



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

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

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

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

PLANT VARIETY PROTECTION

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

No. 68

June 1992

Geneva

CONTENTS

Page

GAZETTE

Amendment of Legal Provisions

United Kingdom 2

Extension of Protection to Further Genera and Species

Czechoslovakia 2

NEWSLETTER

Member States

Canada: Change of Representatives to the Council 12
Netherlands: Modification of Fees 12
Spain: Modification of Fees 14
Sweden: Modification of Fees 14
United Kingdom: Modification of Fees 15
United States of America: Modification of Fees 17

UPOV

The International Union for the Protection of New Varieties of Plants
in 1991 18
Membership of the Union (as of June 1, 1992) 67

Miscellaneous Information

CIOPORA: International Symposium on the Protection of Plant Breeders'
Rights 69

Legislation

Poland: Seed Industry Law of October 10, 1987 29
Poland: Extract from the Decree of the Minister for Agriculture,
Forestry and Food Economy Concerning the Register of Varieties,
the Roll of Exclusive Rights on Varieties and the Control of Seed
Material of April 14, 1988, as amended on September 25, 1990 59

Case Notes

United Kingdom: Controller's Decision on an Application for a Compulsory
License for the Rose Varieties 'Auslight' and 'Auslian' 70

Calendar 72

GAZETTE

AMENDMENT OF LEGAL PROVISIONS

United Kingdom

By virtue of the Plant Breeders' Rights (Potatoes) (Variation) Scheme 1992 (No. 454 of 1992), the duration of protection in respect of potato varieties was extended from 25 years to 30 years, with effect from April 6, 1992.

EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Czechoslovakia

By virtue of Decree No. 515/1991 of November 15, 1991, of the Federal Ministry of Economy, Amending Decree No. 134/1989 Establishing the List of Economically Important Plant and Animal Species and Genera, protection was extended to the following genera and species, with effect from November 15, 1991 (the Czech and Latin names--except where in square brackets--appear in the Decree, 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>Cešký</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|-----------------------------------|-------------------------|--|-----------------------|
| Amygdalus communis L. [Prunus amygdalus Bartock] | Mandlon [✓] obecná | Almond | Amandier | Mandel |
| Carum carvi L. | Kmín luční [✓] | Caraway | Carvi, Cumin des prés | Kümmel |
| Castanea sativa Mill. | Kaštanovník [✓] jedlý | Chestnut | Châtaignier | Kastanie |
| Cerasus vulgaris (L.) Mill. [Prunus cerasus L.] | Višeň [✓] | Morello, Sour Cherry | Cerisier (Cerises acides: Griottes, Amarelles) | Sauerkirsche |
| Cornus mas L. | Drín obecný [✓] | Cornel, Dogwood | Cornouiller mâle | Kornel- kirsche |
| Coronilla varia L. | Čicorka ^{✓✓} pestrá | Crown Vetch | Coronille variée, Faucille | Bunte Kronwicke |
| Digitalis lanata Ehrh. | Náprstník vlnatý | Grecian Foxglove | Digitale laineuse | Wolliger Fingerhut |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|--|--|--|--|
| <i>Festuca arundinacea</i> Schreb. | Kostrava rákosovitá | Tall Fescue | Fétuque élevée | Rohr- schwingel |
| <i>Lolium multiflorum</i> Lam. x <i>Festuca</i> <i>pratensis</i> Huds. | Jílek mnohokvětý x kostrava luční | Italien Ryegrass x Meadow Fescue | Ray-grass d'Italie x Fétuque des prés | Italienisches Raygras x Wiesen- schwingel |
| <i>Pelargonium</i> zonale hort. | Pelargonie páskatá | Zonal Pelargonium | Géranium, Pelargonium zonale | Zonal- pelargonie |
| <i>Persica vulgaris</i> Mill. var. <i>amyg-</i> <i>daloides</i> | Broskvo- mandloň | - | Amandier- pêcher | - |
| <i>Pharbitis purpurea</i> Roth [<i>Ipomoea</i> <i>purpurea</i> (L.) Roth] | Povíjník nachový | Common Morning-Glory | Ipomée volubilis | Purpurwinde |
| <i>Potentilla</i> L. | Mochna | Cinquefoil | Potentille | Fingerkraut |
| <i>Prunus cerasifera</i> Ehrh. | Myrobalán | Cherry-plum, Myrobalan | Myrobolan | Kirsch- pflaume, Myrobalane |
| <i>Silybum marianum</i> (L.) Gaertn. | Ostropestřec mariánský | Milk Thistle, Saint Mary's Thistle | Chardon-Marie | Mariendistel |
| <i>Solanum melongena</i> L. | Lilek vejcoplodý | Aubergine, Eggplant | Aubergine | Aubergine, Eierfrucht |
| <i>Weigela</i> Thunb. | Waigela | Diervilla | Weigela | Weigelie |

A consolidated list of the taxa covered by variety protection legislation is given below.

List of Taxa covered by Variety Protection Legislation in Czechoslovakia (with effect from November 15, 1991)*

1. List of economically important plant species

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--------------------|--------------|----------------|-----------------|----------------|
| <i>Abies</i> Mill. | Jedle | Fir | Sapin | Tanne |

* In the alphabetical order of the Latin names of the taxa. The Czechoslovak list is arranged according to the groups of plants or animals, without titles or subdivisions. The Latin names in square brackets have been added by the Office of the Union.

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|---|---|---------------------------------------|---|-----------------------------------|
| <i>Agrostis stolonifera</i> L. (incl. <i>A. palustris</i> Huds.) | Psineček [✓] výběžkatý | Creeping Bent | Agrostide blanche, Agrostide stolonifère | Flecht- straussgras |
| <i>Agrostis tenuis</i> Sibth. | Psineček [✓] tenký | Brown Top, Common Bent | Agrostide commune | Rotes Straussgras |
| <i>Allium cepa</i> L. | Cibule | Onion | Oignon | Zwiebel |
| <i>Allium sativum</i> L. | Česnek [✓] | Garlic | Ail | Knoblauch |
| <i>Amygdalus communis</i> L. [<i>Prunus amygdalus</i> Bartock] | Mandloň [✓] obecná | Almond | Amandier | Mandel |
| <i>Anthyllis vulneraria</i> L. | Úročník [✓] bolhoj | Kidney Vetch | Anthyllide vulnéraire, Trèfle jaune des sables | Echter Wundklee, Tannenklee |
| <i>Apium graveolens</i> L. | Celer | Celery, Celeriac | Céleri, Céleri-rave | Sellerie |
| <i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S et K.B. Presl | Ovsík [✓] vyvýšený | Tall Oatgrass, False Oatgrass | Fromental, Avoine élevée | Glatthafer |
| <i>Avena sativa</i> L. | Oves [✓] setý | Oats | Avoine | Hafer |
| <i>Beta vulgaris</i> L. var. <i>altissima</i> Doell | Repa [✓] cukrová | Sugar Beet | Betterave sucrière | Zuckerrübe |
| <i>Beta vulgaris</i> L. var. <i>crassa</i> Mansf. | Repa [✓] krmná | Fodder Beet | Betterave fourragère | Runkelrübe |
| <i>Brassica napus</i> L. | Repka [✓] (brukev repka) | Swede Rape (incl. Oilseed Rape) | Colza | Raps |
| <i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>gongylodes</i> | Brukev | Kohlrabi | Chou-rave | Kohlrabi |
| <i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>medullosa</i> Thell. + var. <i>viridis</i> L. | Kapusta [✓] krmná | Fodder Kale | Chou fourrager | Futterkohl |
| <i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i> L. | Kveták | Cauliflower | Chou-fleur | Blumenkohl |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|----------------------|-------------------------------------|--|------------------------------|
| <i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. | Zelí hlávkové | Cabbage | Chou pommé | Kopfkohl |
| <i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i> L. | Kapusta hlávková | Savoy Cabbage | Chou de Milan | Wirsing |
| <i>Brassica oleracea</i> L. convar. <i>oleracea</i> var. <i>gemmifera</i> DC. | Kapusta růžičková | Brussels Sprouts | Chou de Bruxelles | Rosenkohl |
| <i>Brassica rapa</i> L. var. <i>rapa</i> | Vodnice | Turnip | Navet | Herbstrübe |
| <i>Cannabis sativa</i> L. | Konopí seté | Hemp | Chanvre | Hanf |
| <i>Capsicum annuum</i> L. | Paprika | Sweet Pepper, Capsicum, Chili | Poivron, Piment | Paprika |
| <i>Carum carvi</i> L. | Kmín luční | Caraway | Carvi, Cumin des prés | Kümmel |
| <i>Castanea sativa</i> Mill. | Kaštanovník jedlý | Chestnut | Châtaignier | Kastanie |
| <i>Cerasus avium</i> (L.) Moench [<i>Prunus</i> <i>avium</i> (L.) L.] | Tršeň | Sweet Cherry | Cerisier (Cerises douces: Guignes, Bigarreaux) | Süsskirsche |
| <i>Cerasus vulgaris</i> (L.) Mill. [<i>Prunus</i> <i>cerasus</i> L.] | Višeň | Morello, Sour Cherry | Cerisier (Cerises acides: Griottes, Amarelles) | Sauerkirsche |
| <i>Chrysanthemum</i> spp. | Chrysantéma | Chrysanthemums, Daisies | Chrysanthèmes, Marguerites | Chrysanthemen, Margeriten |
| <i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai | Meloun vodní | Watermelon | Pastèque | Wassermelone |
| <i>Cornus mas</i> L. | Drín obecný | Cornel, Dogwood | Cornouiller mâle | Kornel- kirsche |
| <i>Coronilla varia</i> L. | Čicorka pestrá | Crown Vetch | Coronille variée, Faucille | Bunte Kronwicke |
| <i>Cucumis sativus</i> L. | Okurka | Cucumber, Gherkin | Concombre, Cornichon | Gurke |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|------------------------|--|---|---|
| Cucurbita | Tykev | Pumpkin, Marrow, Courgette, Vegetable Marrow | Courge, Courgette, Pâtisson, Citrouille | Gartenkürbis, Oelkürbis, Zucchini |
| Cynosurus cristatus L. | Pohánka hřebenitá | Crested Dog's-tail | Crételle | Kammgras |
| Dactylis glomerata L. | Srha říznačka | Cocksfoot, Orchard Grass | Dactyle | Knautgras |
| Daucus carota L. | Mrkev | Carrot | Carotte | Möhre |
| Deschampsia cespitosa (L.) Beauv. | Metlice trstnatá | Tufted Hairgrass | Canche flexueuse | Drahtschmiele |
| Dianthus L. | Hvozdík | Carnation, Pink, Sweet William | Oeillet | Nelke |
| Digitalis lanata Ehrh. | Náprstník vlnatý | Grecian Foxglove | Digitale laineuse | Wolliger Fingerhut |
| Festuca arundinacea Schreb. | Kostřava rákosovitá | Tall Fescue | Fétuque élevée | Rohr- schwingel |
| Festuca ovina L. sensu lato (incl. F. tenuifolia Sibth.) | Kostřava ovčí | Hard Fescue, Sheep's Fescue | Fétuque durette, Fétuque ovine, Fétuque des moutons, Poil de chien | Schaf- schwingel |
| Festuca pratensis Huds. | Kostřava luční | Meadow Fescue | Fétuque des prés | Wiesen- schwingel |
| Festuca rubra L. | Kostřava červená | Red Fescue, Creeping Fescue | Fétuque rouge | Rotschwingel |
| Fragaria L. | Jahodník | Strawberry | Fraisier | Erdbeere |
| Freesia Eckl. ex Klatt | Frézie | Freesia | Freesia | Freesie |
| Gladiolus L. | Mečík | Gladiolus | Glaïeul | Gladiole |
| Glycine max (L.) Merrill | Soja | Soya Bean, Soybean | Soja | Sojabohne |
| Helianthus annuus L. | Slunečnice (roční) | Common Sunflower | Tournesol, Soleil | Sonnenblume |
| Hordeum vulgare L. sensu lato | Ječmen setý | Barley | Orge | Gerste |
| Humulus lupulus L. | Chmel | Hop | Houblon | Hopfen |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|---|--|--|---|
| Juglans regia L. | Óřech vlašský | Walnut | Noyer | Walnuss |
| Lactuca sativa L. var. capitata L. | Salat | Head Lettuce | Laitue pommée | Kopfsalat |
| Lens culinaris Medik. | Čocka jedlá (kuchynská) | Lentil | Lentille | Linse |
| Lilium L. | Lilie | Lily | Lis | Lilie |
| Linum usitatissimum L. | Len setý | Flax, Linseed | Lin | Lein |
| Lolium multiflorum Lam. var. wester- woldicum Wittm. | Jílek jednoletý | Westerwold Ryegrass | Ray-grass de Westerwold | Welsches Weidelgras |
| Lolium multiflorum Lam. ssp. italicum (A. Br.) Volkart | Jílek mnohokvětý | Italian Ryegrass | Ray-grass d'Italie | Italie- nisches Raygras |
| Lolium multiflorum Lam. x Festuca arundinacea Schreb. | Jílek mnohokvětý x kostřava rákosovitá | Italian Ryegrass x Tall Fescue | Ray-grass d'Italie x Fétuque élevée | Italienisches Raygras x Rohrschwengel |
| Lolium multiflorum Lam. x Festuca pratensis Huds. | Jílek mnohokvětý x kostřava lucní | Italien Ryegrass x Meadow Fescue | Ray-grass d'Italie x Fétuque des prés | Italienisches Raygras x Wiesen- schwengel |
| Lolium multiflorum Lam. x Lolium perenne L. | Jílek hybridní | Hybrid Ryegrass | Ray-grass hybride | Bastard- Weidelgras, Olden- burgisches Weidelgras |
| Lolium perenne L. | Jílek vytrvalý | Perennial Ryegrass | Ray-grass anglais | Deutsches Weidelgras |
| Lotus corniculatus L. | Štírovník ružkatý | Bird's Foot Trefoil | Lotier corniculé | Hornschoten- klee |
| Lycopersicon lyco- persicum (L.) Karst. ex Farwell | Rajče | Tomato | Tomate | Tomate |
| Malus Mill. | Jablon | Apple | Pommier | Apfel |
| Matricaria recutita L. | Heřmáněk pravý | German Chamo- mile, Wild Chamomile | Matricaire camomille | Echte Kamille |
| Medicago sativa L. | Vojtěška setá | Lucerne, Alfalfa | Luzerne (cultivée) | Blaue Luzerne |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|--------------------------|-------------------------|---------------------------------------|----------------------------|
| Melo sativus Sarg. [Cucumis melo L.] | Meloun cukrový | Melon | Melon | Melone |
| Nicotiana tabacum L. | Tabák | Tobacco (common) | Tabac | Tabak |
| Onobrychis viciifolia Scop. | Vičenec ligrus | Sainfoin | Sainfoin, Esparcette | Esparsette |
| Papaver somniferum L. | Mák setý | Opium Poppy | Oeillette, Pavot | Mohn |
| Pelargonium zonale hort. | Pelargonie páskatá | Zonal Pelargonium | Géranium, Pelargonium zonale | Zonal- pelargonie |
| Persica vulgaris Mill. var. amygdaloides | Broskvo- mandlon | - | Amandier- pêcher | - |
| Phacelia tanacetifolia Benth. | Svazenka vratičolistá | Scorpion Weed | Phacélie à feuilles de tanaïsie | Phazellie |
| Pharbitis purpurea Roth [Ipomoea purpurea (L.) Roth] | Povíjník nachový | Common Morning-Glory | Ipomée volubilis | Purpurwinde |
| Phaseolus vulgaris L. | Fazol obecný | (Field) French Bean | Haricot (de grande culture) | Gartenbohne (Feldanbau) |
| Phaseolus vulgaris L. var. nanus (L.) Aschers. Phaseolus vulgaris L. var. vulgaris | Fazol zahradní | (Garden) French Bean | Haricot (de jardin) | Gartenbohne |
| Phleum nodosum L. | Bojínek cibulkatý | Timothy | Fléole diploïde, Petite fléole | Zwiebel- lieschgras |
| Phleum pratense L. | Bojínek luční | Timothy | Fléole des prés | Wiesen- lieschgras |
| Pisum sativum L. sensu lato | Hrách setý | Pea | Pois | Erbse |
| Pisum sativum L. convar. speciosum (Dierb.) Alef. | Peluška jarní | Field Pea | Pois fourrager | Futtererbse, Peluschke |
| Poa nemoralis L. | Lipnice hajní | Wood Meadow- grass | Pâturin des bois | Hainrispen- gras |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|---------------------------------|---|-----------------------------------|--------------------------------|
| <i>Poa pratensis</i> L. | Lipnice luční | Kentucky Blue-grass, Smooth Stalked Meadowgrass | Pâturin des prés | Wiesen-rispengras |
| <i>Populus</i> L. | Topol | Poplar | Peuplier | Pappel |
| <i>Potentilla</i> L. | Mochna | Cinquefoil | Potentille | Fingerkraut |
| <i>Prunus armeniaca</i> L. | Meruňka obecná | Apricot | Abricotier | Aprikose |
| <i>Prunus cerasifera</i> Ehrh. | Myrobalán | Cherry-plum, Myrobalan | Myrobolan | Kirsch-pflaume, Myrobalane |
| <i>Prunus domestica</i> L. | Švestka | Plum | Prunier | Pflaume |
| <i>Prunus persica</i> (L.) Batsch | Broskvoň | Peach | Pêcher | Pfirsich |
| <i>Pyrus communis</i> L. | Hrušev | Pear | Poirier | Birne |
| <i>Raphanus sativus</i> L. var. major A. Voss [var. niger (Mill.) S. Kerner] | Redkev setá | Black Radish | Radis d'été, d'automne et d'hiver | Rettich |
| <i>Raphanus sativus</i> L. var. radicula Pers. | Redkvicka | Radish | Radis de tous les mois | Radieschen |
| <i>Rhododendron</i> L. | Peníšník | Rhododendron, Azalea, Azaleodendron | Rhododendron, Azalée | Rhododendron, Azalee |
| <i>Ribes nigrum</i> L. | Rybíz černý | Black Currant | Cassis | Schwarze Johannisbeere |
| <i>Ribes sylvestre</i> (Lam.) Mert. et W. Koch & <i>Ribes niveum</i> Lindl. | Rybíz červený a bílý | Red and White Currants | Groseillier à grappes | Rote und weisse Johannisbeeren |
| <i>Ribes grossularia</i> L. <i>Ribes uva-crispa</i> L. | Angrešt | Gooseberry | Groseillier à maquereau | Stachelbeere |
| <i>Rosa</i> L. | Růže | Rose | Rosier | Rose |
| <i>Rubus idaeus</i> L. & hybrides | Maliník | Raspberry | Framboisier | Himbeere |
| <i>Saintpaulia ionantha</i> H. Wendl. | Jonátka africká (Kapská fialka) | African Violet | Saintpaulia | Usambara-veilchen |
| <i>Salix</i> L. | Vrba | Willow | Saule | Weide |
| <i>Secale cereale</i> L. | Žito seté | Rye | Seigle | Roggen |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|---|----------------------------|--|------------------------|---|
| <i>Silybum marianum</i> L. Gaertn. | Ostropestřec mariánský | Milk Thistle, Saint Mary's Thistle | Chardon-Marie | Mariendistel |
| <i>Sinapis alba</i> L. | Hořčice bílá | White Mustard | Moutarde blanche | Weisser Senf |
| <i>Solanum melongena</i> L. | Lilek vejcoplodý | Aubergine, Eggplant | Aubergine | Aubergine, Eierfrucht |
| <i>Solanum tuberosum</i> L. | Bramborý | Potato | Pomme de terre | Kartoffel |
| <i>Sorbus</i> L. | Jeráb obecný | Mountain Ash, Rowan, Whitebeam | Sorbier | Eberesche, Mehlbeere, Elsbeere |
| <i>Spinacia oleracea</i> L. | Špenát | Spinach | Epinard | Spinat |
| <i>Trifolium hybridum</i> L. | Jetel zvrhlý | Alsike Clover | Trèfle hybride | Schwedenklee |
| <i>Trifolium pratense</i> L. | Jetel lucní | Red Clover | Trèfle violet | Rotklee |
| <i>Trifolium repens</i> L. | Jetel plazivý | White Clover | Trèfle blanc | Weissklee |
| <i>Trisetum flavescens</i> (L.) Beauv. | Trojstět žlutavý | Golden Oatgrass | Avoine jaunâtre | Goldhafer |
| x <i>Triticosecale</i> Wittmack | Tritikale ozimé | Triticale | Triticale | Triticale |
| <i>Triticum aestivum</i> L. emend. Fiori et Paol. | Pšenice setá (naduřelá) | Wheat, Soft Wheat, Bread Wheat | Blé tendre, Froment | Weichweizen |
| <i>Triticum durum</i> Desf. | Pšenice tvrdá | Durum Wheat, Macaroni Wheat, Hard Wheat | Blé dur | Hartweizen |
| <i>Tulipa</i> L. | Tulipán | Tulip | Tulipe | Tulpe |
| <i>Ulmus</i> L. | Jilm | Elm | Orme | Ulme |
| <i>Vicia faba</i> L. | Bob obecný (vikev bob) | Broad Bean, Horse Bean, Field Bean, Tick Bean | Fève, Féverole | Ackerbohne, Dicke Bohne (Puffbohne) |
| <i>Vicia pannonica</i> Crantz | Vikev panonská | Hungarian Vetch | Vesce de Pannonie | Ungarische Wicke |
| <i>Vicia sativa</i> L. (incl. <i>Vicia</i> <i>angustifolia</i> Reichard) | Vikev setá | Common Vetch | Vesce commune | Saatwicke |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|---------------|----------------|-----------------|----------------|
| <i>Vicia villosa</i> Roth (incl. <i>Vicia dasycarpa</i> Ten.) | Vikev huňatá | Hairy Vetch | Vesce velue | Zottelwicke |
| <i>Vitis</i> spp. | Vinná réva | Vine | Vigne | Rebe |
| <i>Weigela</i> Thunb. | Waigela | Diervilla | Weigela | Weigeli |
| <i>Zea mays</i> L. | Kukuřice setá | Maize | Maïs | Mais |

