion des variétés porte- greffes)	Zitrus (Sorten von Orange, Mandarine, Zitrone und Grape- fruit; Unterlags- sorten ausge- schlossen)	<i>Citrus</i> L.
TG/84/3	Japanese Plum (fruit varieties only)	Prunier japonais (variétés à fruits seulement)	Ostasiatische Pflaume (nur fruchttragende Sorten)	<i>Prunus salicina</i> Lindl. & other diploid plums/autres pruniers diploïdes/andere diploide Pflaumensorten
TG/85/3	Leek	Poireau	Porree	<i>Allium porrum</i> L.
TG/86/2	Anthurium (vegetatively propagated vari- eties)	Anthurium (variétés à multi- plication végé- tative)	Flamingoblume (vegetativ vermehrte Sorten)	<i>Anthurium</i> Schott
TG/87/2	Narcissi (includ- ing Daffodils)	Narcisse, Jonquille	Narzisse	<i>Narcissus</i> L.
TG/88/3	Cotton	Ottonnier	Baumwolle	<i>Gossypium</i> L.
TG/89/3	Swede	Chou-navet	Kohlrübe	<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.
TG/90/3	Curly Kale	Chou frisé	Grünkohl	<i>Brassica oleracea</i> L. var. <i>sabellica</i> L.

<u>Document</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Latine</u>
TG/91/3	Crown of Thorns	Epine du Christ	Christusdorn	Euphorbia milii Desmoulins & its hybrids/ses hybrides/seine Hybriden)
TG/92/3	Persimmon (fruit varieties only)	Kaki (seulement variétés fruitières)	Kaki (nur Obstsorten)	Diospyros kaki L.
TG/93/3	Groundnut	Arachide	Erdnuss	Arachis L.
TG/94/3	Ling, Scotch Heather	Callune	Besenheide	Calluna vulgaris L. Hull.
TG/95/3	Lagerstroemia	Lagerstroemia	Lagerstroemia	Lagerstroemia indica L.
TG/97/3	Avocado	Avocatier	Avocado	Persea americana Mill.
TG/98/3	Kiwifruit	Actinidia	Kiwi	Actinidia chinensis Pl.
TG/99/3	Olive (vegetatively propagated fruit varieties)	Olivier (variétés fruitières à multiplication végétative)	Olive (vegetativ vermehrte Sorten zur Fruchterzeugung)	Olea europaea L.
TG/100/3	Quince (fruit varieties and rootstock varieties)	Cognassier (variétés fruitières et variétés porte-greffes)	Quitte (Sorten zur Fruchterzeugung und Unterlags-sorten)	Cydonia Mill. sensu stricto
TG/101/3	Christmas Cactus	Cactus de Noël	Weihnachtskaktus	Schlumbergera Lem. including/y compris/einschliesslich Zygocactus K. Schum.
TG/102/3	Impatiens	Impatiente	Impatiens	Impatiens L.
TG/103/3	Juniper	Genévrier	Wacholder	Juniperus L.
TG/104/4	Melon	Melon	Melone	Cucumis melo L.
TG/105/3	Chinese Cabbage	Chou chinois	Chinakohl	Brassica pekinensis L.
TG/106/3	Leaf Beet	Poirée	Mangold	Beta vulgaris L. var. vulgaris L.
TG/109/3	Regal Pelargonium	Pélargonium des fleuristes	Edelpelargonie	Pelargonium grandiflorum hort. non Willd.
TG/110/3	Guava (vegetatively propagated varieties)	Goyavier (variétés à multiplication végétative)	Guave (vegetativ vermehrte Sorten)	Psidium guajava L.
TG/111/3	Macadamia (vegetatively propagated varieties)	Macadamia (variétés à multiplication végétative)	Macadamia (vegetativ vermehrte Sorten)	Macadamia integrifolia Maiden et Betcher, M. tetraphylla L.A.S. Johnston & hybrids/hybrides/Hybriden
TG/112/3	Mango (vegeta- (vegetatively propagated varieties)	Manguier (varié- (variétés à multiplication végétative)	Mango (vegetativ (vegetativ vermehrte Sorten)	Mangifera indica L.
TG/113/2	Easter Cactus	Cactus jonc	Osterkaktus	Rhipsalidopsis Britt. et Rose, including/y compris/einschliesslich Epiphylopsis Berger

CALENDAR

UPOV Meetings

July 5 to 8 Surgères (France)	Technical Working Party for Agricultural Crops
September 27 and 28 Cambridge (United Kingdom)	Workshop on the Use of New Technology in the Examination of Varieties
October 11 to 14	Administrative and Legal Committee
October 17	Consultative Committee
October 18 and 19	Council
October 20 and 21	Technical Committee

Other Meetings

September 4 to 8 Budapest (Hungary)	Hungarian Group of AIPPI and Hungarian Association for the Protection of Industrial Property - International Conference on Recent Phenomena in the Protection of Industrial Property
September 14 to 16 Geneva	WIPO Worldwide Forum on the Impact of Emerging Technologies on the Law of Intellectual Property
October 24 to 28 Geneva	WIPO Committee of Experts on Biotechnological Inventions and Industrial Property
November 17 Amsterdam (Netherlands)	ASSINSEL 50th Anniversary Celebration and meetings
November 21 and 22 Brussels (Belgium)	COMASSO General Assembly
December 5 and 6 Ithaca (New York, United States of America)	Cornell University, Conference on Animal Patents

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 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).

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)