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PLANT VARIETY PROTECTION

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

No. 67

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Geneva

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GAZETTE

EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Denmark

By virtue of Notice No. 816 of December 11, 1991, of the Plant Directorate, protection was extended to the following genera and species, with effect from January 1, 1992 (the Danish and 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>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Camelina sativa (L.) Crantz	Saed-Dodder	Large-seeded False Flax	Caméline cultivée	Angebauter Leindotter
Crassula schmidtii Regel (including its hybrids)	-	-	-	-
Hebe Comm. ex Juss	Hebe	Shrubby Speedwell	Véronique	Strauch- veronika
Hedera helix L.	Almindelig Vedbend	Ivy	Lierre	Efeu
Hydrangea macro- phylla (Thunb.) Ser.	Almindelig Hortensie	Hydrangea	Hortensia	Hortensie
Osteospermum ecklonis (DC.) Norl.	-	Osteospermum	Osteospermum	Osteospermum
Radermachera sinica (Hance) Hemsl.	Stueask	Radermachera	Radermachera	Radermachera
Scaevola aemula R. Br.	-	-	-	-

A consolidated list of the taxa now covered by plant variety protection legislation is reproduced below.

List of Taxa Covered by Plant Variety Protection Legislation in Denmark (with effect from January 1, 1992)

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Aeschynanthus Jack.	Aeschynanthus	Aeschynanthus	Aeschynanthus	Aeschynanthus
Agrostis spp.	Hvene	Bentgrass	Agrostis	Straussgras
Allamanda cathartica L.	Allamanda	Allamanda	Allamanda	Allamanda

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Allium ascalonicum L.	Skalotteløg	Shallot	Echalote	Schalotte
Allium cepa L.	Kepaløg	Onion	Oignon	Zwiebel
Allium porrum L.	Porre	Leek	Poireau	Porree
Allium schoenoprasum L.	Purløg	Chives, Asatsuki	Ciboulette, Civette	Schnittlauch
Alstroemeria spp.	Inkalilje (alstroemeria)	Alstroemeria, Herb Lily	Alstroemère, Lis des Incas	Inkalilie
Anethum graveolens L.	Dild	Dill	Aneth	Dill
Anthriscus cere- folium (L.) Hoffm.	Kørvel	Chervil	Cerfeuil	Kerbel
Apium graveolens L.	Selleri (knold- og bladselleri)	Celery, Celeriac,	Célieri, Célieri-rave	Sellerie (Knollen- und Blatt- sellerie)
Armoracia rusti- cana Ph. Gaertn., B. Mey. et Scherb.	Peberrod	Horse Radish	Raifort sauvage	Meerrettich
Asparagus officinalis L.	Asparges	Asparagus	Asperge	Spargel
Asparagus setaceus (Kunth) Jessop	Slørasparges	"Asparagus Fern"	Asparagus	Asparagus, Federspargel
Aster L.	Asters	Aster, Michaelmas Daisy	Aster	Aster
Avena nuda L.	Nøgen havre	Naked Oats	Avoine nue	Nackthafer
Avena sativa L., Avena byzantina K. Koch	Havre	Oats	Avoine	Hafer
Begonia spp.	Begonie	Begonia	Bégonia	Begonie
Berberis spp.	Berberis	Berberis, Barberry	Berberis, Epine-vinette	Berberitze
Beta vulgaris L. var. conditiva Alef.	Rødbede	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe
Beta vulgaris L. var. crassæ Mansf.	Foderbede	Fodder Beet	Betterave fourragère	Runkelrübe

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Beta vulgaris L. var. vulgaris	Bladbede	Mangel, Leaf Beet, Spinach Beet	Bette commune, Poirée	Mangold
Bougainvillea spp.	Bougainvillea	Bougainvillea	Bougain- villier	Bougainvillea
Brassica napus L.	Raps	Swede Rape, incl. Oilseed Rape	Colza	Raps
Brassica napus L. var. napobrassica (L.) Rchb.	Kålroe	Swede	Chou-navet, Rutabaga	Kohlrübe
Brassica oleracea L. convar. acephala (DC.) Alef. var. gongylodes L.	Knudekål	Kohlrabi	Chou-rave	Kohlrabi
Brassica oleracea L. convar. acephala (DC.) Alef. var. medullosa Thell.	Fodermarvkål	Marrow-stem Kale	Chou moellier	Markkohl
Brassica oleracea L. convar. acephala (DC.) Alef. var. sabellica L.	Grønkål	Curly Kale	Chou frisé	Grünkohl
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis L.	Blomkål	Cauliflower	Chou-fleur	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. alba DC.	Hvidkål	White Cabbage	Chou cabus	Weisskohl
Brassica oleracea L. convar. capitata (L.) Alef. var. rubra (L.) Thell.	Rødkål	Red Cabbage	Chou rouge	Rotkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda L.	Savoykål	Savoy Cabbage	Chou de Milan	Wirsing

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Rosenkål	Brussels Sprouts	Chou de Bruxelles	Rosenkohl
Brassica pekinensis (Lour.) Rupr.	Kinakål	Chinese Cabbage	Chou de Chine, Pé-tsai	Chinakohl
Brassica rapa L. var. rapa	Majroe	[Spring] Turnip	Navet [de printemps]	Mairübe
Brassica rapa L. var. rapa	Turnips	[Autumn] Turnip	Navet [d'automne]	Herbstrübe
Brassica rapa L. var. silvestris (Lam.) Briggs	Rybs	Turnip Rape	Navette	Rübsen
Camelina sativa (L.) Crantz	Saed-Dodder	Large-seeded False Flax	Caméline cultivée	Angebauter Leindotter
Campanula L.	Klokke	Campanula, Bellflower	Campanule	Glockenblume
Capsicum annuum L.	Spansk peber	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
Carum carvi L.	Kommen	Caraway	Carvi, Cumin des prés	Kümmel
Chamaecyparis spp.	Dvaergcypres	Chamaecyparis	Chamaecyparis	Scheinzypresse
Chrysanthemum spp.	Krysanthemum	Chrysanthemum	Chrysanthème	Chrysantheme
Cichorium endivia L.	Endivie	Endive	Chicorée frisée, Scarole	Winterendivie
Cichorium intybus L.	Cikorie	Chicory	Chicorée, Endive	Wurzelzichorie, Salatzichorie
Clematis L.	Klematis	Clematis	Clématite	Waldrebe
Crassula schmidtii Regel (including its hybrids)	-	-	-	-
Cucumis melo L.	Melon	Melon	Melon	Melone
Cucumis sativus L.	Agurk	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cucurbita maxima Duch.	Centnergraeskar	Pumpkin	Potiron, Giraumon	Riesenkürbis

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Cucurbita pepo</i> L.	Mandelgraeskar	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Pâtisson, Citrouille	Gartenkürbis, Oelkürbis, Zucchini
<i>Cydonia</i> spp.	Kvaede	Quince	Cognassier	Quitte
<i>Cynosurus cristatus</i> L.	Almindelig kamgraes	Crested Dog's-tail	Crételle	Kammgras
<i>Dactylis glomerata</i> L.	Hundegraes	Cocksfoot, Orchard Grass	Dactyle	Knaulgras
<i>Daucus carota</i> L.	Gulerod	Carrot	Carotte	Möhre
<i>Dianthus caryophyllus</i> L.	Havenellike	Carnation	Oeillet	Nelke
<i>Dieffenbachia Schott</i>	Dieffenbachia	Dieffen- bachia, Tuft Root, Dumb Bane	Dieffen- bachia	Dieffenbachia
<i>Euphorbia fulgens</i> Karw. ex Klotzsch	Koralranke	<i>Euphorbia fulgens</i>	<i>Euphorbia fulgens</i>	Korallenranke
<i>Euphorbia milii</i> Desm. et hybridae	Kristi tornekrone	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn
<i>Euphorbia pulcher- rima</i> Willd. ex Klotzsch	Julestjerne	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
<i>Exacum</i> spp.	Exacum	Exacum	Exacum	Blaues Lieschen
<i>Fagopyrum esculentum</i> Moench	Almindelig boghvede	Buckwheat	Sarrasin, Blé noir	Buchweizen
<i>Festuca</i> spp.	Svingel	Fescue	Fétuque	Schwingel
<i>Fragaria x ananassa</i> Duch.	Havejordbaer	Strawberry	Fraisier	Erdbeere
<i>Freesia</i> spp.	Freesia	Freesia	Freesia	Freesie
<i>Fuchsia</i> spp.	Fuchsia	Fuchsia	Fuchsia	Fuchsie
<i>Gerbera</i> L.	Gerbera	Gerbera	Gerbera	Gerbera
<i>Hebe</i> Comm. ex Juss	Hebe	Shrubby Speedwell	Véronique	Strauch- veronika
<i>Hedera helix</i> L.	Almindelig Vedbend	Ivy	Lierre	Efeu

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Helleborus L.	Julerose	Christmas Rose	Hellébore, Rose de Noël	Schneerose, Christusrose
Hippeastrum Herb.	Ridderstjerne (amaryllis)	Amaryllis	Amaryllis	Ritterstern, Amaryllis
Hordeum vulgare L.	Byg	Barley	Orge	Gerste
Hyacinthus orientalis L.	Hyacint	Common Hyacinth	Jacinthe	Hyazinthe
Hydrangea macro- phylla (Thunb.) Ser.	Almindelig Hortensie	Hydrangea	Hortensia	Hortensie
Impatiens spp.	Balsamin	Balsam, Busy Lizzie, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
Juniperus spp.	Ene	Juniper	Genévrier	Wacholder
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë	Kalanchoë
Lactuca sativa L.	Salat	Lettuce	Laitue	Salat
Lepidium sativum L.	Karse	Cress	Cresson alénois	Gartenkresse
Linum usitatissimum L.	Hør	Flax, Linseed	Lin	Lein
Lolium spp.	Rajgraes	Ryegrass	Ray-grass	Weidelgras
Lupinus albus L.	Hvid lupin	White Lupin	Lupin blanc	Weisslupine
Lupinus angustifolius L.	Smalbladet lupin	Blue Lupin	Lupin bleu	Blaue Lupine
Lupinus luteus L.	Gul lupin	Yellow Lupin	Lupin jaune	Gelbe Lupine
Lycopersicon lycopersicum (L.) Karst. ex Farw.	Tomat	Tomato	Tomate	Tomate
Malus sylvestris Mill.*	Aeble	Apple	Pommier	Apfel
Malva spp.	Katost	Mallow	Mauve	Malve
Matthiola spp.	Levkøj	Stock	Giroflée	Levkoje

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

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Medicago lupulina L.	Humlesnegle baelg	Black Medick, Yellow Trefoil	Luzerne lupuline, Minette	Gelbklee (Hopfenklee)
Medicago sativa L.	Lucerne	Lucerne, Alfalfa	Luzerne	Luzerne
Medicago x varia Martyn	Sandlucerne	(Hybrid) Lucerne	Luzerne hybride	Bastardluzerne
Narcissus L.	Narcis	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
Osteospermum ecklonis (DC.) Norl.	-	Osteospermum	Osteospermum	Osteospermum
Papaver somniferum L.	Opiatvalmue	Opium Poppy	Oeillette, Pavot	Mohn
Pastinaca sativa L.	Pastinak	Parsnip	Panaïs	Pastinak
Pelargonium L'Hérit. ex Ait. (incl. hybrids of P. grandiflorum, P. Zonale and P. peltatum)	Pelargonie	Geranium, Pelargonium, Stork's Bill	Géranium, Pelargonium	Pelargonie
Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. tuberosum (Bernh. ex Rchb.) Soó.	Rodpersille	Turnip-rooted Parsley	Persil à grosse racine	Wurzelpeter- silie
Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. crispum	Kruspersille	Parsley	Persil	Blattpetersilie
Phaseolus coccineus L.	Pralbønne	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne
Phaseolus vulgaris L.	Bønne	French Bean	Haricot	Gartenbohne
Phleum bertolonii DC.	Knoldrottehale	Timothy	Fléole diploïde, Petite fléole	Zwiebel- lieschgras
Phleum pratense L.	Timothe	Timothy	Fléole des prés	Wiesen- lieschgras
Pisum sativum L.	Aert	Pea	Pois	Erbse

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Poa</i> spp.	Rapgraes	Meadow-grass	Pâturin	Rispengras
<i>Potentilla fruticosa</i> L.	Buskpotentil	Shrubby Cinquefoil	Potentille ligneuse	Strauch-fingerkraut
<i>Prunus avium</i> (L.) L.*	Sødkirsebaer	Sweet Cherry	Cerisier (cerises douces: guignes, bigarreaux)	Süsskirsche
<i>Prunus cerasus</i> L.*	Surkirsebaer	Morello, Sour Cherry	Cerisier (cerises acides: griottes, amarelles)	Sauerkirsche
<i>Prunus domestica</i> L.*	Blomme	Plum	Prunier	Pflaume
<i>Pyrus communis</i> L.	Paere	Pear	Poirier	Birne
<i>Radermachera sinica</i> (Hance) Hemsl.	Stueask	Radermachera	Radermachera	Radermachera
<i>Raphanus sativus</i> L. var. <i>niger</i> (Mill.) S. Kerner	Raeddike	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.	Olieraeddike	Fodder Radish	Radis oléifère, Radis chinois	Oelrettich
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radis	Radish	Radis de tous les mois	Radieschen
<i>Rheum rhabarbarum</i> L.	Rabarber	Rhubarb	Rhubarbe	Krauser Rhabarber
<i>Rhipsalidopsis</i> Britt. et Rose et <i>hybridae</i>	Ledkactus, herunder påske- og pinsekactus	Cactus with jointed stems, including Easter and Whitsun Cactus	Cactus à articles, y compris les cactus de Pâques et de la Pentecôte	Gliederkactus, einschl. Oster- und Pfingstkactus
<i>Rhododendron</i> spp.	Rhododendron, herunder azalea	Rhododendron, including Azalea	Rhododendron, y compris Azalée	Rhododendron, einschl. Azalee
<i>Ribes nigrum</i> L.	Solbaer	Black Currant	Cassis	Schwarze Johannisbeere

* Inclusive grundstammer / Including rootstocks / Y compris les portegreffes / Einschliesslich Unterlagen

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ribes niveum Lindl., Ribes sylvestre (Lam.) Mert. et W.D.J. Koch	Ribs	White and Red Currant	Groseillier à grappes	Weisse und Rote Johannisbeere
Ribes uva-crispa L.	Stikkelsbaer	Gooseberry	Groseillier à maquereau	Stachelbeere
Rosa L.	Rose	Rose	Rosier	Rose
Rubus fruticosus L.	Brombaer	Blackberry	Ronce fruitière	Brombeere
Rubus idaeus L.	Hindbaer	Raspberry	Framboisier	Himbeere
Saintpaulia ionantha H. Wendl.	Saintpaulia	African Violet	Saintpaulia	Usambara- veilchen
Scaevola aemula R. Br.	-	-	-	-
Scorzonera hispanica L.	Skorzoner	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel
Schlumbergera Lem. et hybridæ	Ledkaktus, her- under november- og julekaktus	Cactus with jointed stems, inclu- ding November and Christmas Cactus	Cactus à articles, y compris les cactus de novembre et de Noël	Gliederkaktus, einschl. November- und Weihnachts- kaktus
Secale cereale L.	Rug	Rye	Seigle	Roggen
Sinapis alba L.	Gul sennep	White Mustard	Moutarde blanche	Weisser Senf
Solanum melongena L.	Aubergine	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
Solanum tuberosum L.	Kartoffel	Potato	Pomme de terre	Kartoffel
Spathiphyllum spp.	Fredslilje (spathiphyllum)	Spathiphyllum	Spathiphyllum	Spathiphyllum
Spinacia oleracea L.	Spinat	Spinach	Epinard	Spinat
Streptocarpus x hybridus Voss	Streptocarpus	Streptocar- pus, Cape Primrose	Streptocarpus	Drehfrucht
Thuja spp.	Thuja	Thuya	Thuya	Lebensbaum
Trifolium hybridum L.	Alsikekløver	Alsike Clover	Trèfle hybride	Schwedenklee