2. List of the economically important animal species

| <u>Latine</u> | <u>Cesky</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|---|----------------------|-------------------------|---------------------------|--|
| <i>Alopex lagopus</i> | Pesec | Arctic Fox | Renard polaire | Polarfuchs, Eisfuchs |
| <i>Anas platyrhynchos</i> | Kachna domácí | Duck | Canard | Ente |
| <i>Anser anser</i> | Husa domácí | Goose | Oie | Gans |
| <i>Apis mellifera</i> | Včela medonosná | Honey-bee | Abeille | Biene |
| <i>Bos taurus</i> | Skot (tur) domácí | [Bull, Cow, Calf] | [Taureau, Vache, Veau] | [Stier, Kuh, Kalb] |
| <i>Capra hircus</i> <i>domestica</i> | Koza domácí | Goat | Chèvre | Ziege |
| <i>Cyprinus carpio</i> | Kapr obecný | Carp | Carpe | Karpfen |
| <i>Equus caballus</i> | Kůň domácí | Horse | Cheval | Pferd |
| <i>Gallus gallus</i> | Kur domácí | Cock, Hen | Coq, Poule | Hahn, Huhn |
| <i>Lutreola vison</i> | Norek | Vison, American Mink | Vison | Nerz |
| <i>Meleagris gallopavo</i> | Krocan domácí | Turkey | Dindon | Truthahn, Puter |
| <i>Myocastor coypus</i> | Nutrie | Coypu, Coypou | Ragondin | Koipu, Nutria, Biberratte, Sumpfbiber |
| <i>Oryctolagus</i> <i>cuniculus</i> L. | Králík domácí | Tame Rabbit | Lapin | Kaninchen |
| <i>Ovis aries</i> | Ovce domácí | Sheep | Mouton | Schaf |
| <i>Salmo gairdneri</i> <i>irideus</i> | Pstruh duhový | Rainbow Trout | Truite arc-en-ciel | Regenbogen- forelle |

| <u>Latine</u> | <u>Český</u> | <u>English</u> | <u>Français</u> | <u>Deutsch</u> |
|--|--------------|----------------|------------------|--------------------|
| <i>Sus scrofa ferus</i> (domestica) | Prase domácí | Pig | Porc | Schwein |
| <i>Tinca tinca</i> | Lín obecný | Tench | Tanche | Schlei, Schleie |
| <i>Vulpes vulpes</i> | Liska obecná | Common Fox | Renard commun | Gemeiner Fuchs |

NEWSLETTER

Member States

Canada: Change of Representative to the Council

Mr. R.A. Greene has been appointed Commissioner of Plant Breeders' Rights and representative to the Council. His alternate is Mr. Grant L. Watson.

Netherlands: Modification of Fees

By virtue of Order No. J. 9114989 of December 13, 1991 (Nederlandse Staatscourant No. 249 of December 23, 1991), of the Minister for Agriculture, Nature Management and Fisheries on the Tariff of Fees of the Board for Plant Breeders' Rights, the examination fees were amended with effect from December 24, 1991. The main fees are now as follows (in Dutch Florins):

| <u>Type of Fees</u> | <u>Amount</u> |
|--|---|
| Application fee (to be paid in advance) | 500 |
| Examination fees | |
| - for the first growing period (to be paid at the same time as the application fee) | |
| - for agricultural crops | 1,200 |
| - for vegetables | 2,150 |
| - for ornamentals (including forest trees) | 1,000 |
| - for the second growing period (to be paid on the request of the Board) | The same amount as for the first growing period |
| - for the third growing period, in the case of a variety belonging to the grasses (to be paid on the request of the Board) | 600 |

| <u>Type of fees</u> | <u>Amount</u> |
|---|--|
| - in the case of cooperative examination resulting from an earlier application filed in another UPOV member State (to be paid at the same time as the application fee)* | 500 |
| - in the case of any variety entering into a composite variety, e.g. a multiline | Half of the amount stated above, as applicable |
| Annual maintenance fees | |
| - first annuity | 200 |
| - second annuity | 300 |
| - third annuity | 400 |
| - fourth annuity | 500 |
| - fifth and subsequent annuities | 700 |

* In this case the procedure is as follows:

(i) No examination fees for the second and third growing periods are required by the Board where:

(a) the applicant requests that the examination of the variety be based on a cooperative examination resulting from an earlier application filed in another UPOV member State;

(b) the applicant declares, when the application is filed with the Board or within the time specified by the Board, that the material relating to the earlier application also relates to the application filed with the Board;

(c) the Board receives, when the application is filed with the Board or within the time specified by the Board, a certified copy of the earlier application;

(d) the Board declares that the examination by the foreign authority can replace its own examination.

(ii) Where the Board receives a report resulting from the cooperative examination, a fee amounting to 500 fl. is charged in lieu of the examination fees.

(iii) Where the situation described in (i) above ceases to exist, following withdrawal or rejection of the earlier application, the normal application fees become applicable if and in so far as corresponding growing periods of examination are based on the application filed with the Board, on the understanding that at least the fee of 500 fl. mentioned in (ii) above will be payable.

(iv) Where the application filed with the Board is rejected or withdrawn before the Board has received the report resulting from the cooperative examination, no fee is charged for the examination of the variety and the Board restitutes any amount paid to that effect.

(v) The fees referred to in (ii) and (iii) above are accounted on the fees already paid in connection with the application.

(vi) For varieties entering into composite varieties, e.g. multilines, the fees payable in connection with the examination (home or cooperative) are half of those payable for normal varieties.

Spain: Modification of Fees

By virtue of Article 83(1) of Law No. 31/1991 of December 30, 1991, Concerning the General Budgets (Boletín Oficial del Estado of December 31, 1991), a new tariff of plant variety protection fees was laid down with effect from January 1, 1992. The main fees are now as follows (in pesetas):

| Type of Fee | Group | 1 | 2 | 3 | 4 |
|-------------------------------|-------|--------|--------|--------|--------|
| 1. Application fee | | 12,498 | 12,498 | 12,498 | 12,498 |
| 2. Examination fee (per year) | | 29,164 | 29,164 | 20,831 | 16,665 |
| 3. Grant fee | | 12,498 | 12,498 | 12,498 | 12,498 |
| 4. Maintenance fee | | | | | |
| - first year | | 10,415 | 6,250 | 4,166 | 4,166 |
| - second year | | 14,581 | 10,415 | 8,333 | 6,250 |
| - third year | | 20,831 | 16,665 | 12,498 | 10,415 |
| - fourth year | | 24,996 | 20,831 | 16,665 | 12,498 |
| - fifth and subsequent years | | 29,164 | 24,996 | 20,831 | 16,665 |

Group 1: cereals, oil seeds, lucerne, cotton, sugar and fodder beet, vetch, potato, pea, broad bean and French bean.

Group 2: fruit trees, rose, carnation and strawberry.

Group 3: lettuce, tomato, onion, melon, sainfoin, red and white clover.

Group 4: all other species.

Sweden: Modification of Fees

A new tariff of fees for the examination of distinctness, homogeneity and stability has been introduced by virtue of Regulation SJVFS 1991:43. The current fees (in Swedish Crowns) are now as follows (the administrative fees are based on Regulation SFS 1986:211):

| <u>Type of Fees</u> | <u>Amount</u> |
|--|---------------|
| Administrative Fees | |
| Application fee | |
| (1) where examination is ordered by the National Plant Variety Board | 1,400 |
| (2) where examination is not ordered by the National Plant Variety Board, i.e. examination is in progress or has been performed in another UPOV member State and the results are taken over (the applicant is requested to reimburse the cost of purchase of the examination results). | 2,000 |

| | |
|--|--------|
| Appeal fee | 900 |
| Annual renewal fee | 1,600 |
| (In case of late payment, but only within six months from the due date | 1,900) |
| New entries into the Variety Register (e.g. change of holder, licences) | 130 |

Fees for the Examination of Distinctness, Homogeneity and Stability

| | |
|--------------------|-------|
| Agricultural crops | 6,554 |
| Vegetables | 9,186 |

United Kingdom: Modification of Fees

By virtue of the Plant Breeders' Rights (Fees) (Amendment) Regulations 1992 (No. 438 of 1992), a new tariff of fees came into effect on April 1, 1992. The main fees are now as follows (in Pounds):

1. Fees Payable on an Application for a Grant of Plant Breeders' Rights

| | <u>Pds.</u> |
|----------------------------------|-------------|
| (a) A rose variety | 50 |
| (b) A chrysanthemum variety | 260 |
| (c) Any other decorative variety | 130 |
| (d) Any other variety | 260 |

2. Fees Payable in Respect of Tests or Examination of a Plant Variety Which is the Subject of an Application for a Grant of Plant Breeders' Rights

| | |
|--|-----|
| (a) A cereal (excluding maize) variety (tests in any one year) | 800 |
| (b) A maize variety (tests in any one year) | 500 |
| (c) A potato variety (tests in any one year) | 750 |
| (d) A beetroot, Brussels sprout, cabbage, celery, fenugreek, turnip or fodder variety (tests in any one year) | 700 |
| (e) A herbage variety (tests in any one year) | 500 |
| (f) A field pea, vegetable pea, field bean or broad bean variety (tests in any one year) | 600 |
| (g) An oil and fibre (including oilseed rape) variety (tests in any one year) | 500 |
| (h) A rose variety (tests in any one year) | 90 |
| (i) A year-round perennial chrysanthemum variety (tests in each flowering season) | 200 |
| (j) Any other chrysanthemum variety (tests in any one year) | 200 |

| | <u>Pds.</u> |
|---|-------------|
| (k) A cymbidium variety (each examination) | 250 |
| (l) A fruit variety (tests in any one year) | 200 |
| (m) Any other variety (tests in any one year) | 250 |
| 3. <u>Renewal Fees</u> | |
| (a) A rose variety | 50 |
| (b) A chrysanthemum variety | 315 |
| (c) Any other decorative variety | 165 |
| (d) A vegetable variety (excluding a vegetable pea or broad bean variety) | 160 |
| (e) A fruit variety | 315 |
| (f) Any other variety (including a vegetable pea or broad bean variety) | 420 |
| 4. <u>Fees Payable in Respect of Other Matters</u> | |
| (a) Application for a compulsory licence | 50 |
| (b) Application to extend, limit, vary or revoke a compulsory licence | 50 |
| (c) Making representations in writing to the Controller in connection with any application, or in connection with a proposal to terminate any plant breeders' rights or to revoke or terminate any extension of such rights | 25 |
| (d) Attending to be heard by the Controller or by a person appointed by him for the purpose | 50 |
| (e) Grant of plant breeders' rights in: | |
| (i) a rose variety | 35 |
| (ii) any other decorative variety (excluding chrysanthemum) | 100 |
| (iii) any other variety not mentioned above (including chrysanthemum) | 125 |
| (f) Giving a protective direction | 25 |
| (g) Payment of renewal fee after the expiration of 7 days from the date when it fell due, except in a case where an application has been made for the period for payment to be extended | 25 |
| (h) Application for the approval of a substituted name for a plant variety | 25 |
| (i) Registration of title and amendment of the register of plant varieties on a transfer of plant breeders' rights or a share in such rights | 25 |
| (k) Purchase of a report from a testing authority in another country | 140 |

United States of America: Modification of Fees

A new tariff of fees under the Patent Act has been introduced. In respect of plant patents, the fees have been set as follows, with effect from December 16, 1991 (in US dollars):

| <u>Type of Fee</u> | <u>Large Entity</u> | <u>Small Entity*</u> |
|--------------------|---------------------|----------------------|
| Application fee | 460 | 230 |
| Issue fee | 570 | 285 |

Pursuant to section 404(a) of Public Law 98-622, plant patents have been exempted from maintenance fees with effect from November 8, 1984.

* Small entities comprise:

(i) small business firms, i.e. business concerns with 500 employees or fewer, and which comply with the definition of the Small Business Administration at 13 C.F.R. section 121.3-18;

(ii) independent inventors, i.e. any inventor who:

- (1) has not assigned, granted, conveyed, or licensed, and
- (2) is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not likewise be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a non-profit organization under 37 C.F.R. section 1.9(d) or (e);

(iii) non-profit organizations, i.e.:

- (1) a university or other institution of higher education located in any country;
- (2) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 50(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a));
- (3) any non-profit scientific or educational organization qualified under a non-profit organization statute of a state of the United States of America (35 U.S.C. 201(i));
- (4) any non-profit organization located in a foreign country which would qualify as a non-profit organization under items (2) or (3) above if it were located in the United States of America.

UPOV

**The International Union for the Protection
of New Varieties of Plants in 1991*****COMPOSITION OF THE UNION**

On February 4, 1991, Canada deposited its instrument of ratification of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and October 23, 1978 ("the 1978 Act"). The 1978 Act entered into force for Canada on March 4, 1991.

On November 4, 1991, Czechoslovakia deposited its instrument of ratification of the 1978 Act, which entered into force for that country on December 4, 1991.

Since the latter date, the Union has had the following 21 member States: Australia, Belgium, Canada, Czechoslovakia, Denmark, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Poland, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America. All are party to the 1978 Act with the exception of Belgium and Spain, which are party to the 1961 Act as amended by the Additional Act of 1972.

Under Article 32(3) of the 1978 Act, "Any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act." Two States asked for such advice in 1991:

- (i) Uruguay, by letter dated September 3;
- (ii) Argentina, by letter dated October 18.

The Council considered those requests at its twenty-fifth ordinary session, and in both cases took a favorable decision, after having noted that the text of the 1978 Act would be incorporated in their national legislation prior to the deposit of their instruments of accession.

DIPLOMATIC CONFERENCE ON THE REVISION OF THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

This Conference took place at the headquarters of UPOV in Geneva from March 4 to 19, under the presidency of Mr. W.F.S. Duffhues (Netherlands). All the member States took part; 27 non-member States¹ were represented by

* The names of States given in this article are those that were in use at the time of the event in question.

¹ Argentina, Austria, Bolivia, Brazil, Burundi, Cameroon, Chile, Colombia, Côte d'Ivoire, Czechoslovakia, Ecuador, Finland, Ghana, India, Indonesia, Luxembourg, Morocco, Norway, Republic of Korea, Romania, Soviet Union, Thailand, Turkey, Uganda, Ukrainian SSR, Venezuela, Yugoslavia.

observer delegations and 25 international organizations² had delegated representatives.

On March 19, at the end of its discussions, the Conference adopted a revised Act of the International Convention for the Protection of New Varieties of Plants ("the 1991 Act"), and also the following texts: a Resolution on the establishment of draft standard guidelines on essentially derived varieties, a Recommendation on the extent of the possible exclusion of farm-saved seed from protection and a Common Statement on the territorial application of the 1991 Act of the Convention in respect of Denmark and the Netherlands.

The 1991 Act was signed immediately on adoption by the following ten member States: Belgium, Denmark, France, Germany, Italy, Netherlands, South Africa, Spain, Switzerland, United Kingdom. It was signed later by the following member States: Israel on October 23; the United States of America on October 25; Sweden on December 17; New Zealand on December 19. It remained open for signature by member States until March 31, 1992.³

The 1991 Act will initially enter into force, for the signatory States that have ratified, accepted or approved it and for States and intergovernmental organizations that have acceded to it, one month after the following two conditions have been met: the total number of instruments of ratification, acceptance, approval or accession deposited by States must be at least five; the number of such instruments deposited by States party to a previous Act must be at least three. Its entry into force implies that it will no longer be possible for States not members of the Union to accede to the 1978 Act after the following dates: in the case of a State which, according to the practice of the General Assembly of the United Nations, is regarded as a developing country, after December 31, 1995, or after the date of entry into force if the latter date is later than the former; in the case of any other State, after December 31, 1993, or after the date of entry into force if the latter date is later than the former.

² World Intellectual Property Organization (WIPO), Food and Agriculture Organisation of the United Nations (FAO), General Agreement on Tariffs and Trade (GATT), European Communities (EC), Organisation for Economic Co-operation and Development (OECD), European Patent Organisation (EPO), International Board for Plant Genetic Resources (IBPGR), International Seed Testing Association (ISTA), International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), European Federation of Agricultural and Rural Contractors (CEETTAR), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), General Committee for Agricultural Co-operation in the EC (COGECA), Association of Plant Breeders of the European Economic Community (COMASSO), Committee of Agricultural Organisations in the EC (COPA), Seed Committee of the Common Market (COSEMCO), European Federation of Pharmaceutical Industries' Associations (EFPIA), International Federation of Industrial Property Attorneys (FICPI), International Federation of the Seed Trade (FIS), International Group of National Associations of Manufacturers of Agrochemical Products (GIFAP), International Chamber of Commerce (ICC), International Federation of Agricultural Producers (IFAP), Union of Industrial and Employers' Confederations of Europe (UNICE), Union of European Practitioners in Industrial Property (UPEPI).

³ Canada and Ireland signed the 1991 Act on March 9, 1992, and February 21, 1992, respectively.

The Final Act of the Conference was signed by the following 24 States: Argentina, Australia, Belgium, Canada, Colombia, Czechoslovakia, Denmark, Ecuador, France, Germany, Ireland, Italy, Japan, Morocco, Netherlands, New Zealand, Poland, Romania, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America.

SESSIONS OF THE COUNCIL AND OF SUBSIDIARY BODIES

In 1991 the various statutory bodies of UPOV held the meetings mentioned below. They took place in Geneva unless otherwise stated.

Council

The Council held its twenty-fifth ordinary session on October 24 and 25 under the chairmanship of Mr. W.F.S. Duffhues (Netherlands). The session was attended by observers from 15 non-member States,⁴ three intergovernmental organizations⁵ and five international non-governmental organizations.⁶

At the session the Council noted on the one hand that, at the twenty-second series of meetings of the Governing Bodies of WIPO and the Unions administered by WIPO, which had been held from September 23 to October 2, 1991, the General Assembly of WIPO had unanimously and by acclamation reappointed Dr. Arpad Bogsch to the post of Director General of WIPO for a further term of four years (expiring on December 1, 1995), and on the other hand that, pursuant to Article 4(4) of the Agreement between UPOV and WIPO of November 26, 1982, the term of office of Dr. Bogsch as Secretary-General of UPOV would be extended for a period of the same duration.

It also took the following main decisions:

(i) On the recommendation of the Consultative Committee, which had met the previous day, and on a proposal by the Secretary-General, it unanimously and by acclamation decided to prolong the appointment of Mr. Barry Greengrass in the post of Vice Secretary-General of UPOV until December 1, 1995, the date on which the term of office of the Secretary-General was to expire.

(ii) It ruled favorably on the conformity of the legislation of Argentina with the 1978 Act.

(iii) It ruled favorably on the conformity of the legislation of Uruguay with the 1978 Act.

⁴ Argentina, Chile, China, Colombia, Côte d'Ivoire, Czechoslovakia, Egypt, Finland, India, Indonesia, Morocco, Norway, Romania, Ukrainian SSR, Uruguay.

⁵ European Communities (EC), Organisation for Economic Co-operation and Development (OECD), International Board for Plant Genetic Resources (IBPGR).

⁶ International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), Association of Plant Breeders of the European Economic Community (COMASSO), International Federation of the Seed Trade (FIS).

(iv) It approved the report of the Secretary-General on the activities of the Union in 1990 and the first nine months of 1991.

(v) It approved the program and budget of the Union for the 1992-1993 biennium.

(vi) It approved the progress reports on the work of its various subsidiary bodies and either drew up or approved their work plans for the coming year; in that connection it:

(a) decided that a feasibility study on the creation of a central computer data base should be undertaken in the course of the 1992-1993 biennium;

(b) recommended to member States that they arrange between themselves for the exchange of their official plant variety protection bulletins in (electronic) machine-readable form.

(vii) It unanimously elected Mr. Ricardo López de Haro y Wood (Spain) President of the Council for a three-year term, which will expire at the end of its twenty-eighth ordinary session in 1994, and Mr. Frank W. Whitmore (New Zealand) Vice-President for a term of the same duration.

Consultative Committee

The Consultative Committee held its forty-third session on March 18 and its forty-fourth session on October 23 under the chairmanship of Mr. W.F.S. Duffhues (Netherlands).

At both sessions it concentrated on the policy of UPOV in its relations with developing countries, and decided to broaden the list of organizations to be invited to ordinary sessions of the Council. At its session on October 23, it also approved the reclassification of the post of Senior Counsellor, occupied by Mr. André Heitz, to Grade D.1, and appointed Mr. Heitz Director-Counsellor in that post, granted Mr. Max-Heinrich Thiele-Wittig a personal promotion to Grade D.1 and prepared the session of the Council.

Administrative and Legal Committee

The Administrative and Legal Committee held its twenty-ninth session on October 21 and 22 under the chairmanship of Mr. J.-F. Prevel (France). The session was attended by observers from six non-member States⁷ and from the European Communities.

Acting on the Resolution adopted by the Diplomatic Conference (see above), it embarked on a discussion of the question of draft guidelines on essentially derived varieties. It noted that one international professional organization had started to work on the substance of the question, and considered it desirable that its own discussions benefit from the reflections of professional bodies. In response to discussions at the Conference, it also considered the matter of distinctness examination under Article 7 of the 1991 Act, and confirmed that the Article did not entail any change in examination procedures. Its discussions on interactive data access, based on those of the Technical Committee, resulted in the Council decisions mentioned above.

⁷ Argentina, Czechoslovakia, Finland, Kenya, Turkey, Uruguay.

Technical Committee

The Technical Committee held its twenty-seventh session from October 16 to 18 under the chairmanship of Mr. G. Fuchs (Germany). Observers from the European Communities took part in the session.

The Technical Committee adopted Test Guidelines for the following seven taxa on the basis of preparatory work done by the Technical Working Parties: Blueberry; Hydrangea; Jostaberry; Lily (revised version); Lingonberry; Parsley; Pot Azalea.

The Committee considered progress reports on their work submitted by the Technical Working Parties, and broadly defined the future work of those Working Parties. It also considered questions raised by the Working Parties in the light of experience gained by member States in the conduct of distinctness, uniformity and stability tests on new plant varieties.

The Committee further discussed interactive data access (for the outcome, see above). It also decided to complete Class 5 of the List of Classes for Variety Denomination Purposes annexed to the UPOV Recommendations on Variety Denominations (document INF/l2); this Class will in future include Brassica oleracea, B. chinensis and B. pekinensis.

Technical Working Parties

The Technical Working Parties each held one session in 1991, away from Geneva, as follows:

(i) The Technical Working Party for Agricultural Crops (TWA) held its twentieth session in Beltsville (Maryland, United States of America) from May 13 to 17, under the chairmanship of Mr. M.S. Camlin (United Kingdom).

(ii) The Technical Working Party on Automation and Computer Programs (TWC) held its ninth session in La Minière, Guyancourt (France) from May 29 to 31, under the chairmanship of Mr. K. Kristensen (Denmark).

(iii) The Technical Working Party for Vegetables (TWV) held its twenty-fourth session in Kecskemét (Hungary) from June 4 to 7, under the chairmanship of Mr. N.P.A. van Marrewijk (Netherlands).

(iv) The Technical Working Party for Fruit Crops (TWF) held its twenty-second session in Bordeaux (France) from June 11 to 14, under the chairmanship of Mr. B. Spellerberg (Germany).

(v) The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its twenty-fourth session in Cambridge (United Kingdom) from June 24 to 28, under the chairmanship of Mrs. E. Buitendag (South Africa).

The basic task of four of these Working Parties is to draw up Test Guidelines. In addition to drafts submitted to the Technical Committee for adoption, they drew up others for the following taxa which are to be submitted to the professional organizations for comment: Aster (TWO) and Cabbage (TWV).

The Technical Working Party on Automation and Computer Programs among other things adapted for PC use the software used for Combined Over-Years Distinctness and Uniformity Analysis (COYD and COYU).

SEMINARS

Two Regional Seminars on the Nature of and Rationale for the Protection of Plant Varieties took place in 1991.

The first was held in Tsukuba (Japan) from November 12 to 15 for the benefit of the following States of the Asia and Pacific region: China, Indonesia, Malaysia, Philippines, Republic of Korea, Singapore, Thailand. It was organized by UPOV in cooperation with the Japanese Ministry of Agriculture, Forestry and Fisheries. Some 40 persons took part.

The Seminar covered the following main subjects: legal aspects of plant variety protection; practical operation of plant variety protection offices; the role of public research in Japan; implications of plant variety protection for the plant variety and seed industry. It enabled the representatives of the States invited to describe the position regarding their industry and the legislative and regulatory provisions on the subject. Two days were devoted to visits to public and private research stations and plant breeding centers.

The second Seminar was held in Buenos Aires (Argentina) on November 26 and 27 for the benefit of States of Latin America. It was organized by UPOV in cooperation with the Ministry of Agriculture, Fishery and Food of Spain and the Department of Agriculture, Livestock and Fishery of Argentina. Some 140 persons took part.

This Seminar dealt with the following main subjects: history of the UPOV Convention and rationale for plant breeders' rights; the general provisions of the Convention; the variety concept, the distinctness, uniformity and stability criteria and the role of UPOV in variety examination; the interface between plant breeders' rights and other forms of intellectual property protection, notably patents; experience gained by a number of countries in the protection of plant varieties, from the standpoint of the operators of the system and breeders; plant genetic resources and plant variety protection.

Two national seminars were organized in conjunction with the latter Seminar with the cooperation of government agencies in the host country and for the benefit of interested government bodies and also the professional groups concerned; these took place in:

- (i) Mexico City on November 18 and 19;
- (ii) Santa Fé de Bogotá (Colombia) on November 21.

At both Seminars lectures were given on the following subjects: the general provisions of the Convention; the variety concept, the distinctness, uniformity and stability criteria and the role of UPOV in variety examination; the interface between plant breeders' rights and other forms of intellectual property protection, notably patents.

RELATIONS WITH STATES AND ORGANIZATIONS

On January 10, the Vice Secretary-General received a visit from Mr. J.K. Barton of Stanford Law School (United States of America), a member of a policy review group of the Consultative Group on International Agricultural Research (CGIAR); Mr. Barton provided information on the subject of a fundamental review that was being made of the policies of international agricultural research centers in relation to plant variety protection and intellectual property protection in general.

On January 30, the Secretary-General received a visit from the Minister for Foreign Affairs of Colombia and provided him with relevant documents on plant variety protection.