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Trifolium pratense L.	Rødkløver	Red Clover	Trèfle violet	Rotklee
Trifolium repens L.	Hvidkløver	White Clover	Trèfle blanc	Weissklee
x Triticosecale Wittmack	Triticale	Triticale	Triticale	Triticale
Triticum aestivum L. emend. Fiori et Paoletti	Almindelig hvede	Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen
Triticum durum Desf.	Durumhvede	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen
Tulipa L.	Tulipan	Tulip	Tulipe	Tulpe
Ulmus L.	Elm	Elm	Orme	Ulme
Vaccinium corym- bosum L. et hybridae	Amerikansk blåbaer	Blueberry	Myrtille	Kulturheidel- beere
Vaccinium myrtillus L.	Blåbaer	Bilberry, Whortleberry, Blueberry	Myrtille	Heidelbeere
Valerianella locusta (L.) Laterr.	Varsalat	Cornsalad, Lamb's Lettuce	Mâche, Doucette	Feldsalat
Vicia faba L.	Valsk bønne	Broad Bean, Horse Bean	Fève	Dicke Bohne (Puffbohne)
Vicia faba L.	Hestebønne	Field Bean, Tick Bean	Féverole	Ackerbohne
Vicia sativa L.	Fodervikke	Common Vetch	Vesce commune	Saatwicke
Zea mays L.	Majs	Maize	Maïs	Mais

Sweden

By virtue of the Law of April 18, 1991 (SFS 1991:168 of April 30, 1991), Amending the Plant Breeders' Rights Law (1971:392), protection was extended, with effect from July 1, 1991, to the following plant taxa (the Latin and Swedish names appear in the Law, 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>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Aronia spp.	Aronia	Chokeberry	Aronia	Apfelbeere
Festulolium spp.	Rajsvingel	Festulolium	Festulolium	Festulolium
Hippophaë spp.	Havtorn	Sea Buckthorn	Argousier	Sanddorn
Lonicera spp.	Try	Lonicera	Lonicéra, Chèvrefeuille	Geissblatt
Populus spp.	Asp, Poppel	Aspen, Poplar	Tremble, Peuplier	Espe, Pappel
Rosa spp.	Nypon	Dog-rose	Eglantier	Hundsrose
Sorbus spp.	Rönn	Mountain Ash	Sorbier	Eberesche

A consolidated list of the taxa now covered by plant variety protection legislation is reproduced below. The earlier division of the list of protected taxa in four groups (Agricultural Crops, Vegetables, Fruit Crops and Ornamental Plants) has been left out and replaced by one list.

List of Taxa Covered by Plant Variety Protection Legislation in Sweden (with effect from July 1, 1991)

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Agrostis spp.	Ven	Bentgrass	Agrostis, Agrostide	Straussgras
Allium spp.	Lök	-	-	Lauch
Alopecurus pratensis L.	Ängskavle	Meadow Foxtail	Vulpin des prés	Wiesen- fuchsschwanz
Alstroemeria L.	Perulilja	Alstroemeria, Herb Lily	Alstroèmère, Lis des Incas	Inkalilie
Anethum graveolens L.	Dill	Dill	Aneth	Dill
Apium graveolens L.	Selleri	Celery, Celeriac	Céleri, Céleri-rave	Sellerie
Aronia spp.	Aronia	Chokeberry	Aronia	Apfelbeere

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Asparagus officinalis</i> L.	Sparris	Asparagus	Asperge	Spargel
<i>Avena byzantina</i> K. Koch	Rödhavre	Algerian Oats	Avoine (d'Algérie)	Mittelmeer-hafer
<i>Avena sativa</i> L.	Havre	Oats	Avoine	Hafer
<i>Begonia elatior</i> (<i>Begonia</i> x <i>hiemalis</i>)	Begonia	Elatior Begonia	Bégonia elatior	Elatior-Begonie
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>altissima</i> Döll	Sockerbeta	Sugar Beet	Betterave sucrière	Zuckerrübe
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>conditiva</i> Alef.	Rödbeta	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>crassa</i> Alef.	Foderbeta	Fodder Beet	Betterave fourragère	Runkelrübe
<i>Brassica napus</i> L. var. <i>oleifera</i> Metzg.	Raps	Swede Rape, incl. Oilseed Rape	Colza	Raps
<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.	Kålrot	Swede	Chou-navet, Rutabaga	Kohlrübe
<i>Brassica nigra</i> (L.) W. Koch	Svartsenap	Black Mustard	Moutarde noire	Schwarzer Senf
<i>Brassica oleracea</i> L.	Kål	Brassica vegetables	Choux maraîchers	Gemüsekohl
<i>Brassica oleracea</i> L. ssp. <i>acephala</i> DC.	Fodermärgkål	Fodder Kale	Chou fourrager	Futterkohl
<i>Brassica rapa</i> L. var. <i>oleifera</i> Metzg.	Rybs	Turnip Rape	Navette	Rübsen
<i>Brassica rapa</i> L. var. <i>rapifera</i> Metzg.	Rova	Turnip	Navet	Herbstrübe, Mairübe
<i>Bromus arvensis</i> L.	Renlosta	Field Brome	Brome des champs	Ackertrespe

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Bromus inermis</i> Leyss.	Foderlosta	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe
<i>Camelina sativa</i> (L.) Crantz	Oljedådra	Large-seeded False Flax	Caméline cultivée	Angebauter Leindotter
<i>Cannabis sativa</i> L.	Hampa	Hemp	Chanvre	Hanf
<i>Capsicum annuum</i> L.	Paprika	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
<i>Chrysanthemum</i> spp.	Krysantemum	Chrysanthemum	Chrysanthème	Chrysantheme
<i>Cucumis melo</i> L.	Melon	Melon	Melon	Melone
<i>Cucumis sativus</i> L.	Gurka	Cucumber, Gherkin	Concombre, Cornichon	Gurke
<i>Cynosurus</i> <i>cristatus</i> L.	Kamäxing	Crested Dog's-tail	Crételle	Kammgras
<i>Dactylis</i> <i>glomerata</i> L.	Hundäxing	Cocksfoot, Orchard Grass	Dactyle	Knautgras
<i>Daucus carota</i> L.	Morot	Carrot	Carotte	Möhre
<i>Dianthus caryo-</i> <i>phyllus</i> L.	Nejlíka	Carnation	Oeillet	Nelke
<i>Euphorbia pul-</i> <i>cherrima</i> Willd. ex Klotzsch	Julstjärna	Poinsettia	Poinsettia	Poinsettie, Weihnachts- stern
<i>Festuca</i> spp.	Svingel	Fescue	Fétuque	Schwingel
<i>Festulolium</i> spp.	Rajsvingel	Festulolium	Festulolium	Festulolium
<i>Fragaria</i> spp.	Jordgubbar, Smultron	Strawberry	Fraisier	Erdbeere
<i>Glycine max</i> (L.) Merrill	Sojaböna	Soya Bean, Soybean	Soja	Sojabohne
<i>Helianthus</i> <i>annuus</i> L.	Solros	Common Sunflower	Tournesol, Soleil	Sonnenblume
<i>Hippophaë</i> spp.	Havtorn	Sea Buckthorn	Argousier	Sanddorn
<i>Hordeum vulgare</i> L.	Korn	Barley	Orge	Gerste
<i>Lactuca sativa</i> L.	Sallat	Lettuce	Laitue	Salat
<i>Linum usita-</i> <i>tissimum</i> L.	Lin	Flax, Linseed	Lin	Lein

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Lolium spp.	Rajgräs	Ryegrass	Ray-grass	Weidelgras
Lonicera spp.	Try	Lonicera	Lonicéra, Chèvrefeuille	Geissblatt
Lupinus angusti- folius L.	Blå ^o lupin	Blue Lupin	Lupin bleu	Blaue Lupine
Lupinus luteus L.	Gullupin	Yellow Lupin	Lupin jaune	Gelbe Lupine
Lycopersicon esculentum P. Mill.	Tomat	Tomato	Tomate	Tomate
Malus spp.*	Äpple	Apple	Pommier	Apfel
Medicago spp.	Lusern	Alfalfa, Lucerne	Luzerne	Schneckenklee
Ornithopus sativus Brot.	Seradella	Serradella	Serradelle	Serradella
Papaver somni- ferum L.	Vallmo	Opium Poppy	Oeillette, Pavot	Mohn
Pastinaca sativa L.	Palsternacka	Parsnip	Panais	Pastinak
Pelargonium- Peltatum-Hybridi	Hängpelargon	Ivy-leaved Pelargonium	Géranium- lierre	Efeupelargonie
Pelargonium- Peltatum x Pelargonium- Zonale-Hybridi	-	-	-	Halbpeltaten
Pelargonium- Zonale-Hybridi	Vanlig Pelargon	Zonal Pelargonium	Géranium, Pelargonium zonale	Zonal- pelargonie
Petroselinum crispum (Mill.) Nym. ex A.W. Hill	Persilja	Parsley	Persil	Petersilie
Phalaris arundinacea L.	Rörflen	Reed Canary Grass	Alpiste roseau	Rohrglanzgras
Phaseolus coccineus L.	Rosenböna	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne
Phaseolus vulgaris L.	Böna	French Bean	Haricot	Gartenbohne

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

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Phleum spp.	Timotej	Timothy	Fléole	Lieschgras
Pisum sativum L.	Ärt	Pea	Pois	Erbse
Poa spp.	Gröe	Meadow-grass	Pâturin	Rispengras
Populus spp.	Asp, Poppel	Aspen, Poplar	Tremble, Peuplier	Espe, Pappel
Potentilla fruticosa L.	Tok	Shrubby Cinquefoil	Potentille ligneuse	Strauch- fingerkraut
Prunus spp.*	Körsbär, Plommon, Persika, Aprikos	Cherry, Plum, Peach, Apricot	Cerisier, Prunier, Pêcher, Abricotier	Kirsche, Pflaume, Pfirsich, Aprikose
Pyrus spp.*	Päron	Pear	Poirier	Birne
Raphanus sativus L. var. niger (Mill.) S. Kerner	Rättika	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
Raphanus sativus L. var. radicula Pers.	Rädisa	Radish	Radis de tous les mois	Radieschen
Ribes spp.*	Vinbär, Krusbär	Currants, Gooseberry	Cassis, Groseilliers	Johannisbeere, Stachelbeere
Rosa spp.	Ros, Nypon	Rose, Dog-rose	Rosier, Eglantier	Rose, Hundsrose
Rubus spp.	Hallon, Björnbär	Raspberry, Blackberry	Framboisier, Ronce fruitière	Himbeere, Brombeere
Saintpaulia ionantha H. Wendl.	Saintpaulia	African Violet	Saintpaulia	Usambara- veilchen
Salix spp.	Pil, Sälg, Vide	Willow	Saule	Weide
Secale cereale L.	Råg	Rye	Seigle	Roggen
Sinapis alba L.	Vitsenap	White Mustard	Moutarde blanche	Weisser Senf
Solanum tuberosum L.	Potatis	Potato	Pomme de terre	Kartoffel
Sorbus spp.	Rönn	Mountain Ash	Sorbier	Eberesche

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

<u>Latine</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Spinacia oleracea L.	Spenat	Spinach	Epinard	Spinat
Streptocarpus X hybridus Voss	Kornettblomma	Streptocarpus	Streptocarpus	Drehfrucht
Trifolium hybridum L.	Alsikeklöver	Alsike Clover	Trèfle hybride	Schwedenklee
Trifolium pratense L.	Rödklöver	Red Clover	Trèfle violet	Rotklee
Trifolium repens L.	Vitklöver	White Clover	Trèfle blanc	Weissklee
Triticosecale Wittmack	Råg ^o vete	Triticale	Triticale	Triticale
Triticum aestivum Vete L. emend. Fiori et Paol.		Wheat, Soft Wheat, Bread Wheat	Blé tendre, Froment	Weichweizen
Triticum durum Desf.	Makaronivete	Durum Wheat, Macaroni Wheat, Hard Wheat	Blé dur	Hartweizen
Triticum turgidosecale	Råg ^o vete	Triticale	Triticale	Triticale
Vaccinium spp.	Blåbär, Lingon	Bilberry, Whortleberry, Cranberry, Cowberry	Airelle, Myrtille	Heidelbeere, Preisselbeere, Moosbeere
Vicia faba L. var. major Harz	Bondböna	Broad Bean, Horse Bean	Fève	Dicke Bohne (Puffbohne)
Vicia faba L. var. minor Harz	Åkerböna ^o	Field Bean, Tick Bean	Féverole	Ackerbohne
Vicia sativa L.	Fodervicker	Common Vetch	Vesce commune	Saatwicke
Vicia villosa Roth	Luddvicker	Hairy Vetch	Vesce velue	Zottelwicke
Zea mays L.	Majs	Maize	Maïs	Mais

MEMBER STATES

Israel: Modification of Fees

On July 1, 1991, a new tariff of fees was introduced (source: "Israel Breeders' Rights Gazette" No. 27). The summary of the tariff of fees (in New Israeli Shekalim (NIS, 1 US\$ = ca. 2.50 NIS)) is given below:

Examination of Varieties (including application and publication fees of 98 NIS)

Field Crops and Vegetables	3,592
Ornamental Plants	2,342
Fruit Crops	2,242

Annual maintenance fees 49 for each year

Withdrawal of application 750

NON-MEMBER STATES

Portugal: Extension of Protection to Further Genera and Species

By virtue of Ministerial Order No. 15/92 of January 13, 1992, of the Ministry of Agriculture, protection was extended, with effect from January 13, 1992, to the following plant taxa (the Portuguese 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>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Cebola	Onion	Oignon	Zwiebel
Fava	Broad Bean, Horse Bean, Field Bean, Tick Bean	Fève, Féverole	Dicke Bohne (Puffbohne), Ackerbohne
Feijão	French Bean	Haricot	Gartenbohne
Melão	Melon	Melon	Melone
Nabo	Turnip	Navet	Herbstrübe, Mairübe
Pimento	Pepper	Poivron, Piment	Paprika
Soja	Soya Bean	Soja	Sojabohne
Tomate	Tomato	Tomate	Tomate

A consolidated list of the taxa now covered by plant variety protection legislation is reproduced on the following page.