On February 12, the Vice Secretary-General received a visit from a member of the Permanent Mission of the Ukrainian SSR in Geneva and gave him information on the subject of plant variety protection law and the conditions governing accession to the UPOV Convention.

On February 25, the Vice Secretary-General took part, as an observer, in the tenth meeting of the Ad Hoc Working Party on Harmonization (Biotechnology) of the European Patent Office in Munich (Germany), which discussed the proposals for the revision of the UPOV Convention.

On March 11, the Vice Secretary-General received a visit from a representative of the Permanent Mission of Colombia in Geneva and from the Secretary General of the Colombian Institute of Agriculture. The Colombian Government's interest in plant variety protection and in the UPOV Convention was discussed.

On the same day, the Vice Secretary-General received a visit from the Delegation of the Ukrainian SSR to the Diplomatic Conference. The Delegation announced interest of Ukraine in plant variety protection and its intention to legislate on the subject and become a member of UPOV.

On March 12, the Vice Secretary-General received a visit from Mr. Olli Rekola, a Director at the Ministry of Agriculture and Forestry of Finland, who gave an account of the current position regarding the draft national law on plant variety protection and Finland's accession to the UPOV Convention.

On April 8, the Permanent Representative of Argentina to the United Nations Office and Other International Organizations in Geneva paid a visit to the Secretary-General to sign the Final Act adopted by the Diplomatic Conference.

From April 15 to 17, the Vice Secretary-General took part in a symposium organized in Helsinki by the Finnish Group of AIPPI, entitled "Frontiers of Patent Law." He gave a talk on protection under the UPOV Convention, placing special emphasis on the provisions of the 1991 Act.

From April 15 to 19, an official of the Union took part as an observer in the fourth session of the Commission on Plant Genetic Resources of the FAO, which was held in Rome (Italy).

On April 18, the Vice Secretary-General took part in the Sixth Biennial Conference on Plant Variety Protection Law organized by the Intellectual Property Law Unit of Queen Mary and Westfield College in the University of London, which was held in Cambridge (United Kingdom). He spoke on the 1991 Act.

From April 21 to 23, an official of the Union attended the Congress of the Seed Committee of the Common Market (COSEMCO), which took place in Edinburgh (United Kingdom).

From April 23 to 25, the Vice Secretary-General took part in a meeting of an Intellectual Property Rights Working Group held in Rome (Italy) and organized as part of the Keystone International Dialogue Series on Plant Genetic Resources.

On May 3, the Office of the Union conveyed to the Argentine Government its comments on the preliminary draft of a new decree intended to bring Argentine plant variety protection law into line with the UPOV Convention.

On May 7, the Secretary-General travelled to Seoul (Republic of Korea), where he discussed with the Minister of Agriculture the question of plant variety protection and that country's interest in UPOV membership.

From May 13 to 15, an official of the Union took part in the Annual Meeting, held in Paris (France), of Representatives of Designated Authorities under the OECD Schemes for the Certification of Seed Moving in International Trade, where he gave a brief presentation on the revision of the UPOV Convention.

Between May 13 and 17, during the period of the session of the Technical Working Party for Agricultural Crops held in Beltsville (Maryland, United States of America), in which he took part, the Vice Secretary-General visited the headquarters of the United States Patent and Trademark Office and the Department of Agriculture. He also visited the headquarters of the World Bank and the Consultative Group on International Agricultural Research in Washington; in the course of the latter visit he had a conversation with the Executive Secretary.

On May 15, in the course of a visit to Romania, the Secretary-General met the Vice Prime Minister, who announced the intention of his country's Government to accede to the UPOV Convention.

From May 22 to 31, the Vice Secretary-General took part in the FIS and ASSINSEL World Congresses in Tokyo (Japan), in the course of which he met officials of the Agricultural Production Bureau of the Japanese Ministry of Agriculture, Forestry and Fisheries.

From May 27 to June 2, an official of the Union was in Santa Fé de Bogotá (Colombia), where he took part in the National Seed Seminar, part of which was concerned with plant variety protection systems; he gave a talk on some features of the plant variety protection systems under the UPOV Convention. He also made a number of visits to governmental authorities.

From June 1 to 4, the Vice Secretary-General took part in a session of the Keystone International Dialogue Series on Plant Genetic Resources, held in Oslo (Norway).

On June 6, a study team from the Japan Patent Association visited the headquarters of WIPO; in the course of this visit an official of the Union gave a presentation on the revision of the UPOV Convention, and the Vice Secretary-General answered questions.

On June 11, the Assistant Secretary for Policy and Legislation at the Department of Science and Technology of the Philippines visited the Office of the Union and was given information on UPOV and on the Seminar that was to take place in Tsukuba (Japan) in November.

On June 17, the Regional Seed Program Manager for the FAO Program (DANIDA Program) for improved seed production in Asia visited the Office of the Union to discuss the possibility of the latter's assistance or participation in future training programs which might include one or more sessions devoted to plant variety protection.

On June 20 and 21, the Vice Secretary-General and an official of the Union were guests at a reception in Paris (France) to honor Mr. Michel Simon, a past Secretary General of the Committee for the Protection of New Plant Varieties (CPOV), on the occasion of his retirement, and met members of the commission of the French Group of AIPPI that was studying AIPPI Question No. 93 concerning the protection of plant varieties.

From June 22 to 27, an official of the Union took part in the third session of the ad hoc Working Group of Legal and Technical Experts on Biological Diversity, organized by the United Nations Environment Programme and held in Madrid (Spain).

From July 2 to 4, the Vice Secretary-General took part, in Rio de Janeiro (Brazil), in an International Workshop on "Intellectual Property and Biotechnology--a Tool for Continental Integration in the Global Scene," organized by the Brazilian Association of Biotechnology Enterprises, the Brazilian Society for Biotechnology and the Latin American Federation of Associations of Biotechnology Enterprises. The Workshop concluded that "plant varieties should be protected by plant breeders' rights in a system based on the UPOV Convention."

On that occasion the Vice Secretary-General also paid a visit to the President of the National Institute of Industrial Property (INPI), where he learned that the Brazilian Government had set up an interministerial commission to make recommendations on plant variety protection.

On July 8 and 9, the Vice Secretary-General visited a number of Government offices in Brasilia, including the Ministry of Foreign Affairs, the Ministry of Agriculture, the Brazilian National Agricultural Research Organization (EMBRAPA) and the National Center for Genetic Resources (CENARGEN); he gave a talk on the UPOV Convention to officials of the Ministry of Agriculture, EMBRAPA and CENARGEN.

From July 10 to 12, the Vice Secretary-General was in Santa Fé de Bogotá (Colombia), where he met the Acting Minister of Agriculture, the Vice-Minister for Foreign Affairs and a number of senior officials, and also representatives of professional groups concerned with plant variety protection. All departments of the Colombian Government expressed support for the introduction of plant variety protection.

On July 15 and 16, the Vice Secretary-General was in Mexico City, where he met the Secretary (Minister) for Agriculture and Water Resources and the Director General of Technology Development at the Ministry of Industry and Overseas Trade (which is responsible for industrial property matters). Mexico recently enacted amended patent legislation which extends patent protection to plant varieties. Discussions concerned the possible adoption of plant variety protection legislation consistent with the UPOV Convention.

On July 16, the Office of the Union received a communication from the Director of the National Seed Registration Department of the Food and Agriculture Division of Pakistan in Rawalpindi, with which a draft law for the protection of new plant varieties was enclosed. The Office of the Union conveyed outline comments on the draft to the Government of Pakistan.

On July 25, Professor Decio Zylbersztajn of the University of Sao Paulo (Brazil) visited the Office of the Union. He had been funded by the Brazilian Government to study the impact of plant variety protection outside Brazil.

On July 30, the Office of the Union received a draft law on plant variety protection from Morocco, and a request from the Government of that country for a UPOV mission to Morocco for consultations concerning the draft.

On July 31, the Office of the Union received a draft law on plant variety protection from Bulgaria for comment.

On August 23, an official of the Union gave a talk on the UPOV system of plant variety protection to trainee patent agents in Zurich (Switzerland).

On August 26, an official of the Union took part in a meeting of the Forest Seed Group of the International Federation of the Seed Trade (FIS) in Yverdon (Switzerland) and gave an account of the result of the Diplomatic Conference.

During June, July and August, the Office of the Union and the Government of Uruguay exchanged correspondence concerning proposed changes in its national legislation to bring it into line with the 1978 Act of the UPOV Convention.

On September 3, the Secretary-General received from the Government of Uruguay a request under Article 32(3) of the 1978 Act (see above).

On September 16, the Office of the Union received a visit from a consultant of the Council of Agriculture Ministers of Countries of the Southern Cone of Latin America (CONASUR), which is currently working on a draft agreement on the protection of plant varieties between the participating countries (Argentina, Brazil, Chile, Paraguay, Uruguay).

On September 17 and 18, the Vice Secretary-General took part in a conference in York (United Kingdom) on "New Technology for Cropping Systems," organized by the Association of Applied Biologists, and gave a lecture.

On September 18 an official of the Union took part in the General Assembly of SEPROMA, the French association of maize seed producing firms, in Angers (France).

On October 4, the Vice Secretary-General received a visit from the Director of the Inventions Institute of Romania and from the head of the International Cooperation Department of the same Institute, and discussed with them the new patent law of Romania, which provides for the patentability of plant varieties on the basis of special criteria.

On October 8, the Deputy Permanent Representative of Czechoslovakia to the United Nations Office and Other International Organizations in Geneva paid a visit to the Secretary-General in order to deposit Czechoslovakia's instrument of accession to the 1978 Act of the Convention. The deposit was subsequently put in order on November 4 and became effective on that date.

On October 18, the Permanent Mission of Argentina sent the Secretary-General a request under Article 32(3) of the 1978 Act (see above).

The October sessions of the Council and of its subsidiary bodies were used by the Delegations of Colombia, Finland, Romania and Ukraine to discuss their plans for the protection of plant varieties with the Office of the Union.

On October 23, Mr. Menachem Zur, Chairman of the Plant Breeders' Rights Council of Israel and Israel's representative on the Council, signed the 1991 Act on behalf of his country.

On October 25, Mr. H. Dieter Hoinkes, Senior Advisor to the U.S. Patent and Trademark Office and representative of the United States of America on the Council, signed the 1991 Act on behalf of his country.

Also on October 25, Mr. K.O. Öster, Permanent Under-Secretary at the Ministry of Agriculture of Sweden and representative of Sweden on the Council, signed the Final Act of the Diplomatic Conference on behalf of his country.

On November 11, the Office of the Union received a visit from Mr. Masahiro Mishima, Project Head, Institute of Intellectual Property of Japan, and from Mr. Makoto Saito, Professor of Administrative Law and Patent Law at Tsukuba University, and discussed with them matters relating to intellectual property law as applied to live material.

On the occasion of the Seminars reported on in the previous part, officials of the Union and lecturers made available to UPOV by member States had talks with governmental circles and professional associations in Argentina, Colombia, Japan and Mexico.

On November 28, the above persons paid a visit, in Buenos Aires (Argentina), to the Secretariat of the Inter-American Institute of Agricultural Cooperation (IICA), which has acted in 1991 as secretariat of CONASUR for the purposes of the regional agreement on the protection of plant varieties (see above).

On November 29, the Vice Secretary-General travelled to Chile, where he met the Under-Secretary for Agriculture and a number of senior civil servants.

On November 26 and 27, the Office of the Union received a visit from Mrs. Amelia C. Ancog, Assistant Secretary, Department of Science and Technology of the Philippines, and provided her with documents on plant variety protection.

From November 25 to December 4, an official of the Union took part as an observer in the fifth negotiating session/third session of the International Negotiating Committee on Biological Diversity at the Palais des Nations in Geneva.

On December 17, the Permanent Representative of Sweden to the United Nations Office and Other International Organizations in Geneva paid a visit to the Secretary-General in order to sign the 1991 Act.

On December 19, the Permanent Representative of New Zealand to the United Nations Office and Other International Organizations in Geneva paid a visit to the Secretary-General in order to sign the 1991 Act.

PUBLICATIONS

The Office of the Union published the following:

- (i) the 1991 Act in English, French and German;
- (ii) seven issues of "Plant Variety Protection" and an index to issues 1 to 65;
- (iii) the report on the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention which took place in Budapest (Hungary) from September 19 to 21, 1990;
- (iv) two supplements to the Collection of Important Documents;
- (v) three supplements to the Collection of Laws and Treaties.

The Office of the Union also put in hand the publication of official texts of the 1991 Act in Arabic, Italian, Portuguese, Russian and Spanish.

P O L A N D

SEED INDUSTRY LAW*

of October 10, 1987**

With the aim of satisfying the needs of the national economy in the field of biological means of production and of making available to all growers quality seeds of valuable varieties of cultivated plants, the following Law has been enacted:

CHAPTER I

GENERAL PROVISIONS

Article 1

This Law regulates the legal situation in respect of:

- (1) the breeding and assessment of varieties of cultivated plants;
- (2) the rights and obligations of breeders of varieties of cultivated plants and the rights of creators of original varieties and of maintainers of varieties;
- (3) the production, utilization, marketing, testing and control of seed material.

Article 2

1. For the purposes of this Law:

- (1) "Variety of cultivated plant" (hereinafter referred to as "variety") shall mean a population of plants suitable for cultivation and characterized by its homogeneity and stability;
- (2) "Hybrid" shall mean a variety produced by the repeated crossing of its primary components, in accordance with its formula;
- (3) "Formula of a hybrid" shall mean an expression in the form of words or of symbols designating the primary components of the hybrid and describing the manner of association and the sequence of crossing for the production of the hybrid;
- (4) "Primary component of a hybrid" shall mean a variety, a strain, a line or a clone of a cultivated plant used in the first stage of production of the hybrid;

* Polish Title: Ustawa z dnia 10 października 1987 r. o nasiennictwie

** Source: Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej Nr. 31, Warszawa, 13 października 1987 (Legislatory Journal of the Polish People's Republic, No. 31, Warsaw, October 13, 1987)

(5) "Homogeneous variety" shall mean a variety which, taking into account the particular features of its way of multiplication, satisfies the requirements concerning the variation of characteristics among individual plants;

(6) "Stable variety" shall mean a variety of which the essential characteristics remain unchanged after successive multiplication or at the end of each cycle of multiplication;

(7) "Known variety" shall mean a variety:

- (a) which is currently cultivated,
- (b) which, in Poland, has been entered or is the subject of an application for entry into the Register of Varieties of Cultivated Plants or into the Roll of Exclusive Rights in Varieties,
- (c) which has been the subject, abroad, of an entry or of an application for entry into an official list of varieties,
- (d) which appears in a collection of varieties commonly known in Poland or abroad or
- (e) which is described in a readily available publication;

(8) "Distinct variety" shall mean a variety which is fundamentally distinguishable from all other known varieties by at least one characteristic important for the distinction of the variety;

(9) "New variety" shall mean a variety of which the seed material, at the date of the application for an exclusive right on the variety, has not been offered for sale or marketed with the consent of the breeder or of his successor in title:

- (a) for more than one year in Poland,
- (b) for more than six years abroad in the case of vines, trees and their rootstocks, or for more than four years in the case of other cultivated plants.

(10) "Economic value of a variety" shall mean the advantage which a variety brings or may bring to the national economy, taking into account revenue, costs and risks under different and variable conditions of cultivation, as well as requirements concerning the production, processing, marketing and utilization of the products derived from the variety;

(11) "Plant breeding" shall mean the branch of the seed industry dealing with varieties as a biological means of production; it consists of:

- (a) creative breeding, of which the objective is to produce new varieties and
- (b) maintenance breeding, of which the objective is to maintain the identity, homogeneity and stability of the varieties created;

(12) "Breeder of a variety" (hereinafter referred to as the "breeder") shall mean the natural or legal person who is the owner of plant breeding material and of documents concerning the breeding of the variety and who carries out the said breeding;

(13) "Creator of an original variety" (hereinafter referred to as the "creator") shall mean the natural person who, by his creative activity, has created an original variety and has assessed its economic value: in the case of a hybrid, it is the person:

- (a) who has worked out its formula or
- (b) who, by his creative activity, has created one or more of its primary components;

(14) "Maintainer" shall mean the natural person who carries out independently or manages work on the maintenance breeding of a variety: in the case of a hybrid, it is the person who carries out this work in relation to a primary component of the hybrid;

(15) "Seed material" shall mean plants or parts of plants intended for sowing, planting, grafting or budding;

(16) "Nursery material" shall mean seed material of trees, shrubs and perennials;

(17) "Certified seed material" shall mean seed material whose varietal identity is documented, which is produced in accordance with the statutory provisions on production and which satisfies the quality standards and requirements;

(18) "Conditionally certified seed material" shall mean certified seed material of a variety submitted for listing, but not yet entered into the Register;

(19) "Tested seed material" shall mean seed material which satisfies the quality standards and requirements;

(20) "Trade in seed material" shall mean the purchase and brokerage of seed material for the purposes of resale or sale of purchased seed material.

2. Varieties shall be classified according to the following categories:

(1) Domestic varieties:

(a) original variety: a variety created and maintained in Poland, or partly abroad, and characterized by distinctness, homogeneity and stability;

(b) selected variety: a variety created in Poland or abroad, maintained in Poland and characterized by its homogeneity and stability as well as by the identity of its botanical characteristics with those of the initial variety;

(c) local variety: a variety created in Poland without the intervention of a creator, as a result of the long-term action of local natural and agricultural factors, and characterized by its distinctness, homogeneity and stability;

(2) Foreign varieties:

(a) original variety: a variety created and maintained abroad and characterized by its distinctness, homogeneity and stability;

(b) selected variety: a variety created and maintained abroad and characterized by its homogeneity and stability as well as by the identity of its botanical characteristics with those of the initial variety;

(c) local variety: a variety created abroad without the intervention of a creator, as a result of the long-term action of local natural and agricultural factors, and characterized by its distinctness, homogeneity and stability.

3. The provisions of this Law concerning:

(1) the creator,

(2) the natural person who assisted in the creation of a variety,

(3) the maintainer of a variety,

(4) the natural person who assists in the maintenance breeding of a variety, shall apply mutatis mutandis to two or more natural persons.

4. Unless otherwise provided in this Law, the Code of Administrative Procedure shall govern the procedure applicable to matters dealt with by this Law.

CHAPTER II

ENTRY OF VARIETIES INTO THE REGISTER

Article 3

1. A Register of Varieties is hereby established (hereinafter referred to as the "Register").

2. The Register shall be the official list of varieties of which the seed material is approved for marketing.

3. The following shall be entered into the Register:

(1) the original, selected and local varieties of plants whose cultivation is important for the national economy;

(2) the primary components of a hybrid already entered into the Register, provided that they have not already been entered as varieties or primary components of another hybrid.

4. Domestic varieties intended exclusively for cultivation abroad may also be entered into the Register.

Article 4

The conditions for entering a variety into the Register shall be as follows:

1. The variety must have an economic value appropriate to the needs of the national economy.

2. The maintenance breeding of an original or selected variety must ensure a supply of seed material to satisfy economic needs.

3. The breeder of the variety must keep a sufficient quantity of seed material for testing and for the multiplication of the variety.

4. The variety must be given a denomination.

Article 5

1. The denomination of the variety must have characteristics which distinguish it from the denomination of all other varieties belonging to the same or a related cultivated plant entered into the Register or protected in Poland or

in any other State party to an international agreement to which the Polish People's Republic is party.

2. The denomination of the variety must not be liable to mislead as to the characteristics of the variety, its economic value, its breeder or its place of origin. It may not consist solely of figures. It may not affect the rights of third parties deriving from trademarks or other rights of utilization of designations of seed material.

3. The denomination of a variety shall be protected as from the day of its entry into the Register and for as long as seed material of the variety is marketed in Poland.

Article 6

Anyone who tests, offers for sale or advertises seed material of a variety entered into the Register, or gives information concerning such variety shall be required to use the denomination entered into the Register.

Article 7

1. An original variety shall be entered into the Register at the request of the breeder.

2. The breeder qualified to make an application for entry of an original variety into the Register shall be:

(a) the creator who carries out the breeding of the variety and is the owner of the plant breeding material and documentation concerning the breeding of the variety,

(b) the creator's employer, if the variety has been created by the creator in the course of his duties as set out in his employment contract, or

(c) the client, if the variety has been created by the creator as a result of contract, unless the parties have decided otherwise.

3. A selected variety shall be entered into the Register at the request of its breeder and a local variety at the request of the person who intends to market seed material of the variety.

4. Where more than one application for entry into the Register is submitted for the same original or local varieties, the variety which is the subject of the earliest application shall be entered into the Register.

Article 8

The Register shall be kept by the Research Center for Varieties of Cultivated Plants (Centralny Ośrodek Badania Odmian Roslin Uprawnych), herein-after referred to as the "Center."

Article 9

1. The Center shall carry out the testing and assessment of the varieties, both before and after their entry into the Register.
2. The Center shall not carry out the testing and assessment of a variety if the application shows that the entry requirements have not been met.
3. Depending upon the results of the testing and assessment, the Center shall enter or refuse to enter the variety into the Register.
4. After the entry of a variety into the Register, the Center shall issue to the applicant a certificate of entry which shall state whether the variety is classified as original, selected or local.

Article 10

1. The breeder of a variety who submits an application for entry into the Register shall be required:
 - (1) to give a denomination to the variety and
 - (2) to supply, free of charge and at his own expense, the seed material necessary for the testing.
2. The provisions of paragraph 1(2) shall also apply after the entry of the variety into the Register.
3. If a domestic variety entered into the Register is to be tested abroad as a result of an international agreement, the breeder shall furnish, at the request and expense of the Center, seed material of the variety necessary for the testing.

Article 11

1. The entry of a variety into the Register and the maintenance of such entry shall be subject to a registration fee.
2. The registration fee for foreign varieties must be paid either in foreign currency or in Polish currency acquired from a documented source.
3. The Minister for Agriculture, Forestry and Food Economy may reduce or waive the registration fee if economically justified or required by the international agreements to which the Polish People's Republic is party.

Article 12

1. The Center shall remove a variety from the Register:
 - (1) if the characteristics of the variety determined at the time of its entry have been changed;
 - (2) if the variety has lost its homogeneity or stability;

(3) if the economic value of the variety is no longer appropriate to the needs of the national economy or

(4) if the breeder:

(a) ceases to carry out maintenance breeding of the variety or

(b) applies for removal of the variety from the Register.

2. The Center may remove a variety from the Register if the breeder:

(1) does not supply the seed material or the information necessary for the testing and assessment of the variety;

(2) is more than six months late in paying the registration fee;

(3) does not allow inspection of the maintenance breeding of the variety or

(4) ceases to produce seed material of the variety.

Article 13

1. The decisions to enter a variety into the Register, to refuse its entry, to remove a variety from the Register and to classify a variety as original, selected or local shall be taken after considering the opinion of a committee.

2. The committees, consisting of specialists, of representatives of institutions interested in the utilization of the varieties and of representatives of socio-professional organizations of growers, shall be set up and discontinued by the Minister for Agriculture, Forestry and Food Economy, who shall also appoint the members and terminate their appointment.

3. As for the decisions referred to in paragraph 1, an appeal may be lodged to the Minister for Agriculture, Forestry and Food Economy.

Article 14

1. Where entry is applied for by a non-entitled person or where the entry of an original variety into the Register results from such application, the breeder entitled to make the application for entry of the variety into the Register may demand refusal of the entry or removal of the variety from the Register.

2. Independently of the claim referred to in paragraph 1, the breeder entitled to apply for entry of the original variety into the Register may claim entry of the variety into the Register; in such case, the filing date of the application by the non-entitled person shall be considered the filing date of the application by the entitled breeder.

Article 15

Anyone who unduly obtains entry of an original variety into the Register must, in accordance with the general principles of law, surrender to the breeder of the variety the profit obtained and redress the damage caused to the breeder.

Article 16

1. The Minister for Agriculture, Forestry and Food Economy shall lay down by decree:

(1) the cultivated plants of which the varieties are subject to entry into the Register;

(2) the detailed conditions concerning applications for entry, entry of varieties into the Register and their removal and also concerning the denomination, the testing and the assessment of the varieties;

(3) the detailed provisions on the competence and rules of procedure of the committees referred to in Article 13(1).

2. The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, shall lay down by decree the schedule of registration fees, the method of payment and the currency in which they are to be paid.

CHAPTER III

EXCLUSIVE RIGHT ON A VARIETY

Article 17

1. The breeder of a new original variety shall be granted the exclusive right to its commercial exploitation (hereinafter referred to as the "exclusive right").

2. The exclusive right shall take effect on the day of entry of the variety into the Roll of Exclusive Rights (hereinafter referred to as the "Roll") and shall last for 20 years.

3. At the request of the breeder, the varieties and the new primary components of a hybrid already entered into the Roll shall be entered into the Roll. The provisions of Article 7(2) shall apply mutatis mutandis.

4. The Roll shall be kept by the Center.

5. On the entry of a variety into the Roll, the Center shall issue to the breeder a certificate attesting the grant of the exclusive right.

Article 18

1. The exclusive right shall concern:

(1) the carrying-out of maintenance breeding of the variety;

(2) the production of certified seed material of the variety for the purpose of sale;

(3) the offering for sale and sale of certified seed material of the variety;

(4) the use of the variety for the repeated production of seed material of another variety.

2. The exclusive right on a variety of an ornamental plant shall also concern the production and sale of whole plants or parts of plants normally sold for purposes other than the production of seed material, if they are used for the production and marketing of seed material.

3. The use of an original variety as a source of variation of the plant's characteristics with a view to creating other original varieties for commercial purposes shall not infringe the exclusive right.

Article 19

A breeder having an exclusive right on a variety shall also enjoy the other rights in respect of that variety which result from international agreements to which the Polish People's Republic is party.

Article 20

1. Before a variety is entered into the Roll, the Center shall carry out a testing; the testing of the variety may also be continued after the entry into the Roll.

2. The testing of an original variety which is the subject of an application for entry into the Roll and the maintenance of the entry shall be subject to payment of a fee (hereinafter referred to as the "protection fee").

3. For foreign varieties, the protection fee must be paid either in foreign currency or in Polish currency acquired from a documented source.

Article 21

1. A variety shall be entered into the Roll:

(1) if it is new, distinct, homogeneous and stable;

(2) if it has been given a denomination in accordance with the provisions of Article 5(1) and (2);

(3) if the breeder has completed the application procedure for entry into the Roll and has paid the protection fee.

2. The breeder of a variety which is the subject of an application for entry or which is entered into the Roll must supply, free of charge and at his own expense, the seed material and information necessary for the examination.

3. The variety denomination entered into the Roll shall enjoy protection.

4. The provisions of Article 6 shall apply mutatis mutandis.

Article 22

1. Priority for the grant of the exclusive right shall derive from the filing date of the application for entry of the variety into the Roll.
2. A breeder who has filed an application for protection of the exclusive right on a variety abroad may avail himself, in Poland, of the priority referred to in paragraph 1 during a period of 12 months as from the date of the first application filed abroad.
3. The provisions of paragraph 2 shall apply only to applications made in States party to the relevant international agreements to which the Polish People's Republic is also party.

Article 23

1. The Center may, by decision, enter or refuse to enter a variety into the Roll, remove an entry from the Roll or declare that an entry is annulled.
2. The Center may declare the entry of a variety into the Roll to be annulled if the variety was not distinct or was not new at the date of its entry.
3. The provisions of Article 12.1(1), (2) and (4)(b), 12.2(1), (2) and (4) shall apply mutatis mutandis to the removal of a variety from the Roll.
4. As for the decisions referred to in paragraphs 1 and 2, an appeal may be lodged to the Minister for Agriculture, Forestry and Food Economy.

Article 24

1. Anyone who unduly obtains profit from the entry of a variety into the Roll must, in accordance with the general principles of law, surrender to the breeder the profit obtained and redress the damage caused to the breeder; in particular, on the demand of the breeder, he must publish an explanatory statement in the press.
2. The provisions of Article 14 shall apply mutatis mutandis.
3. When hearing a case for the infringement of the exclusive right, a Court or the State Commission of Economic Arbitration may, at the request of the breeder, order that the breeding material and documents concerning the breeding of the variety and the production of seed material of the variety be turned over to the breeder.

Article 25

1. The exclusive right shall be assignable and transmissible by succession.
2. A contract of assignment of the exclusive right shall take effect with respect to third parties as from the date on which the change of entitled breeder is recorded in the Roll.

Article 26

1. If an original variety has been created jointly by two or more breeders, the exclusive right shall vest in them jointly.
2. After entry of a variety into the Roll, each of the joint owners may, without the consent of the others, exercise the exclusive right and institute infringement actions. However, assignment of a joint ownership share, grant of licenses and any other form of alienation of the joint right shall require the consent of all joint owners. The joint owners shall be free to regulate their mutual rights and obligations in any other way.
3. The provisions of the Civil Code concerning joint property of fractional parts shall apply mutatis mutandis to the cases not mentioned in paragraph 2.

Article 27

1. A breeder who is the owner of an exclusive right may grant by contract to another person an authorization (license) to use such right (license contract). The license shall constitute a charge on the exclusive rights.
2. The license contract must be in writing.
3. Unless otherwise provided in the license contract, the licensee shall have the right to non-exclusive enjoyment of all the rights of the licensor as set out in Article 18(1) and (2) and in Article 19 (full license).
4. The licensee of a full license may only grant a sublicense with the written consent of the breeder.
5. Unless otherwise provided in the license contract, the grant of a license shall exclude neither the grant of a further license for the enjoyment of the exclusive right nor the simultaneous enjoyment of the right by the breeder (non-exclusive license).
6. A license contract may impose limits on the rights of the licensee, in particular as to duration, territory and volume of production or of sale of seed material.
7. Where the grant of a license authorizes the carrying out of maintenance breeding of the variety, the contract shall take effect with respect to third parties as from the date of its entry into the Roll.
8. An exclusive licensee may, in the same way as the licensor, take action against infringement of the exclusive right, unless otherwise provided in the license contract.

Article 28

1. If the exercise abroad of a right on a domestic variety results in a profit in foreign currency, the breeder who is the owner of the exclusive right on the variety in Poland shall be entitled to a share of such currency.

2. The amount of the share referred to in paragraph 1 shall be laid down in specific regulations. The amount of the share shall not be less than 30 percent of the amount resulting from the exercise abroad of the right on the variety, after deduction of the commission in foreign currency paid to the representative of the breeder, of the creator's bonus payment for exercise abroad of the right on the variety and of other expenses related to exercise of the right abroad.

3. The provisions of paragraphs 1 and 2 shall apply mutatis mutandis to original domestic varieties entered into the Register but not entered into the Roll.

Article 29

1. If the breeder who is the owner of the exclusive right or his licensee:

(1) does not produce or does not market seed material of the variety in the quantity and within the time limits corresponding to the needs of the national economy,

(2) does not offer a license allowing third parties to satisfy the needs referred to in subparagraph (1) or

(3) makes the grant of a license subject to unfair conditions,
the Minister for Agriculture, Forestry and Food Economy may, by decision, grant third parties a compulsory license for the exercise of the exclusive right, except as regards maintenance breeding of the variety.

2. The compulsory license shall be non-exclusive and shall not restrict the right of the breeder to grant licenses under Article 27(1) and (4).

3. The provisions of Article 27(6) shall apply mutatis mutandis to the compulsory license.

4. The beneficiary of a compulsory license shall be required to pay a license fee to the breeder.

5. The decision referred to in paragraph 1 shall set out, in particular: the obligations of the beneficiary of the compulsory license, the extent and the duration of the license, the amount of the license fee and the method of payment.

6. The decision referred to in paragraph 1 may be appealed to the Supreme Administrative Tribunal.

Article 30

1. The Minister for Agriculture, Forestry and Food Economy shall establish by decree the list of cultivated plants of which the varieties may be entered into the Roll, together with detailed provisions concerning applications for entry, entry of varieties into the Roll and their removal from the Roll, and examination.

2. The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, shall establish by decree the schedule of protection fees, the method of payment and the currency in which they are to be paid.

3. The Minister for Agriculture, Forestry and Food Economy may extend by decree the rights of breeders relating to protection of the exclusive right, where necessary for the application of international agreements to which the Polish People's Republic is party.