List of Taxa Covered by Plant Variety Protection Legislation in Portugal
(with effect from January 13, 1992)

<u>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ameixeira	Plum	Prunier	Pflaume
Amendoeira	Almond	Amandier	Mandel
Arroz	Rice	Riz	Reis
Aveia	Oats	Avoine	Hafer
Azevéns	Ryegrass	Ray-grass	Weidelgrass
Batata	Potato	Pomme de terre	Kartoffel
Cebola	Onion	Oignon	Zwiebel
Centeio	Rye	Seigle	Roggen
Cerejeira	Cherry	Cerisier	Kirsche
Cevada	Barley	Orge	Gerste
Crisântemo	Chrysanthemum	Chrysanthème	Chrysantheme
Damasqueiro	Apricot	Abricotier	Aprikose
Ervilhaca	Common Vetch	Vesce commune	Saatwicke
Fava	Broad Bean, Horse Bean, Field Bean, Tick Bean	Fève, Féverole	Dicke Bohne (Puffbohne), Ackerbohne
Feijão	French Bean	Haricot	Gartenbohne
Festucas	Fescue	Fétuque	Schwingel
Girassol	Sunflower	Tournesol	Sonnenblume
Luzerna	Lucerne	Luzerne	Luzerne
Macieira	Apple	Pommier	Apfel
Melão	Melon	Melon	Melone
Milho	Maize	Maïs	Mais
Morangueiro	Strawberry	Fraisier	Erdbeere
Nabo	Turnip	Navet	Herbstrübe, Mairübe
Pereira	Pear	Poirier	Birne
Pessequeiro	Peach	Pêcher	Pfirsich
Pimento	Pepper	Poivron, Piment	Paprika
Roseira	Rose	Rosier	Rose
Soja	Soya Bean	Soja	Sojabohne
Tomate	Tomato	Tomate	Tomate
Tremoceira	Lupin	Lupin	Lupine
Trevos	Clover	Trèfle	Klee
Trigo	Wheat	Blé	Weizen
Triticale	Triticale	Triticale	Triticale
Videira	Vine	Vigne	Rebe

UPOV

Amendment of the List of Classes for Variety Denomination Purposes

At its twenty-seventh session, which was held from October 16 to 18, 1991, the Technical Committee agreed to amend the List of Classes for Variety Denomination Purposes annexed to the UPOV Recommendations on Variety Denominations (published in No. 56 of "Plant Variety Protection") in the sense that the species Brassica chinensis and Brassica pekinensis would be included in Class 5. The amended list of Classes is reproduced below.

LIST OF CLASSES FOR VARIETY DENOMINATION PURPOSES*

(Recommendation 9 of the UPOV Recommendations
on Variety Denominations (document UPOV/INF/12))

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).

- | | |
|-----------------|---|
| <u>Class 1</u> | Avena, Hordeum, Secale, Triticale, Triticum |
| <u>Class 2</u> | Panicum, Setaria |
| <u>Class 3</u> | Sorghum, Zea |
| <u>Class 4</u> | Agrostis, Alopecurus, Arrhenatherum, Bromus, Cynosurus, Dactylis, Festuca, Lolium, Phalaris, Phleum, Poa, Trisetum |
| <u>Class 5</u> | Brassica oleracea, Brassica chinensis, Brassica pekinensis |
| <u>Class 6</u> | Brassica napus, B. campestris, B. rapa, B. juncea, B. nigra, Sinapis |
| <u>Class 7</u> | Lotus, Medicago, Ornithopus, Onobrychis, Trifolium |
| <u>Class 8</u> | Lupinus albus L., L. angustifolius L., L. luteus L. |
| <u>Class 9</u> | Vicia faba L. |
| <u>Class 10</u> | Beta vulgaris L. var. alba DC., Beta vulgaris L. var. altissima |
| <u>Class 11</u> | 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 |
| <u>Class 12</u> | Lactuca, Valerianella, Cichorium |
| <u>Class 13</u> | Cucumis sativus |

* Amended on October 18, 1991

SPAIN**LAW ON THE PROTECTION OF PLANT VARIETIES***

(No. 12/1975 of March 12, 1975)

I. PURPOSE AND SCOPE OF THIS LAW**Section 1**

The purpose of this Law is to recognize and to ensure to the breeder of a new plant variety protected by a "Plant Variety Title" and to his successor in title, a right, the content and conditions of exercise of which are defined in the following Sections.

This Law may be applied to all botanical genera and species.

**II. DEFINITION OF THE PLANT VARIETIES
COVERED BY THE PROTECTION AND DEFINITION OF THE BREEDER****Section 2**

For the purpose of this Law, "plant variety" means any commercial variety (internationally known as a "cultivar"), clone, line, stock or hybrid that satisfies the conditions established in this Law.

Section 3

"Breeder" means any natural person or legal entity who proves that he is responsible for any improvement, selection or discovery by which a new plant variety has been obtained in compliance with the requirements established by this Law.

III. CONDITIONS REQUIRED FOR PROTECTION OF A PLANT VARIETY**Section 4**

(1) For a variety to be eligible for protection under this Law it has to:

* Spanish title: Ley 12/1975 de 12 de marzo de Protección de las Obtenciones Vegetales
Source: Boletín oficial del Estado No. 63, March 14, 1975

- (a) be differentiated from existing varieties by one or more important morphological or physiological characteristics which fluctuate little and are susceptible of precise description and recognition;
- (b) be homogeneous in the totality of its characteristics, according to its system of reproduction or multiplication;
- (c) be stable in its essential characteristics, in other words, remain true to the definition given by the breeder at the end of each cycle of multiplication.

(2) The verification of whether a variety meets the above conditions constitutes the "preliminary examination" for which rules shall be made.

(3) A variety shall not be considered new for the purposes of this Law when, at the time of the application for a "Plant Variety Title," it has already been marketed or offered for sale in Spain, with the authorization of the breeder or his successors in title, or more than four years previously in any foreign country, or where it has been the subject of sufficient advertising of any kind to be used.

Similarly, the variety shall not be considered new if it is described in an application for a "Plant Variety Title," in a title that has not yet been published or in an application filed abroad that benefits from the priority provided for in Section 10(3) of this Law.

In no case shall the sole fact that it has been recorded as such in an Official Register be regarded as destructive of novelty.

(4) For the purposes of this Law, the following shall not be regarded as marketing:

- (a) presentation at contests, collections or exhibitions, insofar as no commercial transactions take place at them;
- (b) production and distribution on an experimental scale.

IV. RIGHTS OF THE BREEDER

Section 5

(1) Any breeding of a new plant variety may be the subject matter of a "Plant Variety Title" which, on recording thereof in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, gives the holder the exclusive right to produce, introduce in the territorial area to which this Law applies, sell or offer for sale, or use by any means permissible by law material for sexual reproduction or vegetative propagation. The breeder's right shall extend to plants or parts thereof normally marketed for purposes other than propagation, especially as regards the commercial production of ornamental plants or cut flowers, insofar as those plants or parts thereof are used as propagating material. The breeder's right shall not be infringed by the use made by a farmer, in his own farm, of seeds or any other plant material produced by him.

(2) Authorization by the breeder or his successors in title shall not be required either for the utilization of the new variety as an initial source of variation for the purpose of creating other new varieties or for the marketing of such varieties.

(3) Authorization shall be required when the repeated or systematic use of the plants or parts thereof of the original variety is necessary for the commercial production of plants or propagating material of the new variety.

Section 6

(1) The grant and the benefits of the "Plant Variety Title" for a new variety may not be made subject to conditions other than those set forth in Sections 4, 10 and 11 of this Law, insofar as the administrative formalities provided for in this Law and in rules made thereunder are complied with.

(2) A "Plant Variety Title" shall be granted without prejudice to the rights of third parties and subject to the limitations established by this Law. Failure to observe those limitations shall render the Title null and void in accordance with the provisions of Section 11 of this Law and, where appropriate, the cancellation of its registration in the Register of Protected Varieties at the National Institute of Seeds and Nursery Plants.

(3) The holder of a "Plant Variety Title" may, after notification to the Registry of Protected Plant Varieties, grant a license for the use of the variety covered by the said Title to any person who applies for one, subject to compliance with the conditions specified by the said holder and with any provisions on the subject in this Law and rules made thereunder. To this end, such contracts shall be registered at the National Institute of Seeds and Nursery Plants.

(4) Where the holder of a "Plant Variety Title" is an official body established in Spain, it shall be obliged to grant a license for the use of the variety covered by the said Title to any person who applies for one and presents legal, technical and professional guarantees. Such license may in no case have exclusive character. Where the applicant for a license is a foreigner, the transaction shall be governed by the principle of reciprocity.

Section 7

(1) The Courts of Justice shall be competent in all questions relating to the ownership of a "Plant Variety Title."

(2) The holder of a "Plant Variety Title" may institute civil or criminal proceedings before the Courts of Justice against any person who infringes the rights granted by this Law.

(3) Legal proceedings concerning plant breeders' rights may only be instituted by one of the parties.

(4) Plant breeders' rights are transferable by any means admitted in law, without prejudice to the limitations established by this Law; such transfer shall only be effective in relation to third parties when they have been recorded in the Register of Protected Plant Varieties.

(5) Unless expressly agreed otherwise, the licensee may be party to legal proceedings to the same extent as the holder of a "Plant Variety Title" without any formality other than notification in writing to the holder of having become a party to the legal proceedings, in the event that the latter should think it advisable to be a party.

Section 8

(1) The "Plant Variety Title" shall be granted by Order of the Ministry of Agriculture, on a proposal by the Central Board of the National Institute of Seeds and Nursery Plants, pursuant to Section 16 of this Law.

(2) The grant of a "Plant Variety Title" shall immediately give rise to an entry in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, which is mentioned in Law No. 11/1971, and to the inclusion of the variety in the list of protected varieties which shall be periodically published by the above-mentioned Institute in the "Boletín" mentioned in Section 17 of this Law.

(3) The "Plant Variety Title" shall be provisional for two years, after which time it shall automatically become definitive if, within that two-year period, no objection is submitted to the act of making the said grant. Once definitive, either because the provisional period has expired, or by decision made on the above-mentioned objection pursuant to Section 121 of the Law on Administrative Procedure, the appropriate legal proceedings may be brought. The provisional character of the Title, while in force, shall be clearly stated on any document, packaging or advertisement relating to the product covered by the said Title.

(4) During the period in which the Title is provisional, the breeder shall enjoy all the rights granted under this Law. The said period shall be included, in each case, in the period of protection.

Section 9

(1) The rights conferred on the breeder of a new plant variety shall be granted for a limited period, which may not be less than 15 years for herbaceous plants or 18 years for trees; this period shall run from the date of the grant of the "Plant Variety Title."

(2) For each species or group of species the period of protection, which shall never exceed 20 years, shall be established by rules.

Section 10

(1) All foreign breeders shall enjoy the same rights as national breeders, provided that the legislation of their countries of origin applies the principle of reciprocity or that other international agreements to which Spain is party establish such reciprocity.

(2) The aforementioned foreign breeders shall, in their relations with the Spanish Public Administration and with the private producers or growers of the propagating material, be represented by a person lawfully resident in Spain, who shall be given sufficient authority to guarantee such commitments as the breeder or his successors in title may contract. The grant and the rights derived from it shall remain subject, in all cases, to the performance of the obligations of the Title holder.

(3) When applying for a "Plant Variety Title," the applicant may claim the priority of any applications previously filed for the same plant variety in any State with which Spain has an agreement in this respect, on condition that the filing of the application in Spain takes place within a period of 12 months from the filing of the first application.

Section 11

(1) The "Plant Variety Title" shall be declared null and void:

- (a) when the Title holder does not have a right to obtain it according to the provisions laid down in Section 3 of this Law;
- (b) when the plant variety in respect of which the Title has been granted does not meet the requirement of novelty laid down in Section 4 of this Law.

(2) Action for nullity may be brought by any interested party during the entire period of protection afforded by the "Plant Variety Title."

(3) The right of the breeder or his successors in title shall be extinguished in the following cases:

- (a) at the request of the Title holder himself;
- (b) when there has been a failure to maintain the conditions of homogeneity and stability laid down in Section 4 of this Law;
- (c) when neither the Title holder nor his licensees have reproductive or propagating material capable of producing the new variety, as defined when the "Plant Variety Title" was granted;
- (d) when neither the Title holder nor his licensees submit, within the required time limit, the reproductive or propagating material, or the information or documents deemed necessary for examining the variety, or do not allow inspection of the measures which have been taken for the maintenance of the same variety, according to the requirements which shall be established by rules;
- (e) when the legally established fees have not been paid within the prescribed period or the requests for payment have not been met;
- (f) when the Title holder does not agree to grant a license to use the new variety, pursuant to Section 12(1) of this Law;
- (g) when an objection or administrative appeal, filed pursuant to Section 8(3) of this Law, has been upheld by a final and definitive decision;
- (h) when the period of time laid down by Section 8 of this Law expires.

(4) Upon the extinction, for whatever reason, of the right of the breeder or his successors in title, the plant variety protected by that right shall fall into the public domain.

Section 12

(1) The Ministry of Agriculture shall be entitled to order that a plant variety for which a "Plant Variety Title" has been granted shall be subject to compulsory licensing, in compliance with the conditions to be established by rules, either because of unjustified failure to use or because the public interest so dictates.

(2) For the purposes of Subsection (1) of this Section, any person providing legal, technical and professional guarantees may apply to the Ministry of Agriculture for the grant of a compulsory license for use, which shall in no case be exclusive.

(3) In case the licence for use referred to in the preceding Subsections is granted, the right of the breeder shall at all times be guaranteed.

V. DENOMINATION OF VARIETIES

Section 13

(1) A new plant variety shall be given a single denomination which permits its identification. Such denomination shall be considered the generic designation of the variety.

(2) The denomination of the new variety shall not be exclusively composed of figures, or be liable to mislead or cause confusion concerning its characteristics, its usefulness or the identity of the breeder. It shall be different from every denomination which designates other existing varieties of the same or closely-related botanical species and be adapted to the provisions of the standards of nomenclature laid down by the rules and the international agreements on this subject to which Spain is party.

(3) A plant variety may not be denominated in a way different from that used in the first country in which it has been registered, except in the cases to be laid down in rules; in such cases, subject to approval, a translation of the original denomination or a different one may be used.

Section 14

(1) The denomination of a new plant variety shall be registered at the same time as the issuance of the "Plant Variety Title."

(2) The breeder or his successor in title may not submit as the denomination of a new variety either a denomination already protected in Spain or in countries with which agreements on plant variety protection have been established, by a trademark relating to identical or similar products or a denomination

liable to cause confusion with such a trademark, unless he undertakes to renounce his rights in the trademark as from the grant of the "Plant Variety Title." If the breeder or his successor in title nevertheless submits such a denomination, he may not, as from the time when the "Plant Variety Title" is registered, continue to exercise his rights under the trademark in respect of the products specified, unless international agreements require otherwise.

(3) If the denomination submitted by the breeder or his successor in title does not satisfy the requirements laid down by this Law, the Ministry of Agriculture shall request that a new denomination be proposed.

(4) Before a "Plant Variety Title" is entered in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, the denomination submitted for the new plant variety shall be notified to the Industrial Property Registry, in order that the latter may report on it.

(5) The denomination given to a protected plant variety may not be registered as a trademark.

(6) Notwithstanding the foregoing Paragraph, it shall be permitted, for marketing purposes, to add a trademark to the denomination of the new plant variety, if the breeder owns the trademark or is authorized to use it.

VI. BODY IN CHARGE OF PLANT VARIETY PROTECTION

Section 15

The functions entrusted to the Ministry of Agriculture under this Law shall be exercised by the National Institute of Seeds and Nursery Plants, established by Law No. 11/1971 of March 30, 1971.