CHAPTER IV

RIGHTS OF CREATORS AND MAINTAINERS OF VARIETIES

Article 31

1. The creator of an original domestic variety entered into the Register shall be entitled to a creator's certificate and a creator's bonus.

2. The creator's certificate shall be issued by the Center.

3. Priority for the recognition of a person as the creator of an original domestic variety shall be determined according to the filing date of the application for entry of the variety into the Register.

4. A natural person who has assisted in the creation of an original domestic variety entered into the Register shall be entitled, subject to paragraph 5, to an auxiliary creator's bonus.

5. The following shall not be entitled to an auxiliary creator's bonus:

(1) natural persons employed under an order contract;

(2) heads and members of the administrative staff of organizational units in which the variety was created, unless they directly assisted in the creation of the variety.

6. Natural persons who are the employees or owners of a foreign economic entity which has collaborated in the creation of an original domestic variety shall not be entitled to the bonuses referred to in paragraphs 1 and 4.

7. The creators' bonuses and auxiliary creators' bonuses shall be transmissible by succession, shall not entail suspension of the right to retirement or other pensions and shall be exempted from taxation.

Article 32

1. The creator's bonus and the auxiliary creator's bonus shall be awarded on the basis of the estimated economic value of the variety and degree of difficulty of its creation.

2. The creator's bonus shall be payable for the period from the date of entry of the variety into the Register to the end of the last year in which certified

seed material of the variety are marketed, whereby the maximum period of payment may not exceed 20 years.

3. The creator's bonus shall consist of an advance, paid during the 12 months following the date of entry of the variety into the Register, and an annual payment for each subsequent year. The first annual period shall be computed from the date of entry of the variety into the Register.

4. The auxiliary creator's bonus shall be payable during a period of 6 years computed from the entry of the variety into the Register. If the certified seed material of the variety is withdrawn from trade before the expiration of this period of 6 years computed from the entry of the variety into the Register, the auxiliary creator's bonus shall be paid for the period during which certified seed material was in trade. The provisions of paragraph 3 shall apply mutatis mutandis.

5. The amount of the creator's bonus shall be determined by reference to:

(1) the value, expressed in Polish currency, of certified seed material of the variety marketed in Poland and abroad;

(2) the value, expressed in the currencies in which payments for the exercise of the right have been made, of foreign currency revenue from the exercise abroad of the right on the variety; the creator's bonus shall correspond to 10 percent of such income.

6. The amount of the auxiliary creator's bonus shall be determined by reference to the value, expressed in Polish currency, of certified seed material of the variety marketed in Poland and abroad.

Article 33

1. A person carrying out maintenance breeding of an original or selected domestic variety entered into the Register shall be entitled to a maintainer's annual bonus during the whole period for which he carries out maintenance breeding of the variety.

2. A natural person who assists in the maintenance breeding of a variety entered into the Register shall be entitled to an annual auxiliary maintainer's bonus.

3. The amount of the maintainer's bonus and of the auxiliary maintainer's bonus shall be determined on the basis of the estimated economic value of the variety and the degree of difficulty of its maintenance breeding.

4. The provisions of Articles 31(5) and 32(5)(1) shall apply mutatis mutandis.

5. The maintainer's bonuses and the auxiliary maintainer's bonuses shall be transmissible by succession and shall not entail suspension of the right to retirement or other pensions.

Article 34

1. The creator's bonuses and the auxiliary creator's bonuses shall be established and paid by the Center.
2. The maintainer's bonuses and the auxiliary maintainer's bonuses shall be established and paid by the breeder.

Article 35

Bonuses paid under Articles 31 to 34 shall not be refundable, except where the profit resulted from a punishable act.

Article 36

1. Anyone who unduly obtains a creator's certificate or a bonus under Articles 31 to 34 must, in accordance with the general principles of law, surrender to the entitled person the profit obtained and redress the damage caused to him.
2. Persons entitled to bonuses under Articles 31 to 34 may institute proceedings to claim their bonuses before the Voivodship court having jurisdiction for the seat of the party owing the bonus. Such persons shall not be liable to pay court fees.

Article 37

The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, shall establish by decree the detailed provisions concerning the establishment and the payment of the bonuses referred to in Articles 31 to 34.

CHAPTER V

PRODUCTION AND UTILIZATION OF SEED MATERIAL

Article 38

1. Demarcated regions, each of which must cover the territory of at least one village, may be established for the purposes of creating the necessary conditions for the production of certified seed potatoes.
2. At least 40 percent of the area of a demarcated region planted with potatoes must be devoted to the production of certified seed potatoes.

Article 39

1. The People's Council of the Voivodship shall, by resolution:

- (1) create and abolish demarcated regions;
 - (2) appoint legal persons exclusively responsible for the organization of the production of potatoes and the purchase of certified seed potatoes in such regions;
 - (3) define the duties of possessors of farming land within a demarcated region, which are necessary for the production of certified seed potatoes.
2. Resolutions taken in accordance with paragraph 1 shall be published in the Official Journal of the Voivodship.
3. In the demarcated regions, the legal persons referred to in paragraph 1(2) shall be required:
- (1) to inspect the potato fields;
 - (2) to advise and train potato growers;
 - (3) to sell to possessors of farming land certified seed potatoes in the quantities required for planting.
4. Possessors of farming land in a demarcated region shall be required:
- (1) to use exclusively seed potatoes meeting the phytosanitary requirements in respect of certified seed potatoes;
 - (2) to allow inspection of their potato fields by the legal persons referred to in paragraph 1(2);
 - (3) to purchase certified seed potatoes for the entire potato field, unless they have their own seed potatoes which satisfy the phytosanitary requirements in respect of certified seed potatoes.

Article 40

1. The production:
- (1) of nursery material of fruit trees and of berry-bearing plants (except strawberry) and
 - (2) of mycelium of cultivated mushrooms
- shall be allowed only with the authorization of the local service of the State administration responsible for agricultural matters at the level of the Voivodship.
2. Authorization under paragraph 1 above shall not be required for the production:
- (1) of nursery material or of mycelium of cultivated mushrooms if such production is carried out by a breeder in relation to his own varieties;
 - (2) for the producers' own needs.
3. Only certified nursery material of fruit trees and berry-bearing plants (except strawberry) may be sold or offered for sale.

Article 41

1. The People's Council of the Voivodship may, by resolution, prohibit the growing of certain cultivated plants or of their varieties and the use of seed material, of which the phytosanitary state is unsatisfactory, on land situated close to breeding nurseries or fields where seed material is produced, in order to protect them from the harmful effects of the neighborhood of such cultivated plants or of such varieties or of crops affected by disease. Such resolutions shall be published in the Official Journal of the Voivodship.
2. Prohibition shall be pronounced and published in due time so that it can be taken into account before sowing or planting on the farming land concerned.
3. Prohibition may only be enforced if the possessors of the farming land concerned are able to buy a sufficient quantity of seed material of other cultivated plants or other varieties that satisfy the relevant phytosanitary requirements.
4. If non-conforming seed material is used despite prohibition, the local service of the State administration responsible for agricultural matters at the level of the commune may order the possessor of the farming land concerned to destroy the crop within a specified period.

Article 42

1. The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, may establish, in cases justified by economic needs, a system of compensation of prices for possessors of farming land who buy seed material for the purpose of sowing or planting.
2. The provisions of paragraph 1 shall not apply to certified seed material bought for the purpose of its multiplication.
3. The compensation referred to in paragraph 1 shall only be awarded if the seed material intended for sowing or planting is sold by a natural person or by an organizational unit authorized to trade in seed material.
4. The natural person and the organizational units referred to in paragraph 3 shall be entitled to reimbursement of the compensation awarded.
5. The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, shall establish by decree the amount of compensation under paragraph 1.

Article 43

1. When the non-use of certified seeds of cereals (rye, triticale, wheat, barley and oats) or of certified seed potatoes is likely to result in a considerable drop in yield or a deterioration of the quality of the plant products, the People's Council of the Voivodship may, by resolution, institute an obligation on possessors of farming land to make exclusive use of certified seed material in the Voivodship or on specified lands within the Voivodship. Such resolutions shall be published in the Official Journal of the Voivodship.

2. In instituting the obligation referred to in paragraph 1 above, the People's Council of the Voivodship shall define the principles and the conditions of application of the obligation to use certified seed material; in particular, it shall determine:

- (1) the cultivated plants affected by the obligation;
- (2) the year during which the use of certified seed material of a particular cultivated plant is obligatory in certain villages or certain communes;
- (3) the legal persons responsible for selling certified seed material;
- (4) the cases in which the possessors of farming land shall be or may be exempted from the obligation to use certified seed material.

3. The People's Council of the Voivodship may only institute a new obligation to use certified seed material for the same cultivated plant and the same region after a period of 5 years.

4. The provisions of Article 42(1), (3) and (4) shall apply mutatis mutandis.

CHAPTER VI

TRADE IN SEED MATERIAL AND THE NATIONAL SEED RESERVE

Article 44

The following shall be authorized to trade in seed material:

- (1) the breeders, in respect of the seed material of the varieties bred by them;
- (2) the units of the collectivized economy whose statutory activities include trade in seed material;
- (3) the natural persons and the organizational units holding a license to trade in seed material issued by the local service of the State administration responsible for agricultural matters at the level of the Voivodship.

Article 45

1. The following may be marketed:

- (1) certified seed material of varieties entered into the Register;
- (2) certified seed material of varieties removed from the Register, during a period of three years computed from the year of the removal of the variety;
- (3) tested seed material of cultivated plants of which the varieties are not subject to entry into the Register;
- (4) certified seed material intended for multiplication for export:
 - (a) of foreign varieties not entered into the Register and
 - (b) of domestic varieties entered into the Register but intended exclusively for cultivation abroad.

2. The Minister for Agriculture, Forestry and Food Economy may, in cases justified by economic needs, authorize trade in:

- (1) certified seed material of varieties not entered into the Register;
- (2) certified seed material of varieties referred to in paragraph 1(4) where such seed material is intended for use in Poland;
- (3) conditionally certified seed material;
- (4) tested seed material of cultivated plants of which the varieties are subject to entry into the Register.

Article 46

1. The local service of the State administration with general competence at the level of the Voivodship may, by decree, prohibit in a specified region of the Voivodship trade in seed material of a variety whose economic value in that region is inappropriate. Such decrees shall be published in the Official Journal of the Voivodship.

2. Decrees under paragraph 1 shall be issued at the request of the Center or any other interested party, after consultation with the socio-professional organizations of growers. The request must be based on the results of assessment of the varieties and on any other result, information or opinion on the economic value of the variety in which trade is to be prohibited.

3. An application that has been refused can be submitted again after the expiration of a period of one year. The new application must contain all the supplementary results, information or opinions on the economic value of the variety.

4. The prohibition of trade shall enter into force on the day of its publication or, with respect to a variety of which the seed material has already been marketed in the region referred to in paragraph 1, on the expiration of a period of one year computed from that date.

5. The price compensation referred to in Article 42 shall not be awarded in cases of prohibition of trade in seed material of a variety of an inappropriate economic value (paragraph 1).

Article 47

1. There shall be established a National Seed Reserve.

2. The Minister for Agriculture, Forestry and Food Economy shall administer the National Seed Reserve.

3. The National Seed Reserve shall consist of stocks of seed material intended for use for sowing or planting following a bad harvest or a disaster, or for export.

4. Seed material belonging to the National Seed Reserve shall be stored, at the expense of the State, by the natural and legal persons who produce or market them.

Article 48

The seed material belonging to the National Seed Reserve must be stored under conditions which ensure the maintenance of its quality.

Article 49

The Minister for Agriculture, Forestry and Food Economy may determine, by decree, the detailed methods of storing and of trade in seed material.

CHAPTER VII**BREEDING DUTY****Article 50**

1. There shall be instituted a breeding duty.
2. The breeding duty shall consist of a fraction of the income resulting from the trade in seed material and from the sale of certified seed material by the producers to natural persons or organizational units not engaged in trade in seed material.
3. The breeding duty shall not be payable for sales of conditionally certified seed material and seed material of primary components of hybrids.
4. The income from breeding duty shall be used to finance plant breeding and research and other activities contributing to the development of the economic effects of breeding.

Article 51

1. The breeding duty shall be payable:
 - (1) by natural persons and organizational units engaged in trade in seed material, for the seed material sold:
 - (a) to producers for the purposes of sowing, planting, grafting or budding,
 - (b) for the purpose of retail trade or
 - (c) for the purpose of export;
 - (2) by the producers of seed material if the purchaser is a natural person or an organizational unit not engaged in trade in seed material.
2. The provisions of paragraph 1(1) shall not apply to natural persons or to organizational units exclusively engaged in retail trade in seed materials purchased from natural persons or organizational units engaged in trade in seed material.

Article 52

The amount of the breeding duty shall be determined by reference to the purchase price of the marketed seed material.

Article 53

The Minister for Agriculture, Forestry and Food Economy may, in cases that are particularly justified from an economic point of view, reduce the breeding duty for certified seed material of foreign varieties or for tested seed material, or exempt such seed material from the duty.

Article 54

1. Income from the breeding duty shall be paid:

(1) in the case of certified seed material of foreign varieties and of local domestic varieties, and of tested seed material, to the Seed Industry Fund;

(2) in the case of certified seed material of domestic varieties entered into the Register, to the breeder of the variety.

2. The breeding duty payable for seed material sold during one quarter shall be paid during the month following that quarter.

Article 55

The Minister for Agriculture, Forestry and Food Economy, in agreement with the Minister for Finance, shall establish by decree the method of calculation and the schedule of the breeding duty.

CHAPTER VIII

SEED INDUSTRY FUND

Article 56

1. There shall be established a Seed Industry Fund.

2. The Seed Industry Fund shall be financed by:

(1) the breeding duty payable on sales of certified seed material of foreign varieties and of local domestic varieties as well as of tested seed material;

(2) appropriations from the State budget;

(3) revenue from organizations, institutions, enterprises and other natural or legal persons;

(4) registration and protection fees;

(5) payments in foreign currency resulting from the exercise abroad of rights on domestic varieties, corresponding to the relevant creator's bonuses.

Article 57

The purpose of the Seed Industry Fund shall be to finance:

- (1) the creation of new varieties;
- (2) the management of collections of plants with the aim of using genetic resources for the purpose of creating new varieties;
- (3) research into breeding methods and research into other aspects of plant breeding;
- (4) the activities necessary for the development of plant breeding and for the assessment of varieties;
- (5) publications and training of breeders in Poland and abroad;
- (6) the breeding of varieties of new cultivated plants;
- (7) maintenance breeding;
- (8) investments related to the activities listed in subparagraphs (1) to (7) above;
- (9) the creators' bonuses and the auxiliary creators' bonuses;
- (10) the duties for breeders of foreign varieties payable for the use of such varieties in Poland;
- (11) compensation of the selling price of seed material;
- (12) the amounts of compensation between the purchase price and selling price of imported seed material intended for multiplication in Poland;
- (13) the production costs of conditionally certified nursery material where the variety is refused to enter into the Register;
- (14) the costs of establishing and managing the National Seed Reserve;
- (15) other activities which the Minister for Agriculture, Forestry and Food Economy considers to be important for the development of the seed industry.

Article 58

1. The Minister for Agriculture, Forestry and Food Economy shall dispose of financial means of the Seed Industry Fund.
2. The financial means of the Seed Industry Fund not used in one calendar year shall be transferred to the following year.
3. Questions concerning the Seed Industry Fund not dealt with in this Chapter shall be governed by the provisions of the Finance Law concerning the management of special funds.

CHAPTER IX

EXAMINATION AND CONTROL OF SEED MATERIAL. THE SEED INSPECTION

Article 59

1. The purpose of the testing of seed material shall be to ensure that cultivation intended for the production of seed material satisfies the requirements concerning the production of certified seed material and that the seed material satisfies the quality standards or requirements.
2. The testing of seed material shall include verification:
 - (1) of crops intended for the production of seed material (hereinafter referred to as "field testing");
 - (2) of the quality of seeds (hereinafter referred to as "laboratory testing");
 - (3) of the phytosanitary state of seed potatoes and of other seed material (hereinafter referred to as "verification testing");
 - (4) of the identity and the varietal purity of seed material (hereinafter referred to as "comparative testing");
 - (5) of the external characteristics of seed material (hereinafter referred to as "testing of the external characteristics").
3. The testing of the seed material shall be carried out at the request of an interested party.