Section 16

The Commission of Plant Variety Protection, established within the Central Board of the National Institute of Seeds and Nursery Plants, organized by Law No. 11/1971 of March 30, 1971, shall be composed as follows:

President: the President of the Central Board of the National Institute of Seeds and Nursery Plants;

Vice-President: the Director of the National Institute of Seeds and Nursery Plants;

Legal Adviser: the Head of the Legal Department of the Ministry of Agriculture;

Technical Advisers: persons with recognized competence in botany, genetics, reproduction of seeds and nursery plants and legal problems relating to plant variety protection, appointed by the President;

Members: those members of the Central Board appointed by its President, among whom there shall be a representative of the National Institute of Agrarian Research and two agrarian representatives of the Trade Union Organization;

Secretary: the Technical Administrator of Laboratories and Registers of Protected Commercial Varieties.

The Commission of Plant Variety Protection shall:

- (a) propose to the Minister for Agriculture, through the Central Board of the Institute, the issuance, revocation, declaration of lapse and, if appropriate, annulment of "Plant Variety Titles";
- (b) propose to the Minister for Agriculture, through the Central Board of the Institute, the measures and rules intended for the protection of breeders' rights;
- (c) propose rules for the application of breeders' rights to the different genera or species;
- (d) report on matters concerning plant variety protection submitted by the President for study;
- (e) carry out any other tasks which may be entrusted to it by any law or rules.

Section 17

(1) The National Institute of Seeds and Nursery Plants shall periodically publish a Boletín del Registro de Variedades Protegidas, in which applications for registration, denominations submitted and denominations approved shall be recorded, as well as the grant of "Plant Variety Titles" and other non-confidential information, in order to ensure better public knowledge of the area concerned.

(2) It shall also issue such reports as are requested of it by the Courts of Justice concerning breeders' rights.

VII. INFRINGEMENT AND PENALTIES

Section 18

(1) For the purposes of Section 7, any person who infringes breeders' rights in any of the following ways shall incur civil liability, and be obliged in all cases to furnish compensation for the damage and loss caused thereby:

- (a) producing for commercial purposes or marketing reproductive material of the protected plant variety, in disregard of the provisions of Section 5(1);
- (b) marketing plants or parts thereof normally marketed for purposes other than propagation, if they are then used as propagating material, in disregard of the provisions of Section 5(1);
- (c) repeatedly using reproductive material of a protected plant variety for the production of propagating material of a new plant variety;
- (d) contracting for the transport of the propagating material of a protected plant variety to a territory outside the scope of application of this Law, without special authorization from the Title holder.

(2) All those making any other use of the protected plant variety or those who in any other way infringe the breeders' rights granted by this Law shall be obliged to furnish compensation for the damage and loss caused thereby only when their conduct involves fault or negligence. The existence of fault shall be presumed from the time when the person responsible for such acts has been warned by the holder of the "Plant Variety Title" about the existence of the same and required to cease infringing the said Title.

(3) The compensation for damage and loss in favor of the holder of the "Plant Variety Title" shall include not only the amount of the loss and of the profit which would otherwise have been obtained, but also damages for the loss of the goodwill attaching to the plant variety caused by inadequate use made by the infringer.

(4) The relevant general legislation on limitation of actions shall apply to the civil action for compensation of damage and loss.

(5) In addition to compensation for damage and loss, the injured Title holder shall be entitled to:

- (a) the cessation of the act infringing his right;
- (b) the withdrawal from circulation of all the plant material obtained through illegal acts that is in the possession of any of the persons responsible, and its destruction if this is indispensable;
- (c) reversion to himself, as his own property, of the plant material referred to in the last-mentioned paragraph, in which case allowance for its value shall be made in calculating the compensation for damage and loss. If the value of the above-mentioned plant material exceeds the compensation to be granted, the injured Title holder shall compensate the infringer for the excess;
- (d) the publication of the judgment, at the expense of the losing party, in the "Boletín" referred to in Section 17 of this Law.

Section 19

(1) Any willful infringement of the exclusive right given by the "Plant Variety Title" to its holder shall be punished according to the provisions of Section 534 of the Criminal Code.

(2) Criminal proceedings may only be brought by the injured Title holder or his licensee, or his successors in title.

(3) The relevant general legislation shall apply to criminal proceedings and to the civil action resulting from the crime.

Section 20

(1) Acts carried out that are not in compliance with the provisions of this Law and the rules made thereunder shall be considered administrative offenses and shall be punished according to the following Sections, without prejudice to the competence of the Courts of Justice, as regards the civil or criminal liabilities resulting from these acts.

(2) Administrative offenses shall be categorized according to the nature of the acts concerned; they may be fraudulent, clandestine or against the rules.

(3) The following shall be considered fraudulent:

- (a) acts of assignment of plant material which, while purporting to be protected by a "Plant Variety Title," do not correspond to the features recorded in the Register of Protected Plant Varieties;
- (b) acts of noncompliance, imputable to any of the interested parties, with the conditions included in the license to use a protected plant variety and affecting the intrinsic qualities of the material and the circumstances upon which the decision to issue the "Plant Variety Title" was based.

(4) Those acts which evade or attempt to evade or make difficult the supervision of the activities governed by this Law and the observance of the rules established under the Law for its successful application and financial viability shall be considered clandestine.

(5) Any other offense shall be considered merely against the rules.

Section 21

The laws and rules on the suppression of fraud in respect of agricultural products or of materials necessary for agriculture shall apply as subsidiary legislation.

Section 22

(1) Fraudulent offenses shall be punished with fines of between 20,000 and 100,000 pesetas; the expenses incurred in the verification of the fraud shall be borne by the offender and, where appropriate, the plant material giving rise to the fine shall be confiscated.

(2) Clandestine offenses shall be punished with fines of between 10,000 and 50,000 pesetas and by the confiscation of the merchandise.

(3) Offenses which are merely against the rules shall be punished with fines of between 1,000 and 25,000 pesetas.

Section 23

The determination, within given limits, of the amounts of the fines established in the last-mentioned Section, shall be fixed in each case according to the importance of the offense, the injury caused, the degree of bad faith on the part of the infringer, his behavior and his previous record and, in general, any circumstances which render him the more or the less responsible.

Section 24

(1) In the case of a second offense, the fines shall be 50 percent higher than those applicable under this Law.

(2) Should the person committing a second offense have committed a clandestine or fraudulent offense, the fines may be raised to three times those applicable, and the suspension of the activity in relation to which the offense arose may be ordered for a period of up to one year.

(3) A person who has, within the preceding five years, been punished for disregarding the provisions of this Law shall be considered a second offender.

(4) The Ministry of Agriculture may decide, if appropriate, on the publication of sanctions imposed in the Official Journal, for exemplary purposes.

VIII. FEES

Section 25

Fees for the Protection of Plant Varieties shall be payable. They shall be subject to the legislation contained in the Law of December 26, 1958, on Fees and Parafiscal Levies, the Consolidated Taxation Law of December 28, 1963, and the additional provisions under those Laws, and shall be governed by the provisions of this Law.

Section 26

For the purposes of the fees established in the aforementioned Section, the plant species or groups thereof which are subject to protection shall be divided into the following groups:

- First group: cereals, oil seeds, lucerne, cotton, sugar and fodder beet, vetch, potato, pea, broad bean and French bean;
- Second group: fruit trees, rose, carnation and strawberry;
- Third group: lettuce, tomato, onion, melon, sainfoin, red clover and white clover;
- Fourth group: the other species not included in the above-mentioned groups.

Section 27

(A) The following fees shall be paid for the services listed below, according the types which are also included: [not reproduced here; the tariff of fees is amended occasionally].

(B) The natural persons or legal entities who receive either from the Public Administration or from the Registry of Protected Plant Varieties any of the services listed in the preceding Subsections, whatever the nature of their request, shall be obliged to pay the fees.

(C) The fees shall be payable when the appropriate services are requested. When these services are rendered without the need for a prior request, the fees shall be payable at the time of their execution.

(D) The amount collected in fees shall be paid to the Public Treasury, according to provisions to be established in rules, for its inclusion in the State General Budget.

(E) The Ministry of Finance shall be the body responsible for all matters appertaining to the fees; it may decide that the computing, notification, and collection of such fees be performed by the Ministry of Agriculture and, within that Ministry, by the National Institute of Seeds and Nursery Plants.

IX. PROCEDURE AND APPEALS

Section 28

(1) The procedure to be followed for the processing of the dossiers governed by this Law shall be that established in the Law on Administrative Procedure of July 17, 1958, which shall also regulate the appeals which interested parties may bring against any act or decision pronounced.

(2) It shall be a function of the National Institute of Seeds and Nursery Plants to collect all available evidence and information on dossiers likely to involve a decision imposing a fine and to formulate proposals as to how dossiers should be decided, doing so on its own initiative or pursuant to a request from the interested parties or from the competent authorities.

(3) The decision shall be taken by:

- (a) the Service for Defense against Frauds and for Agricultural Analyses, when the amount of the fine is not over 25,000 pesetas;
- (b) the competent Director General, when the amount of the fine is over 25,000 and does not exceed 50,000 pesetas;
- (c) the Minister for Agriculture, when the amount of the fine is over 50,000 pesetas.

(4) The limitation period for infringement of this Law shall be five years from when they are committed.

ADDITIONAL PROVISIONS

(1) Article 48 of the Royal Decree-Law of July 26, 1929, on Industrial Property is hereby completed as follows:

"A patent shall not be granted for the following:

.....

7) plant varieties which can benefit from the protection system established by the Law on the Protection of Plant Varieties."

(2) The amounts of the fines established in absolute quantities in pesetas may be revised by the Government, through the application of coefficients of correction, according to the average price of the objects or products in question.

TRANSITIONAL PROVISIONS

(1) The breeder of a plant variety which is no longer new at the time when protection of a corresponding species is established may, in the following instances and in accordance with this Law, request the protection of his rights:

- (a) if a patent has been granted for a plant variety in Spain or in any other country with which an international agreement on the protection of breeders' rights has been established;
- (b) if a "Plant Variety Title" has been issued in any country or countries with which Spain has established an agreement on the protection of breeders' rights;
- (c) if the plant variety has been registered in a list of commercial varieties officially published in Spain. In this case, the application for the protection of rights for this plant variety shall be submitted within a period of twelve months from the time of entry into force of the Rules mentioned in the first final provision for the genera, species or group of species to which this plant variety belongs.

(2) The "Plant Variety Title" for varieties shall be effective as from the date of filing of the application. The period of time elapsed after the filing of an application for a patent, or after the grant of a "Plant Variety Title" or after its registration in the List of Commercial Varieties, shall, where the conditions set forth in Paragraph (c) of the first Transitional Provision have been complied with and where the other cases provided for in the said provision are applicable, be deducted from the period of protection.

(3) Plant varieties that were being marketed before this Law came into force may continue to be freely produced and offered for sale, as long as the breeder does not make use of the right granted to him by the first Transitional Provision.

(4) Until the additional provisions for the application of these Rules to the various species or groups of species enter into force, the system of protection applicable to them shall continue to be that contained in the Law on Industrial Property.

FINAL PROVISIONS

1. This Law shall be applicable to the entire national territory. The Government shall, within a period of one year from the publication of this Law, and on a proposal of the competent Ministries, establish the Rules for implementing this Law; in these Rules the administrative provisions in force on matters concerning this Law shall be included.

2. The provisions necessary for the entry into force of this Law, as regards each genera and species or group of species, which shall be set forth in rules, shall be established by the Ministry of Agriculture.

SPAIN

GENERAL RULES ON THE PROTECTION OF PLANT VARIETIES*

(Approved by Royal Decree No. 1674/1977 of June 10, 1977)

I. PURPOSE AND SCOPE OF THESE RULES

Section 1

The purpose of these Rules is to lay down standards for the interpretation and implementation of Law No. 12/1975 of March 12, 1975, hereinafter referred to as the Law on the Protection of Plant Varieties, concerning the recognition and protection of the right of the breeder of a new plant variety covered by a "Plant Variety Title," and of his successors, in accordance with the provisions of this Section and the following Sections.

Its application shall extend to all botanical genera and species. It shall come into effect by Ministerial Order within the following maximum periods of time, during which the protection of the species indicated has to be established. The said periods shall begin on the date of publication of the Decree approving these Rules.

- (a) Six months for: *Triticum aestivum* L. ssp. *vulgare* (Vill., Host) Mac Kay; *Triticum durum* Desf.; *Hordeum vulgare* L. s. lat.; *Avena sativa* L.; *Avena byzantina* K. Koch; *Oryza sativa* L.; *Solanum tuberosum* L.; *Rosa hort.* and *Dianthus caryophyllus* L.
- (b) Three years for: *Pisum sativum* L.; *Phaseolus vulgaris* L.; *Phaseolus coccineus* L.; *Helianthus annuus* L.; *Prunus persica* (L.) Batsch and *Citrus* sp.
- (c) Six years for: *Zea mays* L.; *Medicago sativa* L.; *Lactuca sativa* L.; *Malus domestica* Borkh.
- (d) Eight years for: *Trifolium pratense* L.; *Lolium* sp.

For species not mentioned in the preceding Subsection, protection shall be established by the Ministry of Agriculture within the time and to the extent dictated by the sector concerned.

* Spanish title: Reglamento general sobre protección de obtenciones vegetales.
Entry into force: July 11, 1977.
Source: Boletín oficial del Estado No. 161, July 11, 1977.

II. DEFINITION OF THE PLANT VARIETIES COVERED BY
THE PROTECTION AND OF THE BREEDER

Section 2

In accordance with the provisions of the Law on the Protection of Plant Varieties, "plant variety" means any commercial variety (internationally known as a "cultivar"), clone, line, stock or hybrid that satisfies the conditions established in that Law and these Rules.

For the purposes of these Rules, the following definitions are established:

- (a) commercial variety: set of cultivated botanical individuals, which are distinguished by specific morphological, physiological, cytological, chemical or other characteristics of an agricultural or economic nature and which retain their distinctive characteristics in the course of sexual reproduction or vegetative propagation;
- (b) clone: set of individuals obtained by vegetative multiplication of a single plant which possess an identical genetic parentage;
- (c) line: natural or artificial group obtained by sexual reproduction, being sufficiently uniform. The line is called pure when the individuals that constitute it have been obtained by successive self-fertilization from a single homozygous parent;
- (d) stock: descendance of plants of one and the same origin obtained by breeding, which possess numerous common characteristics;
- (e) hybrid: plant obtained by spontaneous or voluntary crossing from parents generally having a different genetic parentage.

Section 3

"Breeder" means any natural person or legal entity who proves that he is responsible for any improvement, selection or discovery by which a new plant variety has been obtained, in accordance with the provisions of Section 3 of the Law on the Protection of Plant Varieties.

III. CONDITIONS REQUIRED FOR PROTECTION OF A PLANT VARIETY

Section 4

(1) For a variety to be eligible for protection under the Law on the Protection of Plant Varieties it has to:

- (a) be new, that is, be differentiated from varieties the existence of which at the time of application for protection is public knowledge. Such differentiation shall be established by one or more important morphological or physiological characteristics which fluctuate little and are susceptible of precise description and recognition; public knowledge may be determined by various references, such as

growing or commercialization of the variety, in preparation or in progress, presence in a reference collection or precise description in a publication;

- (b) be homogeneous in the totality of its characteristics, according to its system of reproduction or multiplication;
- (c) be stable in its essential characteristics, in other words, remain true to the definition given by the breeder at the end of each cycle of reproduction or multiplication.

Preliminary examination

(2) The verification of whether a variety meets the above conditions constitutes the "preliminary examination," which shall take place when the procedure has been initiated and when examination of the application, in accordance with Subsections (5) to (7), inclusive, of this Section, has been completed.