Article 60

1. A certificate (hereinafter referred to as "certificate") attesting to the recognition or the refusal of recognition as certified seed material or conditionally certified seed material or as tested seed material shall be issued on the basis of the test results.
2. The following seed material may be recognized as certified:
 - (1) that of varieties entered into the Register;
 - (2) that of varieties removed from the Register, during the two years following the year of the removal of the variety;
 - (3) that of varieties admitted to trade by an authorization under Article 45(2)(1) above;
 - (4) that produced exclusively for export.
3. Recognition as conditionally certified seed material may apply only to varieties for which an application has been made for entry into the Register.
4. After entry of a variety into the Register, conditionally certified seed material of the variety may be recognized, at the request of an interested party, as certified seed material.

5. If an application for entry of a variety into the Register has been refused, the conditionally certified seed material of this variety may be recognized, at the request of an interested party, as certified seed material at the lowest level of certification used in the trade. Such seed material shall be admitted to trade.

6. If the refusal of entry of the variety into the Register results from a finding by the Center that the economic value of the variety is lower than that of all the other varieties entered into the Register, the conditionally certified seed material of this variety may not be recognized as certified seed material.

7. If the refusal of entry into the Register relates to a variety of fruit tree or a berry-bearing shrub, the conditionally certified nursery material of such variety may not be recognized as certified material.

8. The seed material may be recognized as tested seed material if it satisfies the quality standards or requirements.

Article 61

1. The seed material for which an application has been made for recognition as certified or conditionally certified seed material shall be subject to:

- (1) a field testing and
- (2) a laboratory testing or a testing of external characteristics.

2. The seed material referred to in paragraph 1 may also be subject to a comparative testing or a verification testing.

3. The seed material for which an application has been made for recognition as tested seed material shall be subject only to a laboratory testing or a testing of external characteristics.

Article 62

1. The purpose of the control of seed material is to verify that the rules concerning production, stocking and trade in seed material are respected.

2. The control of seed material shall be carried out ex officio.

Article 63

1. The testing and control of seed material shall be carried out by the Seeds Inspectorate.

2. The other duties of the Seeds Inspectorate shall be:

- (1) to recognize seed material as certified, as conditionally certified or as tested seed material;
- (2) to control compliance with the provisions of this Law and with the implementing regulations for the production, trade and testing of seed material.

3. The Seeds Inspectorate shall be subordinate to the Ministry of Agriculture, Forestry and Food Economy.

4. The Seeds Inspectorate shall consist of the following organs: the Central Inspectorate of the Seeds Inspection (hereinafter referred to as the "Central Inspectorate") and the Regional Inspectorate of the Seeds Inspection (hereinafter referred to as the "Regional Inspectorate").

Article 64

1. The duties of the Central Inspectorate shall be in particular:

(1) to define in detail the organization of the Regional Inspectorates and to supervise and coordinate their activities;

(2) to establish and apply the methods of testing for seed material;

(3) to draw up the lists of varieties of which the seed material may be recognized as certified or conditionally certified seed material;

(4) to define the categories of certification of seed material;

(5) to define the seed material subject to comparative testing and to verification testing;

(6) to draft the forms of certificates;

(7) to determine which documents concerning the testing of seeds issued abroad are valid in Poland;

(8) to examine the applications for retesting of seed material where the testing certificates were issued by the Regional Inspectorates.

2. The duties of the Regional Inspectorates shall be, in particular:

(1) to examine seed material, to recognize it as certified, conditionally certified or tested and to issue the certificates;

(2) to authorize natural persons and organizational units to carry out laboratory testing of seed material intended to be recognized as tested and intended for marketing in the country, and also to revoke such authorizations;

(3) to authorize natural persons:

(a) to undertake field testing or testing of external characteristics of seed material intended for export, and to issue the certificates;

(b) to take samples of seed material for testing;

(4) to examine applications for retesting of:

(a) a laboratory testing carried out by a natural person or an organizational unit authorized to trade in seed material;

(b) a field testing or a testing of external characteristics of seed material intended for export, where such testing has been carried out by a natural person referred to in subparagraph 3(a);

(c) a testing of external characteristics carried out by an organizational unit or a natural person engaged in trade in seed material;

(5) to control the seed material;

(6) to control the testing of the seed material carried out by the organizational units and the natural persons referred to in Article 66.

Article 65

1. Samples of seed material shall be taken for testing, at the request of an interested party, by natural persons authorized by the Regional Inspectorates.
2. The natural persons carrying out the field testing and the testing of external characteristics of seed material intended for export, and taking samples of seed material for the purposes of testing shall be entitled, for the tasks entrusted to them:
 - (1) to unpaid leave from the institution which employs them for up to ten days a year;
 - (2) to remuneration, the amount of which shall be determined by the Central Inspectorate.
3. The remuneration referred to in paragraph 2(2) shall not be payable to natural persons taking samples in the organizational units which employ them.

Article 66

1. The laboratory testing of seed material submitted for recognition as tested and intended for trade in Poland can also be carried out, with authorization by the Regional Inspectorate, by natural persons or organizational units engaged in trade in seed material. Those who carry out this testing shall also issue the certificates.
2. The testing of external characteristics of seed material intended for trade in Poland and the issue of certificates shall be the duty of the organizational units and of the natural persons marketing such seed material.

Article 67

The testing of seed material carried out by the organs of the Seeds Inspectorate shall be subject to payment of a fee (hereinafter referred to as the "testing fee").

Article 68

1. An interested party who disagrees with the statements appearing on a certificate issued by the natural person who carried out the field testing or the testing of external characteristics of seed material intended for export, or on a certificate referred to in Article 66, may appeal to the Regional Inspectorate or, in the case of a certificate issued by a Regional Inspectorate, to the Central Inspectorate and may ask for retesting and the issue of a new certificate.
2. The application referred to in paragraph 1 shall be made within a period of three days, in the case of a certificate of field testing or of testing of external characteristics, and within a period of seven days in the case of a laboratory testing or a verification testing. This period is computed from the date of receipt of the certificate.

3. A testing fee must be paid at the time of filing the application referred to in paragraph 1; this fee shall be reimbursed if the appeal is upheld.

Article 69

1. The employees of the Seeds Inspectorate who control seed material shall be entitled:

(1) to have access to the fields where seed material is produced and to the storage places for seed material;

(2) to control the documents and to request information concerning the production, stocking and marketing of seed material;

(3) to secure the necessary documents and the seed material subject to control;

(4) to take, free of charge, samples of seed material.

2. The organs of the Seeds Inspectorate shall be authorized:

(1) to prohibit the marketing of and to order the withdrawal from the market of seed material not satisfying the quality standards or requirements;

(2) to order the denaturing of seed material referred to in subparagraph (1) in order to render it unfit for sowing or planting.

3. The prohibitions and orders referred to in paragraph 2 shall be immediately applicable.

Article 70

1. The Minister for Agriculture, Forestry and Food Economy shall determine the requirements concerning:

(1) the production of certified seed material;

(2) the quality of seed material placed on the market.

2. The requirements referred to in paragraph 1(2) shall cease to be applicable in the event of adoption of a Polish standard or an interprofessional standard.

Article 71

The Minister for Agriculture, Forestry and Food Economy shall determine by decree:

(1) the detailed principles and procedure:

(a) for the control of seed material and

(b) the fixing of salaries of natural persons referred to in Article 64.2(3);

(2) in agreement with the Minister Chief of the Office of the Council of Ministers, the seat and the territorial competence of the Regional Inspectorate;

(3) in agreement with the Minister for Finance, the schedule of testing fees.

CHAPTER X

PENAL PROVISIONS

Article 72

Anyone who wrongfully appropriates another's creatorship of an original domestic variety shall be liable to imprisonment for a period not exceeding one year, to restraint of liberty or to a fine.

Article 73

1. Anyone who:

(1) uses the denomination of a variety entered into the Roll or into the Register (Article 5.3 and Article 21.3) to designate seed material of another variety or of an unknown variety;

(2) produces nursery material of fruit trees or of berry-bearing plants or mycelium of cultivated mushrooms, without the authorization referred to in Article 40.1;

(3) engages in trade in seed material without the authorization referred to in Article 44.3;

(4) markets seed material other than that referred to in Article 45;

(5) sells or offers for sale non-certified nursery material of fruit trees or of berry-bearing plants (except for strawberry) (Article 40.3), or

(6) disturbs or hinders the activities of the organs of the Seeds Inspectorate

shall be liable to arrest, to restraint of liberty or to a fine.

2. Anyone who, despite the obligation imposed on him, does not utilize:

(1) the denomination of a variety in accordance with the provisions of Article 6 or Article 21.4,

(2) exclusively seed potatoes satisfying the phytosanitary requirements concerning certified seed potatoes in accordance with the provisions of Article 39.4(1), or

(3) certified seeds of cereals or certified seed potatoes in accordance with the provisions of Article 43.1

shall be liable to a fine.

3. In the cases referred to in paragraphs 1 and 2, the penalties shall be imposed in accordance with the procedure applying to misdemeanours.

CHAPTER XI

TRANSITIONAL AND FINAL PROVISIONS

Article 74

1. Rights of creators and maintainers of varieties, existing on the date of entry into force of this Law, shall not be affected. Such rights shall remain subject to the provisions applicable before that date, unless otherwise provided in this Law.
2. The creators of the original varieties entered into the Register to whom a full creator's bonus has been paid before the date of entry into force of this Law shall be entitled, after that date, to a creator's bonus as defined in this Law for a duration which may not exceed 20 years computed from the entry of the variety into the Register.
3. The creators' bonuses due for the year 1988 will be paid in 1990 at the latest. In such case, the amount of the partial payments of the creators' bonuses shall be increased in proportion to the increase, in the course of the year, of the average monthly remuneration in the socialized sector of agriculture.
4. The maintainers' bonuses due for the year 1987 shall be paid in 1988 from the State budget in accordance with the provisions applicable before the entry into force of this Law.

Article 75

Documentation on the breeding and the right to an original domestic variety entered into the Register before the entry into force of this Law shall be passed on free of charge to the breeder carrying out maintenance breeding of the variety concerned.

Article 76

1. The seed material:
 - (1) of foreign varieties eligible to enter into the Register and
 - (2) of domestic varieties of fruit trees or berry-bearing plants recommended for cultivation by the Ministry of Agriculture, Forestry and Food Economy in 1987 may be recognized as certified seed material and admitted to trade during a period of three years from the date of entry into force of this Law.
2. The Minister for Agriculture, Forestry and Food Economy shall publish in the Official Journal of the Ministry of Agriculture, Forestry and Food Economy the list of varieties referred to in paragraph 1.

Article 77

Actions commenced and not terminated before the date of entry into force of this Law shall proceed in accordance with the provisions of this Law.

Article 78

1. The provisions of Article 1(1) and (2), of Article 2.1(1), (5) to (9), (11), (12), (17) and (18), of Article 2.2 and 3, of Article 3.1, 2 and 4, of Articles 4 to 16, of Article 17.1, 2 and 5, of Articles 18 to 37, of Articles 41, 44 and 45, of Article 57(1), (2), (6) and (10), of Article 59.2(4), of Article 60.2 to 7, of Article 64.1(3), of Article 72, of Article 73.1(1) and 2(1), of Articles 74 and 75, of Article 76.1(1) and of Article 80 concerning varieties shall apply mutatis mutandis to primary components of hybrids.

2. The cases governed by Articles 17 to 19 and 24 to 29 and Article 39.1(1) and (2), and Article 43.2(3) shall not be subject to the provisions concerning counteraction against monopolistic practices in the national economy.

Article 79

The following laws are hereby repealed:

(1) the Law of May 29, 1957, concerning nursery material of fruit trees and shrubs (Official Journal No. 31, text No. 138);

(2) the Law of February 16, 1961, concerning plant breeding and the seed industry (Official Journal No. 10, text No. 54).

Article 80

This Law shall enter into force on January 1, 1988; the recognition of seed material of varieties of tobacco and of ornamental plants as certified seed material shall enter into force on January 1, 1990.

P O L A N D

**EXTRACT FROM THE DECREE OF THE MINISTER FOR AGRICULTURE,
FORESTRY AND FOOD ECONOMY
CONCERNING
THE REGISTER OF VARIETIES, THE ROLL OF EXCLUSIVE RIGHTS
ON VARIETIES AND THE CONTROL OF SEED MATERIAL***

Consolidated text of the Ministerial Decree
of April 14, 1988,
as amended on September 25, 1990**

Pursuant to Article 16.1, Article 30.1 and 3, and Article 71(1) and (2) of the Seed Industry Law of October 10, 1987 (Official Journal No. 31, text No. 166), the Minister decrees:

CHAPTER ONE

REGISTER OF VARIETIES

Article 1

1. The Articles referred to in this Decree are those of the Seed Industry Law of October 10, 1987 (Official Journal No. 31, text No. 166), hereinafter referred to as the "Law."
2. The cultivated plants of which the varieties are subject to entry into the Register (hereinafter referred to as the "Register") are set out in Annex I*** to this Decree.
3. The entry of a hybrid into the Register is subject to the consent of the breeders of the primary components of the hybrid if they have the exclusive right on those components in Poland.

* Polish Title: Rozporządzenie Ministra Rolnictwa, Leśnictwa i Gospodarki Żywnościowej w sprawie rejestru odmian, księgi ochrony prawa do odmiany oraz kontroli materiału siewnego

** Consolidated text prepared by the Office of the Union from the texts published in Dziennik Ustaw Polskiej Rzeczypospolitej Ludowej (Legislatory Journal of the Polish People's Republic):

- Ministerial Decree of April 14, 1988: No. 12 of May 10, 1988
- Ministerial Decree of September 25, 1990: No. 69 of October 10, 1990

*** Not reproduced here

Article 2

The entry of a variety into the Register is subject to possession of a quantity, determined by the Research Center for Varieties of Cultivated Plants (Centralny Ośrodek Badań Odmian Roslin Uprawnionych, hereinafter referred to as the "Center"), of seed material which is the end product of a crossing cycle in the case of a hybrid or, in the case of a non-hybrid variety, of appropriate seed material.

Article 3

1. An application for entry of an original domestic variety into the Register must contain the surnames and forenames of the creators and the persons who assisted in the creation of the variety; their share in the creator's bonus and the auxiliary creator's bonus must be specified as a percentage.

2. An application for entry of a selected variety into the Register is subject to the consent of the breeder of the initial variety if that variety is entered into the Roll of Exclusive Rights on Varieties (hereinafter referred to as the "Roll"). Initial variety means a variety which does not differ in its botanical characteristics from the selected variety derived from it.

Article 4

1. An application for entry of a hybrid into the Register is not subject to there being an application for its primary components. The breeder of a hybrid can keep its formula secret.

2. If certified seed material of a hybrid has to be produced in Poland, the breeder of the hybrid must apply for entry of the primary components and disclose the formula for the exclusive use of the Center and the Seeds Inspectorate.

Article 5

The Center will establish, for each cultivated plant, the time limits for applying for entry of varieties into the Register.

Article 6

1. An application for entry of a variety into the Register must be accompanied by the results of investigations into its characteristics and its economic value.

2. The Center will determine the requirements concerning the investigations referred to in paragraph 1 where the duration of the trials of the original and local varieties may not be less than two consecutive years.

3. The Center may depart from the requirements referred to in paragraph 2 if a variety has been removed from the Register on the basis of Article 12(1)(4) or Article 12(2) of the Law and a new application for entry into the Register has been made for the variety, as a selected variety.

4. The Center will inform the applicant of the duration of the testing, its extent, its size, its placing and the methods to be used.

Article 7

1. A breeder applying for entry of an original variety into the Register must, in agreement with the Center, must give a provisional denomination to the variety.

2. A selected variety is applied for under the denomination of the initial variety, whereas an original foreign variety is applied for under the denomination registered in another State, unless otherwise provided in Article 5.1 and 2 of the Law.

3. In cases where this is particularly justified, the giving of a provisional denomination to a variety submitted for entry will not prevent the breeder from giving other denominations for use abroad.

4. After two years of testing of a variety submitted for entry, the applicant must give the variety a denomination under which it will be entered into the Register. This denomination may be identical to the provisional denomination. The provisions of paragraphs 1 and 2 apply mutatis mutandis.