With regard to the conditions that have to be met by a plant variety in order to be eligible for protection, account shall be taken of the following:

- Novelty: the characteristics that are used to distinguish varieties shall be both qualitative and quantitative. In both cases the variation of the said characteristics, which shall be discontinuous for the non-measurable ones and continuous between two extremes for the quantitative ones, shall be defined by degrees of expression, the number of which shall be determined by the needs of description. Characteristics the variation of which is least affected by environment shall be regarded as the most important;
- Homogeneity: for a variety to be considered homogeneous, all the component individuals have to be practically equal, or have a limited overall variation with respect to the characteristics concerned; in other words, the number of plants, the description of which is different from the variety under consideration, has to remain within reasonable limits and, as the case may be, fluctuations have to remain within a specific range;
- Stability: generally, when the sample supplied by the breeder is regarded as having a high level of homogeneity, the material may be considered stable. In the event of doubt, propagation of the material shall be effected with a view to ascertaining whether it remains true to its definition.

The Ministry of Agriculture shall lay down such standards for the interpretation of these Rules as are necessary for each species or group of species with respect to the carrying out of the preliminary examination, and which shall specify the following:

- (a) minimum amount of growing material required from the breeder in order to carry out the observations necessary in each case;
- (b) qualitative characteristics of the said growing material;
- (c) dates on which and places in which the said growing material has to be deposited;
- (d) characteristics that have to be taken into consideration for the definition of a variety;
- (e) duration of test growings, and manner in which these are to take place.

The "preliminary examination" may be effected in a foreign country where relevant international agreements have been previously established for the species concerned.

(3) A variety shall not be considered new for the purposes of the provisions of the Law on the Protection of Plant Varieties when, at the time of the application for a "Plant Variety Title," it has already been marketed or offered for sale in Spain, with the authorization of the breeder or his successors in title, or more than four years previously in any foreign country, or where it has been the subject of sufficient advertising of any kind to be used.

Similarly, the variety shall not be considered new if it is described in an application for a "Plant Variety Title," in a title that has not yet been published or in an application filed abroad that benefits from the priority provided for in Section 10(3) of these Rules.

In no case shall the sole fact that it has been recorded as such in an Official Register be regarded as destructive of novelty. For the purposes of this provision, "Official Register" means the Register of Commercial Varieties of the National Institute of Seeds and Nursery Plants, or any other similar register of a foreign country with which Spain has entered into an agreement on the subject.

(4) In accordance with the Law on the Protection of Plant Varieties, the following shall not be regarded as marketing:

- (a) presentation at contests, collections or exhibitions, insofar as no commercial transactions take place at them;
- (b) production and distribution on an experimental scale.

Application for a "Plant Variety Title"

(5) Applications for "Plant Variety Titles" shall be governed by the following rules:

- (a) Applicant: the applicant for a "Plant Variety Title" shall be the breeder or his successors in title, who shall provide adequate proof of their status; the application may be filed by a representative having his legal domicile in Spain; where the applicant is a foreigner, the aforesaid requirement shall be mandatory;
- (b) Application: the application for a "Plant Variety Title" shall be filed with the Ministry of Agriculture (National Institute of Seeds and Nursery Plants, Madrid) and with its Provincial Delegations, in addition to the places provided for in Section 66 of the Law on Administrative Procedure.

The application shall be stamped by the office or center concerned, with an indication of the date, hour and minute of receipt of the filing.

If the office or center has a record only of the date, the submission of the documents included in the filing shall be deemed to have taken place at midnight on that date. If there is no record of the date of the submission to the office or center, such submission shall be deemed to have been made on the date of receipt and at the

time of opening of the package at the Registry of Protected Plant Varieties.

The application shall include at least the following indications:

- (b.1) the genus and/or species to which the variety belongs;
 - (b.2) the denomination proposed by the breeder or his successor in title;
 - (b.3) the name and postal address of the applicant; where the applicant is not the same person as the breeder, the name and address of the latter;
 - (b.4) nationality of the applicant and, where appropriate, of the breeder;
 - (b.5) description of the procedure according to which the variety has been obtained or discovered;
 - (b.6) indication of the country or countries in which a "Plant Variety Title" has been applied for and, where appropriate, obtained;
 - (b.7) indication, where appropriate, that the variety has been recorded in the Register of Commercial Varieties of another country, together with the date of such recording;
 - (b.8) when the right of priority referred to in Section 10(3) of these Rules is claimed, a mention should be made in the application of the date of the filing effected earlier in the other country, the denomination under which the variety was registered, or, failing that, a provisional breeder's reference, the country in which protection was applied for and any other information that the applicant considers appropriate.
- (c) The application for a "Plant Variety Title" shall be accompanied by the following documents:
- (c.1) declaration by the applicant, specifying that the variety for which protection is requested is, in his opinion, a new plant variety within the meaning of Section 4(1) of these Rules, and that it has not been marketed or offered for sale with the authorization of the breeder or his successors in title in Spain, or in any foreign country more than four years previously;
 - (c.2) the authorization of the breeder concerned when, for the commercial production of plants or propagating material for the variety for which protection is sought, the repeated or systematic use of plants or parts of plants of another protected variety is necessary;
 - (c.3) where the applicant is the successor in title to the breeder, an authentic document attesting the transfer of the rights;
 - (c.4) where action is being taken by an agent, a document attesting his status as such;
 - (c.5) where the denomination proposed by the breeder or his successors in title is the subject of trademark rights or may create confusion with a trademark, a document shall be filed renouncing the said trademark in Spain and in other countries in which the

variety may be protected by virtue of the conclusion of protection agreements;

- (c.6) a technical questionnaire in which shall be specified the characteristics of the variety for which the application is filed and which are considered worthy of emphasis in the species to which the variety to be protected belongs, any differences in relation to similar varieties and all characteristics that are considered appropriate in individual cases; the Ministry of Agriculture (National Institute of Seeds and Nursery Plants) shall prepare technical questionnaires for this purpose, which shall be at the disposal of all applicants for "Plant Variety Titles."

The application and the technical questionnaire to which the preceding Paragraphs refer shall be drawn up in Spanish. For any other document sent to the National Institute of Seeds and Nursery Plants, Spanish shall be used or the document accompanied by an official translation.

Initiation of the Procedure

(6) When the application and the documents provided for in the preceding Subsection have been filed, the Registry of Protected Plant Varieties of the National Institute of Seeds and Nursery Plants shall proceed to undertake an examination of all the documentation available or received, with a view to ascertaining whether the following requirements are met:

- (a) compliance with the provisions of the Law on Administrative Procedure concerning the initiation of the procedure;
- (b) inclusion in the application file of the documents provided for in Section 4(5);
- (c) submission of proof of payment of the fees established by law for the processing of the application.

If, as a result of the examination undertaken by the National Institute of Seeds and Nursery Plants, it is considered that any one of the requirements mentioned above has not been met, the applicant shall be requested to remedy the defect within ten days or to submit the supporting documents, as the case may be, with the warning that, if this is not done, the application will be dismissed without further proceedings.

For the purpose of priority, dismissed applications shall be regarded as not having been filed.

Examination of the Application

(7) When the application has been filed and, where appropriate, the requirements referred to in the preceding Subsection have been met, examination shall be undertaken by the National Institute of Seeds and Nursery Plants (Registry of Protected Plant Varieties) within a month following its receipt of the file. The said examination shall be confined to:

- (a) determining the clarity of the description of the variety;

- (b) inspecting the documents submitted by the applicant;
- (c) verifying compliance with any other of the requirements provided for in Section 4(5).

If any defect is discovered in the course of the examination, the suspension of the proceedings shall be pronounced and the applicant shall be allowed a period of two months from the notification in which to remedy the defects or put forward appropriate arguments in his defense, being warned that, if this is not done, the application shall be rejected.

If the Registry of Protected Plant Varieties does not find any defect in the application and other documents, or if the applicant has rectified within the prescribed period the defects brought to his notice, it shall order the publication of the application concerned in the "Boletín" referred to in Section 17 of these Rules.

Register of Applications

(8) The Registry of Protected Plant Varieties shall send the applicant a copy of the application for a "Plant Variety Title," with a clear indication of the date and time of filing of the application and of the corresponding registration number. The filing date of the application shall be the one considered for the purposes of priority.

To this end, all applications shall be entered in a Register in the chronological order of their filing, and according to the number notified to the applicant, which number shall also appear in all notifications provided for in these Rules until such time as the "Plant Variety Title" is granted.

To this end, the following entries shall be made in the Register:

- (a) registration number;
- (b) date and time of filing of the application;
- (c) indication of the genus or species to which the variety belongs;
- (d) name and address of the applicant and of his legal representative, if any;
- (e) proposed denomination;
- (f) claim of priority, where appropriate.

The first page of the Register shall contain a notice stating the number of pages that it contains and the date of commencement of the entries in it, and the last page shall contain another notice indicating the total number of entries.

IV. RIGHTS OF THE BREEDER

Section 5

(1) Any breeding of a new plant variety may be the subject matter of a "Plant Variety Title" which, on recording thereof in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, gives the holder the exclusive right to produce for commercial purposes, introduce in the territorial area to which the Law on the Protection of Plant Varieties applies, sell or offer for sale, or use by any means permissible by law material for sexual reproduction or vegetative propagation, including whole plants. The breeder's right shall extend to plants or parts thereof normally marketed for purposes other than propagation, especially as regards the commercial production of ornamental plants or cut flowers, insofar as those plants or parts thereof are used as propagating material. The breeder's right shall not be infringed by the use made by a farmer, in his own farm, of seeds or any other plant material produced by him (Law No. 12/1975, Section 5(1)).

A "Plant Variety Title" may be held by the breeder who corresponds to the definition set forth in Section 3 of these Rules, and by his successors in title who provide documentary evidence of their status as such, subject to the following conditions:

- (a) where one and the same variety has been jointly created by two or more persons, the right conferred by the Title shall belong indivisibly to all of them;
- (b) where two or more applicants with equal rights claim the grant of breeders' rights independently of one another, in respect of the same variety, the rights shall be granted to the party having filed the application earlier than the others;
- (c) where the breeder is employed by an enterprise, the grant of the "Plant Variety Title" shall be governed by the provisions of Sections 29 and 30 of the Decree of January 26, 1944, approving the revised text of Book I of the Employment Contract Law, it being understood for such purposes that the breeder in question is acting as an employee of the enterprise and that the plant variety concept is equivalent to the invention concept provided for in the said Decree. The Ministry of Agriculture may, on a proposal by the Central Board of the Institute, enact as many additional provisions as are considered necessary for the proper implementation of the provisions of this Paragraph.

(2) Authorization by the breeder or his successors in title shall not be required either for the utilization of the new variety as an initial source of variation for the purpose of creating other new varieties or for the marketing of such varieties (Law No. 12/1975, Section 5(2)).

(3) Authorization shall be required when the repeated or systematic use of the plants or parts thereof of the original variety is necessary for the commercial production of plants or propagating material of the new variety (Law No. 12/1975, Section 5(3)).

Section 6

(1) The grant and the benefits of the "Plant Variety Title" for a new variety may not be made subject to conditions other than those set forth in Sections 4, 10 and 11 of the Law on the Protection of Plant Varieties, insofar as the administrative formalities provided for in the said Law, in these Rules and in any additional provisions that may be enacted are complied with.

(2) A "Plant Variety Title" shall be granted without prejudice to the rights of third parties and subject to the limitations established by the Law on the Protection of Plant Varieties. Failure to observe those limitations shall render the Title null and void in accordance with the provisions of Section 11 of the said Law and, where appropriate, the cancellation of its registration in the Register of Protected Varieties at the National Institute of Seeds and Nursery Plants.

Licenses for Use

(3) The holder of a "Plant Variety Title" may, after notification to the Registry of Protected Plant Varieties, grant a license for the use of the variety covered by the said Title to any person who applies for one, subject to compliance with the conditions specified by the said holder and with any provisions on the subject in the Law on the Protection of Plant Varieties, these Rules and any additional provisions that may be enacted. To this end, such contracts shall be registered at the National Institute of Seeds and Nursery Plants.

In all matters relating to licenses for use, the following shall be taken into account:

- (a) the contract by which the license for the use of a variety covered by a "Plant Variety Title" is granted shall be drawn up in writing and shall bear the signature of the contracting parties;
- (b) licenses for use may be exclusive or non-exclusive:
 - (b.1) unless the license contract provides otherwise, the grant shall not preclude the possibility of the holder granting licenses to other persons or undertaking the use of the new plant variety himself, in which case the license shall be considered non-exclusive;
 - (b.2) the grant of an exclusive license for use shall preclude the holder of the "Plant Variety Title" from granting licenses to other persons and, unless the license contract provides otherwise, from using the plant variety himself;
- (c) unless expressly provided otherwise, the license shall have the same duration as the "Plant Variety Title," and shall cover the entire national territory, its maximum duration being limited to the time of expiration of the rights;
- (d) unless expressly provided otherwise, licensees may not assign their licenses to third parties or grant sub-licenses;
- (e) where a "Plant Variety Title" belongs to more than one person, they may only jointly grant licenses to third parties for the use of the variety covered by the said Title;

- (f) clauses in license contracts that impose marketing restrictions on the licensee that are not derived from the rights conferred by the "Plant Variety Title" shall be considered null and void, and, in particular, clauses that impose obligations on the licensee for a period of time longer than the duration of the "Plant Variety Title" shall be regarded as exceeding the rights inherent in the said Title;
 - (g) the license for use shall produce its effects in relation to third parties only after it has been registered with the National Institute of Seeds and Nursery Plants;
 - (h) without prejudice to the rights conferred by these Rules on the Administrative Bodies, questions arising out of license contracts shall be within the competence of the Courts of Justice.
- (4) Where the holder of a "Plant Variety Title" is an official body established in Spain, it shall be obliged to grant a license for the use of the variety covered by the said Title to any person who applies for one and presents legal, technical and professional guarantees. Such license may in no case have exclusive character. Where the applicant for a license is a foreigner, the transaction shall be governed by the principle of reciprocity (Law No. 12/1975, Section 6(4)).

Where the license for use is granted by an official body, Paragraphs (a), (c), (e), (f) and (g) of the foregoing Subsection shall apply, and the licensee may not in any case assign the license to third parties or grant sub-licenses.

Prohibition to Exploit Certain Plant Varieties

(5) Without prejudice to the rights belonging to the Public Administration in matters of health, the diffusion and use of certain plant varieties which, having received a "Plant Variety Title," could present a health risk or similar risks, may be prohibited by Decree approved by the Council of Ministers, on a proposal by the Minister for Agriculture.

Section 7

- (1) The Courts of Justice shall be competent in all questions relating to the ownership of a "Plant Variety Title."
- (2) The holder of a "Plant Variety Title" may institute civil or criminal proceedings before the Courts of Justice against any person who infringes the rights granted by the Law on the Protection of Plant Varieties.
- (3) Legal proceedings concerning plant breeders' rights may only be instituted by one of the parties.
- (4) Plant breeders' rights are transferable by any means admitted in law, without prejudice to the limitations established by the Law on the Protection of Plant Varieties: such transfer shall only be effective in relation to third parties when they have been recorded in the Register of Protected Plant Varieties.

(5) Unless expressly agreed otherwise, the licensee may be party to legal proceedings to the same extent as the holder of a "Plant Variety Title" without any formality other than notification in writing to the holder of having become a party to the legal proceedings, in the event that the latter should think it advisable to be a party (Law No. 12/1975, Section 7).

Section 8

(1) The "Plant Variety Title" shall be granted by order of the Ministry of Agriculture, on a proposal by the Central Board of the National Institute of Seeds and Nursery Plants, pursuant to Section 16 of these Rules. The effects of the "Plant Variety Title" shall begin on the date of its grant.

When the application has been accepted for processing and, subsequently, the "preliminary examination" carried out in accordance with the provisions of Section 4(2) of these Rules, the Commissions of Plant Variety Protection shall decide on the proposal that has to be made with respect to registration at the Registry of Protected Plant Varieties.

The "Plant Variety Title" shall be issued by the National Institute of Seeds and Nursery Plants and shall contain the following particulars:

- (a) name of the applicant;
- (b) if the applicant is not the actual breeder, the name of the latter must appear in the "Plant Variety Title";
- (c) denomination of the variety and description of it according to the minimum data appearing in the model descriptive form approved by the National Institute of Seeds and Nursery Plants;
- (d) date and time of filing of the application, and date corresponding to the grant of the Title by the Ministry of Agriculture;
- (e) all particulars concerning priorities, where priorities have been claimed;
- (f) where the variety covered by the Title has different denominations in a country or countries with which a collaboration agreement has been signed, such denominations must be mentioned for information;
- (g) date of expiration.

The grant of the Title shall be published in the Boletín del Registro de Variedades Protegidas, pursuant to the provisions of Section 17 of these Rules, within a period of three months from the grant by the Ministry of Agriculture.

When the grant of the Title has been published in the Boletín del Registro de Variedades Protegidas, any person may, subject to payment of the fee established by law, obtain from the Registry of Protected Plant Varieties information regarding the documents that accompanied the application, the documents relating to the preliminary examination and the document containing the decision adopted.

Nevertheless, where this is considered necessary by the Commission of Plant Variety Protection, such provisions shall be enacted as are required to safeguard secrets concerning the procedure whereby the new plant variety was obtained.

(2) The grant of a "Plant Variety Title" shall immediately give rise to an entry in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, which is mentioned in Law No. 11/1971, and to the inclusion of the variety in the list of protected varieties which shall be periodically published by the above-mentioned Institute in the Boletín del Registro de Variedades Protegidas.

To this end, a Register shall be kept of "Plant Variety Titles," which shall be ordered according to the date on which they were granted.

The following entries shall, in addition, be made in the Register:

- (a) serial number of the grant of the Title;
- (b) genus and species to which the variety belongs;
- (c) approved denomination, together with others under which the variety appears in a country or countries with which a collaboration agreement has been signed;
- (d) summary description of the variety;
- (e) name and address of the owner of the Title, and name and address of the breeder, where the latter is not the same as the former;
- (f) where applicable, claim of priority;
- (g) dates on which protection begins and ends, and date on which, for any reason, it ends prior to the established term.

A mention shall also be made in the Register of judicial decisions, if upheld, in which the ownership of the right is specified, as well as all those that relate to transfers of the ownership of "Plant Variety Titles," and licenses granted.

(3) The "Plant Variety Title" shall be provisional for two years, after which time it shall automatically become definitive if, within that two-year period, no objection is submitted to the act of making the said grant. Once definitive, either because the provisional period has expired, or by decision made on the above-mentioned objection pursuant to Section 121 of the Law on Administrative Procedure, the appropriate legal proceedings may be brought. The provisional character of the Title, while in force, shall be clearly stated on any document, packaging or advertisement relating to the product covered by the said Title (Law No. 12/1975, Section 8(3)).

(4) During the period in which the Title is provisional, the breeder shall enjoy all the rights granted under the Law on the Protection of Plant Varieties. The said period shall be included, in each case, in the period of protection (Law No. 12/1975, Section 8(4)).

Section 9

(1) The rights conferred on the breeder of a new plant variety shall be granted for a limited period, which may not be less than 15 years for herbaceous plants or 18 years for trees; this period shall run from the date of the grant of the "Plant Variety Title" (Law No. 12/1975, Section 9(1)).

(2) The maximum period of protection for any species or group of species may not exceed 20 years.

When detailed provisions are enacted by the Ministry of Agriculture for the entry into force of protection for each genus, species or group of species, the maximum period of protection shall be indicated in each case.

Section 10

(1) All foreign breeders shall enjoy the same rights as national breeders, provided that the legislation of their countries of origin applies the principle of reciprocity or that other international agreements to which Spain is party establish such reciprocity (Law No. 12/1975, Section 10(1)).

On a proposal by the Commission of Plant Variety Protection, through the Central Board of the National Institute of Seeds and Nursery Plants, and after examination of the legislation on the protection of each species and country concerned, specific provisions shall be enacted by the competent Ministry or Ministries establishing the aforementioned reciprocities.

(2) The aforementioned foreign breeders shall, in their relations with the Spanish Public Administration and with the private producers or growers of the propagating material, be represented by a person lawfully resident in Spain, who shall be given sufficient authority to guarantee such commitments as the breeder or his successors in title may contract. The grant and the rights derived from it shall remain subject, in all cases, to the performance of the obligations of the Title holder (Law No. 12/1975, Section 10(2)).

(3) When applying for a "Plant Variety Title," the applicant may claim the priority of any applications previously filed for the same plant variety in any State with which Spain has an agreement in this respect, on condition that the filing of the application in Spain takes place within a period of 12 months from the filing of the first application (Law No. 12/1975, Section 10(3)).

Subject to the transitional provisions of these Rules, the right of priority may only be claimed by breeders who:

- (a) within three months from the date on which the application was filed, submit to the Registry of Protected Plant Varieties a copy of the documents relating to the application filed in another country, with certification by the competent authority of the authenticity of the said copies;
- (b) within four years from the date on which the application was filed, supply all the additional documentation mentioned in Section 4(5) of these Rules, and, where the Registry of Protected Plant Varieties considers this necessary, propagating material for the carrying out of the preliminary examination.

Section 11

(1) The "Plant Variety Title" shall be declared null and void:

- (a) when the Title holder does not have a right to obtain it according to the provisions laid down in Section 3 of these Rules;

- (b) when the plant variety in respect of which the Title has been granted does not meet the requirement of novelty laid down in Section 4 of these Rules.

In the cases mentioned above, and in accordance with the provisions of Section 16 of these Rules, invalidation shall be pronounced by the Minister for Agriculture on a proposal by the Commission of Plant Variety Protection and through the Central Board of the National Institute of Seeds and Nursery Plants.

(2) Action for nullity may be brought by any interested party during the entire period of protection afforded by the "Plant Variety Title" (Law No. 12/1975, Section 11(2)).

(3) The right of the breeder or his successors in title shall be extinguished in the following cases:

- (a) at the request of the Title holder himself; such request shall be filed in writing with the Office of the Registry of Protected Plant Varieties by the Title holder or by a person specially empowered to do so; where the Title is shared equally by more than one person, the request for lapse shall be taken into consideration only if it is filed jointly by all those persons; where licenses for use of the variety covered by the Title have been granted by the Title holder, renunciation may be taken into consideration only if it is accompanied by the appropriate document in which the consent of all the licensees to such renunciation is expressed;
- (b) when there has been a failure to maintain the conditions of homogeneity and stability laid down in Section 4 of these Rules;
- (c) when neither the Title holder nor his licensees have reproductive or propagating material capable of producing the new variety, as defined when the "Plant Variety Title" was granted;
- (d) when neither the Title holder nor his licensees submit, within the required time limit, the reproductive or propagating material, or the information or documents deemed necessary for examining the variety, or do not allow inspection of the measures which have been taken for the maintenance of the same variety, according to the rules laid down for that purpose;
- (e) when the legally established fees have not been paid within the prescribed period or the requests for payment have not been met;
- (f) when the Title holder does not agree to grant a license to use the new variety, pursuant to Section 12(1) of these Rules;
- (g) when an objection or administrative appeal, filed pursuant to Section 8(3) of these Rules, has been upheld by a final and definitive decision;
- (h) when the period of time laid down by Section 8 of these Rules expires.

When either Paragraph (c) or (d) of the present Subsection is applicable, the Commission of Plant Variety Protection shall request of the Title holder that he remedy the situation that has given rise to such applicability. If such request has no effect on expiration of a period of two months from its notification, the Commission may propose the extinction of the right.

When there is cause for the extinction of the right for any of the reasons specified in the Paragraphs of the present Subsection, such extinction shall take place by order of the Ministry of Agriculture, on the proposal of the Commission of Plant Variety Protection through the Central Board of the Institute.

(4) Upon the extinction, for whatever reason, of the right of the breeder or his successors in title, the plant variety protected by that right shall fall into the public domain.

Section 12

Compulsory Licenses for Use

(1) The Ministry of Agriculture shall be entitled to order that a plant variety for which a "Plant Variety Title" has been granted shall be subject to compulsory licensing, either because of unjustified failure to use or because the public interest so dictates (Law No. 12/1975, Section 12(1)).

(a) Unjustified Failure to Use

Upon expiration of a period of four years from the date on which a "Plant Variety Title" was granted in respect of a given variety, unjustified failure to use shall be considered to exist if any of the following circumstances are present:

- (a.1) the variety protected by the Title and susceptible of use in Spain does not cover adequately the needs of the national market, thereby prejudicing the general interest;
- (a.2) use of the variety in Spain is considerably hampered by the fact that it is imported;
- (a.3) the holder of the "Plant Variety Title" refuses to grant licenses for use on reasonable conditions, thereby unfairly and substantially limiting the satisfaction of such demand as may exist for the variety covered by the Title.

When an application for the grant of a compulsory license is received by the Registry of Protected Plant Varieties, it shall be transmitted to the Commission of Plant Variety Protection, which, after having heard the breeder, and in the light of the provisions of the foregoing Paragraphs, shall consider whether or not to propose to the Ministry of Agriculture, specifying the reasons for the insufficient use of the variety in respect of which the application for a compulsory license has been received, that it be made subject to compulsory licensing.

(b) National Interest

The Government may, by Decree passed in the Council of Ministers, decide that, in view of the vital importance of a variety to the defense, national economy or public health of the country, its use is regarded as being in the national interest. On publication of such Decree, the Ministry of Agriculture shall order that the variety concerned be made subject to compulsory licensing, according to the grant procedure specified hereafter; the holder of the "Plant Variety Title" shall nevertheless be allowed a period of six months

from the publication of the said Decree in which to provide for the adequate use of the variety, on expiration of which the variety shall be finally subject to compulsory licensing.

(2) For the purposes of Subsection (1) of this Section, any person providing legal, technical and professional guarantees may apply to the Registry of Protected Plant Varieties for the grant of a compulsory license for use, which, once granted, shall have the following characteristics:

(a) Characteristics of Compulsory Licenses for Use

- (a.1) A compulsory license may in no case be exclusive, so that the holder of the corresponding "Plant Variety Title" shall retain the right to use the variety and to grant non-compulsory licenses; further compulsory licenses for use may likewise be granted;
- (a.2) the license agreement may contain obligations and restrictions on both the Title holder and the licensee;
- (a.3) the rights deriving from the compulsory license may not be transferred or assigned, neither may sub-licenses be granted;
- (a.4) their duration shall be not longer than that of the "Plant Variety Title", and they may be cancelled at any time under the circumstances specified below.

(b) Procedure for the Grant of Compulsory Licenses for Unjustified Failure to Use

The grant of a compulsory license for use shall be governed by the provisions set forth below:

- (b.1) it shall be an essential requirement for an application for a compulsory license that the interested party previously approach the holder of the "Plant Variety Title," requesting a license for use with the characteristics specified in Section 6(3) of these Rules; if, after two months following the said request, no agreement has been reached between the parties, the interested party may apply to the Registry of Protected Plant Varieties for the grant of a compulsory license, providing evidence of the circumstances justifying it and of the guarantees that he can offer in the event of the license being granted;
- (b.2) when the application has been received by the Registry of Protected Plant Varieties, it shall be communicated to the holder of the "Plant Variety Title," who shall have a maximum period of one month within which to comment thereon; failure to reply shall constitute consent to the grant of the license;
- (b.3) in the event of the Title holder giving his consent, the Registry of Protected Plant Varieties shall request the parties to attempt, within a further period of two months, to agree on the royalty to be paid and on other conditions of the license, and, where applicable, to legalize the respective license agreement;
- (b.4) where the Title holder refuses to grant a license, he shall notify the Registry of Protected Plant Varieties accordingly during the maximum period of one month referred to above and provide proof justifying his attitude; in this event, both the refusal on the part of the Title holder and the proof he pro-

duces in support of it shall be transmitted to the applicant, who, within a period of one month, shall present such arguments as he considers appropriate to the Registry of Protected Plant Varieties;

- (b.5) after all the prior documents have been obtained, the Registry of Protected Plant Varieties shall inform the Commission of Plant Variety Protection, which shall decide on the desirability of granting a compulsory license;
- (b.6) if the Commission considers adequate the arguments presented by the Title holder to justify the non-use or insufficient use, it shall declare the suspension of the proceedings and shall indicate to the Title holder the period within which he has to make effective use or extend such use; if the Commission considers the grant of a compulsory license appropriate, it shall again request the interested parties to endeavor to reach agreement within a maximum period of two months concerning payment and other conditions of the license;
- (b.7) if no such agreement is eventually reached, the Commission shall, within a period of two months, propose to the Ministry of Agriculture through the Central Board of the Institute that a compulsory license for use be granted fixing royalties and other conditions to which it shall be subject.

(c) Procedure for the Grant of Compulsory Licenses for Reasons of National Interest

On publication of the Ministerial Order by which a variety is declared subject to compulsory licensing for reasons of national interest, any interested party may apply to the Registry of Protected Plant Varieties for the grant of a license for use. When the application has been communicated to the holder of the "Plant Variety Title," the latter shall have a period of one month in which to reach an agreement with the applicant, on expiration of which the provisions of Subparagraph (b.7), above, shall apply.

(d) Special Compulsory Licenses for Use

In duly justified cases the Ministry of Agriculture may, at any time, obtain ex officio a compulsory license for use where such use is to be made by the Ministry and for its own account. Such license shall be obtained by Order of the said Ministry, which Order shall specify the conditions governing the licence.

(e) Cancellation of Compulsory Licenses for Use

The cancellation of a license shall be granted by the Minister for Agriculture on a proposal by the Commission of Plant Variety Protection through the Central Board only at the request of the holder of the "Plant Variety Title" and in either of the following cases:

- (e.1) failure on the part of the licensee to comply with his obligations;
- (e.2) disappearance of the circumstances that caused the variety to be subject to compulsory licensing for use.

In the second of the above cases, the licensee shall be allowed a period not exceeding three years within which to discontinue his use of the variety covered by the license.

(3) In any of the cases referred to in the preceding Subsections of this Section, the right of the breeder shall at all times be guaranteed.

V. DENOMINATION OF VARIETIES

Section 13

(1) A new plant variety shall be given a single denomination which permits its identification. Such denomination shall be considered the generic designation of the variety (Law No. 12/1975, Section 13(1)).