5. If the Center intends to enter the variety into the Register before the end of the third year of testing, it will require the applicant to give the variety a denomination before the expiration of the time limit laid down in paragraph 4.

Article 8

The Center must allow the breeder of a variety to inspect the trials, must provide to him information concerning them and must put at his disposal the results obtained.

Article 9

Failure to supply, in any one year, seed material required by the Center for the purpose of testing constitutes grounds for prolonging the testing for another year; failure to supply, during two consecutive years, seed material required for the purpose of testing, can constitute grounds for rejection of the entry of the variety into the Register.

Article 10

At the time of the decision on the entry of an original domestic variety into the Register the creators of the variety will be named.

Article 11

The breeder of a variety submitted for entry or entered into the Register must supply to the Center all information concerning all applications, entries,

extension of entries or removal of the variety filed for or registered in foreign registers of varieties, lists, catalogues or indexes of varieties, together with all information concerning changes of the variety denomination.

Article 12

1. The Center will publish information concerning applications for entry and entries of varieties into the Register and removals from the Register. This information will consist of:

- (1) the dates of application, entry, refusal of entry and removal of the varieties;
- (2) the denominations of the varieties and any changes.
- (3) the surnames and forenames or the trading names of breeders of varieties and changes of breeders;
- (4) the surnames and forenames of the creators of original domestic varieties.

2. The Center will transmit to the Central Inspectorate of the Seeds Inspection the information concerning the applications for entry, the entries, the refusals of entry and the removals of varieties from the Register as soon as the relevant decisions have been taken. If refusal of the entry of a variety into the Register results from the fact that its economic value is less than that of all the varieties entered into the Register, the Center will inform the Central Inspectorate of the Seeds Inspection accordingly.

Article 13

Committees for the registration of varieties (hereinafter referred to as "Committees") are established for the following groups of cultivated plants:

- (1) straw cereals;
- (2) maize;
- (3) legumes (large grain);
- (4) fodder legumes and fodder grasses;
- (5) root crops;
- (6) potatoes;
- (7) oil plants;
- (8) fibre plants;
- (9) hops;
- (10) tobacco;
- (11) medicinal and aromatic plants;
- (12) vegetables;
- (13) ornamental plants;
- (14) fruit trees and berry plants.

Article 14

1. Each Committee may consist of no more than 20 persons, representing:

(1) fundamental and applied research in the fields of assessment and utilization of varieties;

(2) agricultural, horticultural, industrial and commercial enterprises as well as unions and other organizations of such enterprises;

(3) associations of producers;

(4) agricultural, horticultural and commercial cooperatives;

(5) other economic organizations

having an interest in the use of varieties of the cultivated plant or of a corresponding group of cultivated plants.

2. The terms of office of members of the Committee shall be five years.

Article 15

1. The Center is responsible for the organization of the tasks of the Committees and for putting timely at their disposal the material necessary for the Committees to form their opinions.

2. The amount of remuneration for participation at sessions is established by regulations.

3. The expenses resulting from the activities of the Committees are covered by the Seed Industry Fund.

CHAPTER II

ROLL OF EXCLUSIVE RIGHTS ON VARIETIES

Article 16

The list of cultivated plants of which the new original varieties are subject to entry into the Roll of Exclusive Rights on Varieties (hereinafter referred to as the "Roll") is given in Annex 1* to this Decree. The provisions of Article 6.4 and of Article 8 are applicable mutatis mutandis.

Article 16a

The breeder of a new original variety of an ornamental plant, independently of the provisions of Article 18 of the Law, has the exclusive right to use plants of that variety or parts thereof as seed material for the purpose of producing commercially plants or parts thereof.

* Not reproduced here

Article 17

1. If the breeder of an original variety is entitled to the priority referred to in Article 22.1 and 2 of the Law, the application for the grant of protection of the exclusive right on the variety must include the claim to the priority relating to the first application for protection made in another State. The application must be supplemented, within a time limit of three months, by a copy of the documents which were enclosed with the earlier application, certified to conform to the originals by the administration which received that application.

2. The breeder may, within a period of four years after the expiration of the priority period, supply to the Center the documents supplementing the application and the seed material required for the purpose of testing of the variety.

3. If the application for protection of the exclusive right made abroad, which constitutes the basis for the claim to priority, has been rejected or withdrawn, the breeder must inform the Center accordingly and supply the supplementary documents and the other material within six months.

4. The provisions of Article 1.3, and of Articles 5 and 7 apply mutatis mutandis.

Article 18

The breeder of a variety entered into the Roll must give to the Center all information concerning the grant of protection of the exclusive right abroad and all changes of the denomination of the variety abroad.

Article 19

1. The Center publishes information concerning applications for entry and entries of new original varieties into the Roll and also their removal from the Roll. This information includes:

(1) the dates of application, entry, refusal of entry and removal of the varieties;

(2) the denominations of the varieties and any changes;

(3) the surnames and forenames or trading names of the breeders of varieties and changes of breeder.

...

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

...

Article 29

The provisions of Article 1.2, of Articles 2, 3 and 5, of Article 6.4, of Articles 7 to 10, 11 to 13 and 16 to 19, of Article 26.5 and of Articles 27 and 28 concerning varieties apply mutatis mutandis to the primary components of hybrids.

Article 30

This Decree enters into force on the day of its publication.

MEMBERSHIP OF THE UNION (as of June 1, 1992)

| State | Date of signature ¹ | Date of deposit of instrument ^{1,2} | Date of effect ¹ |
|----------------|--|---|---|
| Australia | - - - - | - - February 1, 1989 - | - - March 1, 1989 - |
| Belgium | December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991 | November 5, 1976 November 5, 1976 - - | December 5, 1976 February 11, 1977 - - |
| Canada | - - October 31, 1979 March 9, 1992 | - - February 4, 1991 - | - - March 4, 1991 - |
| Czechoslovakia | - - - - | - - November 4, 1991 - | - - December 4, 1991 - |
| Denmark | November 26, 1962 November 10, 1972 October 23, 1978 March 19, 1991 | September 6, 1968 February 8, 1974 October 8, 1981 - | October 6, 1968 February 11, 1977 November 8, 1981 - |
| France | December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991 | September 3, 1971 January 22, 1975 February 17, 1983 - | October 3, 1971 February 11, 1977 March 17, 1983 - |
| Germany | December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991 | July 11, 1968 July 23, 1976 March 12, 1986 - | August 10, 1968 February 11, 1977 April 12, 1986 - |

¹ First Line: International Convention for the Protection of New Varieties of Plants of December 2, 1961 ("Act of 1961").
Second Line: Additional Act of November 10, 1972.
Third Line: Act of October 23, 1978.
Fourth Line: Act of March 19, 1991 (the closing date for signature was March 31, 1991).

² For first and second lines, of ratification where the State has signed the Act of 1961 or the Additional Act; for third and fourth lines, of ratification, acceptance or approval where the State has signed the Act of 1978 or the Act of 1991; for all lines, of accession where the State has not signed the text concerned.

| State | Date of signature ¹ | Date of deposit of instrument ^{1,2} | Date of effect ¹ |
|---------------------------|--------------------------------|--|-----------------------------|
| Hungary | - | - | - |
| | - | - | - |
| | - | March 16, 1983 | April 16, 1983 |
| | - | - | - |
| Ireland | - | - | - |
| | - | - | - |
| | September 27, 1979 | May 19, 1981 | November 8, 1981 |
| | February 21, 1992 | - | - |
| Israel | - | November 12, 1979 | December 12, 1979 |
| | - | November 12, 1979 | December 12, 1979 |
| | - | April 12, 1984 | May 12, 1984 |
| | October 23, 1991 | - | - |
| Italy | December 2, 1961 | June 1, 1977 | July 1, 1977 |
| | November 10, 1972 | June 1, 1977 | July 1, 1977 |
| | October 23, 1978 | April 28, 1986 | May 28, 1986 |
| | March 19, 1991 | - | - |
| Japan | - | - | - |
| | - | - | - |
| | October 17, 1979 | August 3, 1982 | September 3, 1982 |
| | - | - | - |
| Mexico (not yet a member) | - | - | - |
| | - | - | - |
| | July 25, 1979 | - | - |
| | - | - | - |
| Netherlands | December 2, 1961 | August 8, 1967 | August 10, 1968 |
| | November 10, 1972 | January 12, 1977 | February 11, 1977 |
| | October 23, 1978 | August 2, 1984 | September 2, 1984 |
| | March 19, 1991 | - | - |
| New Zealand | - | - | - |
| | - | - | - |
| | July 25, 1979 | November 3, 1980 | November 8, 1981 |
| | December 19, 1991 | - | - |
| Poland | - | - | - |
| | - | - | - |
| | - | October 11, 1989 | November 11, 1989 |
| | - | - | - |
| South Africa | - | October 7, 1977 | November 6, 1977 |
| | - | October 7, 1977 | November 6, 1977 |
| | October 23, 1978 | July 21, 1981 | November 8, 1981 |
| | March 19, 1991 | - | - |

| State | Date of signature ¹ | Date of deposit of instrument ^{1,2} | Date of effect ¹ |
|--------------------------|--------------------------------|--|-----------------------------|
| Spain | - | April 18, 1980 | May 18, 1980 |
| | - | April 18, 1980 | May 18, 1980 |
| | - | - | - |
| | March 19, 1991 | - | - |
| Sweden | - | November 17, 1971 | December 17, 1971 |
| | January 11, 1973 | January 11, 1973 | February 11, 1977 |
| | December 6, 1978 | December 1, 1982 | January 1, 1983 |
| | December 17, 1991 | - | - |
| Switzerland | November 30, 1962 | June 10, 1977 | July 10, 1977 |
| | November 10, 1972 | June 10, 1977 | July 10, 1977 |
| | October 23, 1978 | June 17, 1981 | November 8, 1981 |
| | March 19, 1991 | - | - |
| United Kingdom | November 26, 1962 | September 17, 1965 | August 10, 1968 |
| | November 10, 1972 | July 1, 1980 | July 31, 1980 |
| | October 23, 1978 | August 24, 1983 | September 24, 1983 |
| | March 19, 1991 | - | - |
| United States of America | - | - | - |
| | - | - | - |
| | October 23, 1978 | November 12, 1980 | November 8, 1981 |
| | October 25, 1991 | - | - |

MISCELLANEOUS INFORMATION

CIOPORA: International Symposium on the Protection of Plant Breeders' Rights

CIOPORA will hold its 6th International Symposium on the Protection of Plant Breeders' Rights on September 17 and 18, 1992, in Munich, Germany.

The main topics of the Symposium will be "The revised UPOV Convention and its practical consequences" and "A supranational procedure for the filing, examination and grant of national titles of protection."

The Symposium will be held at the European Patent Office, Erhardtstr. 27, D-8000 Munich, Germany (Tel.: (49) 89-23.990).

Registration should be made with Mrs. Charbonnier, CIOPORA, Villantipolis No. 11, Sophia-Antipolis, F-06560 Valbonne, France (Tel.: (33) 93.95.81.80; Fax: (33) 93.90.04.09).

CASE NOTES

United Kingdom: Controller's Decision
on an Application for a Compulsory License
for the Rose Varieties 'Auslight' and 'Auslian'

The application by Wrights Roses for a compulsory license for the rose varieties 'Auslight' and 'Auslian' was refused by the controller for the reason that the application does not meet the requirements set out in Section 7(3) of the Plant Variety and Seeds Act 1964 (as amended by the Plant Variety Act 1983). The decision is reproduced below in an abridged version.

BACKGROUND

In September 1988 Wrights Roses, a partnership comprising Mr. T.L. and Mr. C.W. Wright, applied to the British Association of Rose Breeders (BARB) for a license to grow BARB protected rose varieties. Wrights Roses was granted a license. In September 1990, BARB terminated the license on the grounds that Wrights Roses had not complied with the terms of the license.

On February 5, 1991, Wrights Roses applied to the Controller of Plant Variety Rights for a compulsory license to be granted for the rose variety AUSLIGHT, in accordance with Section 7 of the Plant Variety and Seeds Act 1964. On February 12, Wrights Roses similarly submitted an application in respect of the rose variety AUSLIAN. The grounds for the applications were stated to be that licenses granted to Wrights Roses by BARB on behalf of David Austin Roses, the holder of the plant breeders' rights, had been terminated unreasonably.

Section 7(1) of the Plant Variety and Seeds Act 1964 states that if any person applies to the Controller and satisfies him that the holder of any plant breeders' rights has unreasonably refused to grant a license, the Controller shall, unless it appears to him that there is a good reason for refusing the application, grant to the applicant in the form of a compulsory license any such rights as regards the plant variety as might have been granted to the applicant by the holder of plant breeders' rights.

Section 7(3) (as amended by the Plant Varieties Act 1983) provides that:

"in entertaining applications and settling the terms of compulsory licenses under this Section, the Controller shall have regard to the desirability of securing:

- "(a) that the plant variety is available to the public at reasonable prices, is widely distributed and is maintained in quality;
- "(b) that there is reasonable remuneration for the holder of the plant breeders' rights; and
- "(c) where there is a market for the export of the plant variety, that the market is supplied from the production of the variety in Great Britain."

Arguments put forward in the case

The applicants stated that their case rested on two grounds. The first was that BARB was in breach of its agreement with Wrights Roses in that Wrights Roses were refused permission to make oral representations to BARB prior to the termination of its license. The second ground was that in granting or offering to grant a license, BARB were imposing unreasonable terms and conditions.

As for the first ground, the Controller concluded that it is an issue which is not relevant to applications concerned as he is not required by the Act to express a view as to whether a license has been unreasonably terminated which is a matter for other jurisdiction.

As for the second ground, the Controller considered that this is an issue on which the Controller is not required to give a decision as the evidence presented in this regard related to the conditions which applied during the term of the withdrawn license.

The Requirements of the Act

Section 7 of the Act should be read with Section 4. Provided the holder of the plant breeders' right complies with the requirements of Part I of the Act, Section 4(4) gives to the holder an exclusive right in the circumstances set out therein. In the circumstances of this case, the Controller interprets this to mean, that provided the criteria specified in Section 7 are met, it is clearly within the compass of the right granted to David Austin Roses to decide whether to grant or refuse a license.

It is against this background therefore that the Controller must consider the requirements of Section 7(3). The decision on the applications depends upon whether the criteria laid down in Section 7(3) are satisfied.

Section 7(3)(a) of the Act requires the Controller to have regard to the desirability of securing that the plant variety is available to the public at reasonable prices, is widely distributed and is maintained in quality. The evidence before the Controller suggests that all those criteria are met. The applicants did not dispute this either in their written evidence or at the hearing.

The Controller is also required by Section 7(3)(b) to have regard to the desirability of securing that there is reasonable remuneration to the holder of plant breeders' rights. The evidence from the applicant does not dispute the reasonableness of the royalties charged by David Austin Roses and does not dispute the evidence given by the respondents that the BARB system actually achieves a level of remuneration to David Austin Roses which might well be less if David Austin Roses was responsible for their own licensing and collection of royalties.

The Controller is also required to consider Section 7(3)(c). The Controller was provided with no evidence from the applicant as to the supply of their production for export of the applicant varieties.

The Controller therefore concludes that the matters to which Section 7(3) of the Act require him to have regard are satisfied by virtue of the licensing system operated by David Austin Roses through BARB. A compulsory license will not therefore be granted to the applicant.

CALENDAR

UPOV Meetings in 1992

| | |
|--|---|
| 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 to 19 (Suweon, Republic of Korea) | UPOV Seminar for the Asian and Pacific Region |

Meetings of other Organizations

| | |
|---|--------------------------|
| July 6 to 11 (Angers, France) | EUCARPIA (Congress) |
| September 14 to 19 (Noordwijk, Netherlands) | AIPH (Congress) |
| September 17 and 18 (Munich, Germany) | CIOPORA (Colloquium) |
| October 19 to 23 (Santa Cruz, Bolivia) | Panamerican Seed Seminar |
| October 27 to November 7 (Buenos Aires, Argentina) | ISTA (Congress) |

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:

The International Union for the Protection of New Varieties of Plants (UPOV)
34, chemin des Colombettes, 1211 Geneva 20 (POB 18)
Telephone: (022) 730.91.11 - Telex: 412 912 ompi ch - Telefax: (022) 733.54.28