(2) The denomination of the new variety shall not be exclusively composed of figures, or be liable to mislead or cause confusion concerning its characteristics, its usefulness or the identity of the breeder. It shall be different from every denomination which designates other existing varieties belonging to species included in the same class, which species shall be specified in the list annexed to these Rules. In particular, the following provisions shall be complied with:

- (a) the denomination given shall not be different from that used in another country in which registration has been effected or is pending and with which Spain has entered into a collaboration agreement; nevertheless, where linguistic difficulties of pronunciation exist, the variety may, subject to approval, be designated by a translation of the original denomination or by another denomination;
- (b) the denomination shall consist of one to three words, with or without meaning, which shall be easy to pronounce and memorize, and shall be capable of use as the generic designation of the variety;
- (c) from one to a maximum of four figures may be included if they have some meaning in relation to the words they accompany;
- (d) a denomination may not consist in the substitution, addition or alteration of figures in a denomination that has already been approved and is in use;
- (e) where a variety is to be used exclusively for the production of propagating materials of other varieties, its denomination may consist of a combination of figures and letters, provided that, in the opinion of the competent authority, such a combination corresponds to an established international standard concerning denominations for the species concerned;
- (f) the denomination may not consist of any element which, at the end of the period of protection of the variety, would prevent or hamper the free use of the denomination or prevent the free marketing of the variety;
- (g) the denomination may not in any case be the botanical or common name of a genus or species, neither may it include that name if a risk of error or confusion is thereby created;

- (h) the denomination may not contain words such as variety, cultivar, form, hybrid or cross, or translations of such words;
 - (i) the denomination given to a variety may not suggest that the said variety is developed from or related to another known variety when this is not certain;
 - (j) a new variety may not be given a denomination that has been previously used for another variety belonging to species in the same class, in accordance with the list appearing in the Annex to these Rules, if it is found by the competent authority that the variety is still being grown or that its denomination still has special importance;
 - (k) the denomination shall permit identification of the new variety, without risk of confusion, by an averagely attentive buyer;
 - (l) in particular, the denomination shall not:
 - (1.1) be liable to cause scandal;
 - (1.2) indicate solely properties that may be possessed by other varieties of the same species;
 - (1.3) be inadequate for linguistic reasons.
- (3) In general, denominations shall comply with international conventions on the subject to which Spain is party. Consequently, the Ministry of Agriculture shall enact such provisions as are necessary for the adaptation of the standards laid down in Subsection (2) of this Section to the conventions concerned.

Section 14

- (1) The denomination of a new plant variety shall be registered at the same time as the issuance of the "Plant Variety Title" (Law No. 12/1975, Section 14(1)).
- (2) The breeder or his successor in title may not submit as the denomination of a new variety either a denomination already protected in Spain or in countries with which agreements on plant variety protection have been established, by a trademark relating to identical or similar products or a denomination liable to cause confusion with such a trademark, unless he undertakes to renounce his rights in the trademark as from the grant of the "Plant Variety Title." If the breeder or his successor in title nevertheless submits such a denomination, he may not, as from the time when the "Plant Variety Title" is registered, continue to exercise his rights under the trademark in respect of the products specified, unless international agreements require otherwise (Law No. 12/1975, Section 14(2)).
- (3) The denomination given to a protected plant variety may not be registered as a trademark (Law No. 12/1975, Section 14(5)).
- (4) Notwithstanding the foregoing Paragraph, it shall be permitted, for marketing purposes, to add a trademark to the denomination of the new plant variety, if the breeder owns the trademark or is authorized to use it (Law No. 12/1975, Section 14(6)).

(5) Before a "Plant Variety Title" is entered in the Register of Protected Plant Varieties at the National Institute of Seeds and Nursery Plants, the denomination submitted for the new plant variety shall be notified to the Industrial Property Registry, in order that the latter may report on it (Law No. 12, 1975, Section 14(4)).

The said body shall have a period of 30 working days from the receipt of the communication in which to convey to the Registry of Protected Plant Varieties any objections that it may see fit to make, arising from the fact that the said denomination:

- (a) had been filed as a trademark;
- (b) may create confusion with a registered trademark.

After the grant of the "Plant Variety Title" for a given variety, and within a period of 15 working days from such grant by the Registry of Protected Plant Varieties, the following shall be communicated to the Industrial Property Registry:

- (a) the denomination under which the variety is registered;
- (b) where applicable, a copy of the instrument of renunciation, on the part of the holder of the "Plant Variety Title," of his trademark rights if such were previously owned.

(6) Independently of the communications that have to be exchanged by the Registries referred to in the preceding Subsection on the subject of denominations, all the communications that are prescribed by international collaboration agreements on protection that may be or have been concluded by Spain shall also be made.

(7) If the denomination submitted by the breeder or his successor in title does not meet the requirements provided for in these Rules, the Registry of Protected Plant Varieties shall inform the applicant accordingly, who shall be allowed 30 days from the date of the communication in which to propose a new denomination. Where such new denomination is also not accepted, up to two further denominations may be proposed within 15 days from the notification sent by the Registry.

Where the applicant exhausts the period or the number of denomination proposals specified above, the Registry of Protected Plant Varieties may propose to him two successive denominations before expiration of a period of two months from the first notification; if the latter denominations are not accepted, the proceedings shall be suspended and the applicant shall be informed accordingly.

VI. BODY IN CHARGE OF PLANT VARIETY PROTECTION

Section 15

The functions entrusted to the Ministry of Agriculture under the Law on the Protection of Plant Varieties and under these Rules shall be exercised by the National Institute of Seeds and Nursery Plants, established by

Law No. 11/1971 of March 30, 1971. The functions of the said Institute shall, in particular, be the following:

- (a) preparation of the technical questionnaires which, for each species or group of species, have to be filed with the application for a "Plant Variety Title";
- (b) receipt and processing of applications for "Plant Variety Titles";
- (c) conduct of the preliminary examination for the assessment of the novelty, stability and homogeneity of a variety; when circumstances so dictate, collaboration agreements may be concluded to this end with other national or foreign bodies and institutions;
- (d) publication of the Boletín del Registro de Variedades Protegidas;
- (e) issuance of "Plant Variety Titles" after their grant by the Minister for Agriculture;
- (f) recording of registrations and cancellations of "Plant Variety Titles" in the Register referred to hereinabove;
- (g) recording of granted license contracts;
- (h) preparation and implementation of agreements concluded with international organizations or other countries on the protection of plant varieties;
- (i) conduct or relations with international bodies or countries with which Spain has entered into agreements on the protection of plant varieties, except where the general legislation of the Spanish State provides otherwise;
- (j) preparation and proposal of decisions concerning such sanctions as may be initiated by itself or at the request of third parties;
- (k) drafting of regulations and standards, reports and all such documents as are necessary for the implementation and control of protection, and which have to be submitted to the Commission of Plant Variety Protection for consideration;
- (l) receipt of and compliance with requests addressed to it by judicial authorities in connection with any disputes that may arise concerning the protection of plant varieties;
- (m) all others that are entrusted to it by law.

Section 16

Commission of Plant Variety Protection

The Commission of Plant Variety Protection, established by the Law on the Protection of Plant Varieties, within the Central Board of the National Institute of Seeds and Nursery Plants, organized by Law No. 11/1971 of March 30, 1971, shall be composed as follows:

President: the President of the Central Board of the National Institute of Seeds and Nursery Plants;

Vice-President: the Director of the National Institute of Seeds and Nursery Plants;

Members: those members of the Central Board appointed by its President, among whom there shall be a representative of the National Institute of Agrarian Research and two agrarian representatives of the Trade Union Organization;

Legal Adviser: the Head of the Legal Department of the Ministry of Agriculture;

Technical Advisers: persons with recognized competence in botany, genetics, reproduction of seeds and nursery plants and legal problems relating to plant variety protection, appointed by the President;

Secretary: the Technical Administrator of Laboratories and Registers of Protected Commercial Varieties.

Tasks of the Commission

Among other tasks, the Commission of Plant Variety Protection shall:

- (a) propose to the Minister for Agriculture, after consideration of such reports as have been submitted to it, and through the Central Board of the Institute, the issuance, revocation, declaration of lapse and, if appropriate, annulment of "Plant Variety Titles";
- (b) propose to the Minister for Agriculture, through the Central Board of the Institute, the grant or cancellation of compulsory licenses for use;
- (c) propose to the Minister for Agriculture, through the Central Board of the Institute, such provisions as are necessary for the establishment of relations between an enterprise and its employees concerning the ownership of a plant variety;
- (d) enact such provisions as are necessary in order to safeguard the secrecy of plant varieties in respect of which "Plant Variety Titles" have been granted;
- (e) inform the competent Ministry or Ministries, through the proper channels, of all matters relating to the possible establishment of reciprocity with foreign countries, and of everything related to the establishment of international agreements under which Spain has to take action in the interests of protection;
- (f) propose, in general, the measures and rules intended for the protection of breeders' rights;
- (g) propose, through the Central Board of the Institute, rules for the application of breeders' rights to the different genera or species;
- (h) report on matters concerning plant variety protection submitted by the President for study;
- (i) carry out any other tasks which may be entrusted to it by any law or rules.

General Rules Governing the Operation of the Commission

The constitution and operation of the Commission of Plant Variety Protection shall be governed by the following provisions:

- (a) the maximum number of members designated by the President that the Commission may comprise shall not exceed 12, a maximum of six of whom shall be ordinary members while the remainder shall be technical advisers;
- (b) the technical advisers and ordinary members shall be designated for a maximum period of four years; their appointment may be renewed on expiration of their term of office;
- (c) the President, and all the members constituting the Commission, shall observe secrecy regarding the deliberations and agreements that take place within the said Commission;
- (d) when any member of the Commission has any interest in the grant or rejection of a "Plant Variety Title," he may not take part in the deliberations concerning the variety covered by the said Title;
- (e) the Commission may conduct business, and its agreements shall be valid, when the number of members present is more than half of the total membership;
- (f) the functions of the President of the Commission of Plant Variety Protection shall be to:
 - (f.1) assume the representation of the Commission as a whole;
 - (f.2) convene and preside over the meetings of the Commission, which functions he may delegate to the Vice-President thereof;
 - (f.3) implement, with the assistance of the Secretary, the agreements adopted within the Commission;
 - (f.4) present to the Minister for Agriculture the proposals agreed upon by the Commission of Plant Variety Protection and such decisions as are adopted in accordance with the tasks assigned to him under the Law on the Protection of Plant Varieties and these Rules;
 - (f.5) designate the technical advisers and the ordinary members for the prescribed period;
 - (f.6) constitute such expert commissions as he considers necessary, which commissions shall be presided over by the Secretary of the Commission of Plant Variety Protection;
 - (f.7) invite the attendance, with the right to speak but not vote, of persons who have a recognized competence considered desirable under certain circumstances.

Section 17

Bulletin of the Registry of Protected Plant Varieties (Boletín del Registro de Variedades Protegidas)

(1) The National Institute of Seeds and Nursery Plants shall periodically publish a Boletín del Registro de Variedades Protegidas, in which applications for registration, denominations submitted and denominations approved shall be recorded, as well as the grant of "Plant Variety Titles" and other non-confidential information, in order to ensure better public knowledge of the area concerned (Law No. 12/1975, Section 17(1)).

This publication shall be issued at least quarterly. Its main purpose shall be to bring to the notice of the public all applications for "Plant Variety Titles" and other information, in order that any interested party may make such objections as he considers appropriate, which objections shall, in all cases, be submitted in writing to the Registry of Protected Plant Varieties of the National Institute of Seeds and Nursery Plants within the periods specified hereinbelow.

The following Chapters shall appear in the said publication:

- (a) Applications for "Plant Variety Titles": if, after examination of the application, it is found to be in order, it shall be published in the "Boletín," with the indication for each application of the reference number in the Register of Applications, the name and address of the applicant, and of the breeder where it is not the same as that of the applicant, and the denomination proposed for the variety. Where this is considered appropriate, one or more important characteristics may be mentioned which are thought to be capable of serving to classify the variety in any way;
- (b) Denominations: all proposed denominations shall appear in another Chapter, with references to the applicant and breeder. All proposals for changes in denomination of varieties previously covered by "Plant Variety Titles" shall also be published. Denominations that have been registered in different countries for the same variety may be indicated for the purposes of information;
- (c) "Plant Variety Titles" Refused: another Chapter shall include the varieties which are regarded as not warranting the grant of the corresponding Title, with an indication of the reference number in the Register of Applications, the name and address of the applicant and breeder, the denomination proposed and the date of refusal;
- (d) "Plant Variety Titles" Granted: these Titles shall be published in the "Boletín" with an indication for each of them of the reference number in the Register of Applications, the reference number of the Title granted, the name and address of the Title holder, and of the breeder where different from that of the Title holder, the approved denomination of the variety covered by the Title, the duration of protection, and the date on which that protection expires;
- (e) Licenses for Use: all licenses for use entered in the Register shall be mentioned, with an indication of the holder of the "Plant Variety Title," the licensee, the denomination of the variety and the date on which the license concerned was granted. Information

shall also be published on plant varieties that have been made subject to compulsory licensing for use for reasons of national interest;

- (f) Revocation and Lapse: another Chapter shall record any revocation and lapse of granted Titles that occur, with a mention, in addition to the name and address of the Title holder and breeder, of the dates on which the said acts took place and of the denominations of the varieties covered by the Titles.

In addition to the publication of the information specified above, a record shall be made in the "Boletín" of all transfers of Titles that take place, and, in general, of all information of a general character that is considered suitable for publication.

Any information concerning the Register of Commercial Varieties that has a bearing on the protection of plant varieties may also be included in the "Boletín."

Any person who wishes to make an observation concerning the information published in the Boletín del Registro de Variedades Protegidas shall do so within a period of two months from its publication.

- (2) The National Institute of Seeds and Nursery Plants shall issue such reports as are requested of it by the Courts of Justice concerning breeders' rights.

VII. INFRINGEMENT AND PENALTIES

Section 18

- (1) For the purposes of Section 7, any person who infringes breeders' rights in any of the following ways shall incur civil liability, and be obliged in all cases to furnish compensation for the damage and loss caused thereby:

- (a) producing for commercial purposes or marketing reproductive material of the protected plant variety, in disregard of the provisions of Section 5(1);
- (b) marketing plants or parts thereof normally marketed for purposes other than propagation, if they are then used as propagating material, in disregard of the provisions of Section 5(1);
- (c) repeatedly using reproductive material of a protected plant variety for the production of propagating material of a new plant variety;
- (d) contracting for the transport of the propagating material of a protected plant variety to a territory outside the scope of application of the Law on the Protection of Plant Varieties without special authorization from the Title holder.

- (2) All those making any other use of the protected plant variety or those who in any other way infringe the breeders' rights granted by the Law on the Protection of Plant Varieties shall be obliged to furnish compensation for the damage and loss caused thereby only when their conduct involves fault or negli-

gence. The existence of fault shall be presumed from the time when the person responsible for such acts has been warned by the holder of the "Plant Variety Title" about the existence of the same and required to cease infringing the said Title.

(3) The compensation for damage and loss in favor of the holder of the "Plant Variety Title" shall include not only the amount of the loss and of the profit which would otherwise have been obtained, but also damages for the loss of the goodwill attaching to the plant variety caused by inadequate use made by the infringer.

(4) The relevant general legislation on limitation of actions shall apply to the civil action for compensation of damage and loss.

(5) In addition to compensation for damage and loss, the injured Title holder shall be entitled to:

- (a) the cessation of the act infringing his right;
- (b) the withdrawal from circulation of all the plant material obtained through illegal acts that is in the possession of any of the persons responsible, and its destruction if this is indispensable;
- (c) reversion to himself, as his own property, of the plant material referred to in the last-mentioned Paragraph, in which case allowance for its value shall be made in calculating the compensation for damage and loss. If the value of the above-mentioned plant material exceeds the compensations to be granted, the injured Title holder shall compensate the infringer for the excess;
- (d) the publication of the judgment, at the expense of the losing party, in the "Boletín" referred to in Section 17 of these Rules (Law No. 12/1975, Section 18).

Section 19

(1) Any willful infringement of the exclusive right given by the "Plant Variety Title" to its holder shall be punished according to the provisions of Section 534 of the Criminal Code.

(2) Criminal proceedings may only be brought by the injured Title holder or his licensee, or his successors in title.

(3) The relevant general legislation shall apply to criminal proceedings and to the civil action resulting from the crime (Law No. 12/1975, Section 19).

Section 20

(1) Acts carried out that are not in compliance with the provisions of the Law on the Protection of Plant Varieties, these Rules and any additional provisions that may be enacted shall be considered administrative offenses and shall be punished according to the following Sections, without prejudice to the competence of the Courts of Justice, as regards the civil or criminal liabilities resulting from these acts.

- (2) Administrative offenses shall be categorized according to the nature of the acts concerned; they may be fraudulent, clandestine or against the rules.
- (3) The following shall be considered fraudulent:
- (a) acts of assignment of plant material which, while purporting to be protected by a "Plant Variety Title," do not correspond to the features recorded in the Register of Protected Plant Varieties;
 - (b) acts of noncompliance, imputable to any of the interested parties, with the conditions included in the license to use a protected plant variety and affecting the intrinsic qualities of the material and the circumstances upon which the decision to issue the "Plant Variety Title" was based.
- (4) Those acts which evade or attempt to evade or make difficult the supervision of the activities governed by the Law on the Protection of Plant Varieties, these Rules and additional provisions shall be considered clandestine.
- (5) Any other offense shall be considered merely against the rules.

Section 21

The laws and rules on the suppression of fraud in respect of agricultural products or of materials necessary for agriculture shall apply as subsidiary legislation (Law No. 12/1975, Section 21).

Section 22

- (1) Fraudulent offenses shall be punished with fines of between 20,000 and 100,000 pesetas; the expenses incurred in the verification of the fraud shall be borne by the offender and, where appropriate, the plant material giving rise to the fine shall be confiscated.
- (2) Clandestine offenses shall be punished with fines of between 10,000 and 50,000 pesetas and by the confiscation of the merchandise.
- (3) Offenses which are merely against the rules shall be punished with fines of between 1,000 and 25,000 pesetas (Law No. 12/1975, Section 22).

Section 23

The determination, within given limits, of the amounts of the fines established in the last-mentioned Section, shall be fixed in each case according to the importance of the offense, the injury caused, the degree of bad faith on the part of the infringer, his behavior and his previous record and, in general, any circumstances which render him the more or the less responsible (Law No. 12/1975, Section 23).

Section 24

(1) In the case of a second offense, the fines shall be 50 percent higher than those applicable under the Law on the Protection of Plant Varieties.

(2) Should the person committing a second offense have committed a clandestine or fraudulent offense, the fines may be raised to three times those applicable, and the suspension of the activity in relation to which the offense arose may be ordered for a period of up to one year.

(3) A person who has, within the preceding five years, been punished for disregarding the provisions of the Law on the Protection of Plant Varieties shall be considered a second offender.

(4) The Ministry of Agriculture may decide, if appropriate, on the publication of sanctions imposed in the Official Journal, for exemplary purposes (Law No. 12/1975, Section 24).

VIII. FEES

Section 25

The fees established by the Law on the Protection of Plant Varieties and subject to the legislation contained in the Law of December 26, 1958, on Fees and Parafiscal Levies, the Consolidated Taxation Law of December 28, 1963, and the additional provisions under those Laws, shall be governed by the provisions of those Laws and of these Rules.

Section 26

For the purposes of the fees established in the aforementioned Laws, the Plant species or groups thereof which are subject to protection shall be divided into the following groups:

- First group: cereals, oil seeds, lucerne, cotton, sugar and fodder beet, vetch, potato, pea, broad bean and French bean;
- Second group: fruit trees, rose, carnation and strawberry;
- Third group: lettuce, tomato, onion, melon, sainfoin, red clover and white clover;
- Fourth group: the other species not included in the above-mentioned groups.

Section 27

(1) The following fees shall be paid for the services listed below, according the types which are also included: [not reproduced here; the tariff of fees is amended occasionally].

(2) The natural persons or legal entities, national or foreign, who receive either from the Public Administration or from the Registry of Protected Plant Varieties any of the services listed in the preceding Subsections, whatever the nature of their request, shall be obliged to pay the fees.

(3) The fees for the processing of applications for "Plant Variety Titles," the claim of the right of priority, changes of denomination, dispatch of copies, certificates and duplicates of any documents, registration of licenses for use, dispatch of copies of Titles and certificates attesting the refusal and reinstatement of Titles shall be payable when the appropriate services are requested.

The fees for the carrying out of the trials that constitute preliminary examination shall be paid on presentation of an account by the National Institute of Seeds and Nursery Plants at the time of the rendering of the services.

The fee for the "Plant Variety Title" shall be payable on the date of grant, and the fee for the maintenance of breeders' rights shall be payable on the day following that on which the period of one year covered by the previous fee expires. The appropriate accounts shall be computed and notified by the National Institute of Seeds and Nursery Plants and paid within the periods laid down by the Collection Statute of November 14, 1968.

When the payment of a fee for the annual maintenance of breeders' rights has not been effected within the periods laid down by the legislation referred to above, the necessary procedures for the revocation of the Title shall be commenced in accordance with the provisions of Section 11(3) of these Rules.

(4) The management, charging and collection of the fees referred to above shall be effected, without prejudice, to the higher authority of the Ministry of Finance, by the National Institute of Seeds and Nursery Plants, to which end it shall be empowered to:

- (a) compute and notify the fees referred to in these Rules, the collection of which shall take the form of immediate payment to the Treasury, according to the instructions of the Ministry of Finance;
- (b) open restricted accounts at a private bank or at savings banks in the manner provided for in Chapter III of the Ministerial Order on Finance of July 23, 1960, subject to the limitations and obligations specified therein, the credit balances of which accounts shall be paid to the General Directorate of the Treasury, in the "Group of Treasury Operations--Deposits--Proceeds from Fees and Parafiscal Levies," Subsidiary Account 21, item 25: "Fees for the Protection of Plant Varieties," for eventual application to the budget of the revenue of the State.

(5) The scales of charges to be made for subscriptions to, insertions in and sale of the Boletín del Registro de Variedades Protegidas, for photocopies, for information and documentation services and publications in general, incumbent on the National Institute of Seeds and Nursery Plants, shall be established in accordance with the provisions of Section 11 of the Law on the Legal Status of Autonomous State Bodies of December 26, 1958.

IX. PROCEDURE AND APPEALS

Section 28

(1) The procedure to be followed for the processing of the dossiers governed by these Rules shall be, in addition to that specifically laid down therein, that established in the Law on Administrative Procedure of July 17, 1958, which shall also regulate the appeals which interested parties may bring against any act or decision pronounced.

(2) It shall be a function of the National Institute of Seeds and Nursery Plants to collect all available evidence and information on dossiers likely to involve a decision imposing a fine and to formulate proposals as to how dossiers should be decided, doing so on its own initiative or pursuant to a request from the interested parties or from the competent authorities (Law No. 12/1975, Section 28(2)).

(3) The decision shall be taken by:

- (a) the Service for Defense against Frauds and for Agricultural Analyses, when the amount of the fine is not over 25,000 pesetas;
- (b) the competent Director General, when the amount of the fine is over 25,000 and does not exceed 50,000 pesetas;
- (c) the Minister for Agriculture, when the amount of the fine is over 50,000 pesetas.

(4) The limitation period for infringement of these Rules shall be five years from when they are committed.

ADDITIONAL PROVISIONS

(1) The amounts of the fines established in absolute quantities in pesetas may be revised by the Government, through the application of coefficients of correction, according to the average price of the objects or products in question.

TRANSITIONAL PROVISIONS

(1) The breeder of a plant variety which is no longer new at the time when protection of a corresponding species is established may, in the following instances and in accordance with the Law on the Protection of Plant Varieties, request the protection of his rights:

- (a) if a patent has been granted for a plant variety in Spain or in any other country with which an international agreement on the protection of breeders' rights has been established;
- (b) if a "Plant Variety Title" or equivalent title has been issued in any country or countries with which Spain has established or establishes an agreement on the protection of breeders' rights;

- (c) if the plant variety has been registered in a list of commercial varieties officially published in Spain.

The application for the protection of breeders' rights in respect of the varieties shall be submitted within a period not exceeding six months in the cases referred to in Paragraphs (a) and (b) of this transitional provision and within a period of 12 months in the case provided for in Paragraph (c) thereof, from the time of promulgation of the detailed provisions on the entry into force of protection for each genus, species or group of species concerned.

(2) The "Plant Variety Title" for varieties referred to in the first Transitional Provision shall be effective as from the date of filing of the application. The period of time elapsed after the filing of an application for a patent, or after the grant of a "Plant Variety Title" or after its registration in the List of Commercial Varieties, shall, where the conditions set forth in the first Transitional Provision have been complied with, be deducted from the period of protection.

For these purposes, the date of recording of a variety in the List of Commercial Varieties shall be the date of publication of the said List or the date on which an official seal has been put on the reproductive material for the said variety for the first time. Where both circumstances coincide, the earlier date shall be considered the date of recording for the purposes of the provisions of the preceding Paragraph of this Transitional Provision.

(3) Plant varieties that were being marketed before the Law on the Protection of Plant Varieties came into force may continue to be freely produced and offered for sale, as long as the breeder does not make use of the right granted to him by the first Transitional Provision.

If the said right is made use of, the breeder or his successor in title shall be obliged to grant licenses for use under reasonable conditions to any natural person or legal entity so requesting and having produced under official control seeds or reproductive material of the varieties concerned. For these purposes only, the National Institute of Seeds and Nursery Plants may, when it considers this appropriate, specify conditions that have to be included in the contract for the license for use.

(4) The National Institute of Seeds and Nursery Plants shall submit to the competent bodies for approval the plans for services that will be made necessary by the implementation of these Rules. The appointment of new staff shall be made in accordance with the provisions of Decree No. 2043/1971, by which the Statute Governing the Staff Employed by Autonomous Bodies was approved.

(5) The Commission of Plant Variety Protection shall be established before any provision on the grant of protection to a genus, species or group of species enters into force.

(6) Until the additional provisions for the application of these Rules to the various species or groups of species enter into force, the system of protection applicable to them shall continue to be that contained in the Law on Industrial Property and the Orders of the Ministry of Agriculture of May 23, 1967, by which Rules were enacted for the application of the provisions in force on fraud to the growing of protected varieties of rose and carnation,

and of June 26, 1973, by which the Provisional Register of Commercial Varieties of Plants was established.

FINAL AND DEROGATIVE PROVISIONS

- (1) These Rules shall be applicable to the entire national territory.
- (2) The Ministry of Agriculture shall be empowered, within the bounds of his competence, to enact additional provisions for the implementation and adaptation of these Rules, as well as detailed provisions on the entry into force of the said Rules, with respect to each genus, species or group of species.
- (3) Any provisions of equal or lesser rank that are contrary to the provisions of these Rules are hereby repealed and, in particular, without prejudice to the application of the sixth Transitional Provision under the conditions specified therein: Section 3(9) of Decree No. 2177/1973 of July 12, 1973, regulating the sanctions for fraud involving agriculture, the Order of the Ministry of Agriculture of May 23, 1957, containing rules for the application of the provisions in force on fraud to the growing of protected varieties of rose and carnation; the Order of the Ministry of Agriculture of July 14, 1959, organizing the classification of fruit trees; the Order of the Ministry of Agriculture of July 26, 1973, establishing the Provisional Register of Commercial Varieties of Plants, but only insofar as they concern the protection of new plant varieties.

ANNEX

List of Classes

Classification of genera and species for the purposes of the provisions of Section 13(2) on the denominations of plant varieties.

- Class 1: Avena, Hordeum, Secale, Triticum
- Class 2: Panicum, Setaria
- Class 3: Sorghum, Zea
- Class 4: Agrostis, Alopecurus, Arrhenatherum, Bromus, Cynosurus, Dactylis, Festuca, Lolium, Phalaris, Phleum, Poa, Trisetum
- Class 5: Brassica oleracea
- Class 6: Brassica napus, B. campestris, B. rapa, B. juncea, B. nigra, Sinapis
- Class 7: Medicago, Ornithopus, Onobrychis, Trifolium
- Class 8: Lupinus albus L., L. angustifolius L., L. luteus L.
- Class 9: Vicia faba L.
- Class 10: Beta vulgaris L. var. alba DC.; Beta vulgaris

- Class 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.
- Class 12: *Lactuca*, *Valerianella*, *Cichorium*
- Class 13: *Cucumis sativus*
- Class 14: *Cucumis melo*, *Cucurbita*
- Class 15: *Anthriscus*, *Petroselinum*
- Class 16: *Daucus*, *Pastinaca*
- Class 17: *Anethum*, *Carum*, *Foeniculum*
- Class 18: *Chamaecyparis*, *Juniperus*, *Thuya*, *Taxus*
- Class 19: *Picea*, *Abies*, *Pseudotsuga*, *Pinus*, *Larix*
- Class 20: *Malus*, *Pyrus*
- Class 21: *Solanum tuberosum* L.
- Class 22: *Nicotiana rustica* L., *N. Tabacum* L.
- Class 23: *Helianthus tuberosus*
- Class 24: *Helianthus annuus*.

Any genus that is not included in this list shall be regarded as constituting a class of its own.

<u>Class 14</u>	Citrullus, Cucumis melo, Cucurbita
<u>Class 15</u>	Anthriscus, Petroselinum
<u>Class 16</u>	Daucus, Pastinaca
<u>Class 17</u>	Anethum, Carum, Foeniculum
<u>Class 18</u>	Bromeliaceae
<u>Class 19</u>	Picea, Abies, Pseudotsuga, Pinus, Larix
<u>Class 20</u>	Calluna, Erica
<u>Class 21</u>	Solanum tuberosum L.
<u>Class 22</u>	Nicotiana rustica L., N. tabacum L.
<u>Class 23</u>	Helianthus tuberosus
<u>Class 24</u>	Helianthus annuus
<u>Class 25</u>	Orchidaceae
<u>Class 26</u>	Epiphyllum, Rhipsalidopsis, Schlumbergera, Zygocactus
<u>Class 27</u>	Proteaceae

CALENDAR

UPOV Meetings in 1992

April 8 and 9	Administrative and Legal Committee
June 2 to 4 (Wageningen, Netherlands)	Technical Working Party on Automation and Computer Programs
June 16 to 19 (Menstrup Kro, Denmark)	Technical Working Party for Agricultural Crops
June 30 to July 3 (Dachwig, Germany)	Technical Working Party for Vegetables
August 24 to September 2 (Nelspruit, South Africa)	Technical Working Party for Fruit Crops
August 27 to September 7 (Stellenbosch, South Africa)	Technical Working Party for Ornamental Plants and Forest Trees
October 21 to 23	Technical Committee
October 26 and 27	Administrative and Legal Committee
October 28	Consultative Committee
October 29	Council
October 30	Meeting with International Organizations
November 17 and 18 (Seoul, Korea)	UPOV Seminar for the Asian and Pacific Region

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. Requests for addition to the mailing list may be placed with:

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