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# PLANT VARIETY PROTECTION

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

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**GAZETTE**


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**ACCESSION TO THE 1978 ACT OF THE UPOV CONVENTION**


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**Finland**

On March 16, 1993, Finland deposited its instrument of accession to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978, with the Secretary-General of UPOV. The Act of 1978 of the Convention entered into force in respect of Finland on April 16, 1993. On that date, Finland became the twenty-third member State of UPOV and the twenty-first State bound by the Act of 1978.

The Law on Breeders' Rights of August 21, 1992, and the main implementing Decrees are published in this issue in the "Legislation" subsection, starting on page 47.

The genera and species covered by plant variety protection legislation are given on pages 17 to 21.

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**EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES**


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**Canada**

By virtue of the Order in Council of February 23, 1993, SOR/93-87, amending the Plant Breeders' Rights Regulations (Canada Gazette, Part II, Vol. 127, No. 5, of March 10, 1993), protection was extended to the following genera and species, with effect from March 10, 1993 (the Latin, English and French names appear in the Order, whereas the German names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Avena spp.	Oats	Avoine	Hafer
Dianthus spp.	Dianthus	Oeillet	Nelke
Euphorbia pulcherrima Willd. ex. Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Fragaria L.	Strawberry	Fraise	Erdbeere
Hordeum vulgare L. sensu lato	Barley	Orge	Gerste
Linum usitatissimum L.	Flax	Lin	Lein

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Malus Mill.	Apple	Pomme	Apfel
Medicago sativa L. sensu lato	Alfalfa	Luzerne	Luzerne
Phaseolus vulgaris L. & Phaseolus coccineus L.	Bean	Haricot	Bohne
Pisum sativum L. sensu lato	Pea	Pois	Erbse
Potentilla spp.	Potentilla	Potentille	Fingerkraut
Prunus spp.	Cherry (all species)	Cerise (toutes les espèces)	Kirsche (alle Arten)
Pyrus spp.	Pear	Poire	Birne
Saintpaulia spp.	African Violet	Violette africaine	Usambara- veilchen
Taxus spp.	Yew	If	Eibe
Vitis L.	Grapes	Raisin	Rebe
Zea mays L.	Corn	Maïs	Mais

Pursuant to the amended version of paragraphs 7(1)(a) and (b) of the Plant Breeders' Rights Regulations, on recently prescribed varieties, a sale or the concurrence in a sale outside Canada of a new variety of the above-mentioned genera and species does not destroy the novelty of the variety, if it did not take place before

- August 1, 1984, in the case of apple, cherry, pear, yew, grapes, and
- August 1, 1986, in the case of the other genera and species mentioned above,

provided the application is received by the Commissioner within 12 months from the entry into force of the Order, namely before March 10, 1994.

**Consolidated List of Plants Covered by Plant Variety Protection Legislation in Canada (with effect from March 10, 1993)**

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Avena spp.	Oats	Avoine	Hafer
Brassica campestris L., Brassica napus L.	Canola, Rapeseed	Canola, Colza	Raps
Chrysanthemum spp.	Chrysanthemum	Chrysanthème	Chrysantheme
Dianthus spp.	Dianthus	Oeillet	Nelke

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Euphorbia pulcherrima Willd. ex. Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Fragaria L.	Strawberry	Fraise	Erdbeere
Glycine max (L.) Merrill	Soybean	Soja	Sojabohne
Hordeum vulgare L. sensu lato	Barley	Orge	Gerste
Linum usitatissimum L.	Flax	Lin	Lein
Malus Mill.	Apple	Pomme	Apfel
Medicago sativa L. sensu lato	Alfalfa	Luzerne	Luzerne
Phaseolus vulgaris L. & Phaseolus coccineus L.	Bean	Haricot	Bohne
Pisum sativum L. sensu lato	Pea	Pois	Erbse
Potentilla spp.	Potentilla	Potentille	Fingerkraut
Prunus spp.	Cherry (all species)	Cerise (toutes les espèces)	Kirsche (alle Arten)
Pyrus spp.	Pear	Poire	Birne
Rosa spp.	Rose	Rose	Rose
Saintpaulia spp.	African Violet	Violette africaine	Usambara- veilchen
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Taxus spp.	Yew	If	Eibe
Triticum aestivum L. emend. Fiori et Paol.	[Soft] Wheat	Blé [tendre]	Weichweizen
Triticum durum Desf.	[Durum] Wheat	Blé [dur]	Hartweizen
Vitis L.	Grapes	Raisin	Rebe
Zea mays L.	Corn	Maïs	Mais

Denmark

By virtue of Order No. 38 of January 29, 1993, of the Plant Directorate on Plant Novelties (List of Genera and Species), protection was extended to the following genera and species, with effect from February 10, 1993\*:

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Achimenes Pers.	Tallerkenblomst	Achimenes	Achimène	Schiefteller
Anigozanthos Labill.	Kaengurupote	Kangaroo Paw	Anigozanthos	Känguruhblume
Anthurium Schott	-	Anthurium, Tail Flower	Anthurium	Flamingoblume
Armeria (DC.) Willd.	Engelskgraes	Thrift, Sea Pink	Arméria	Grasnelke
Cattleya Lindl.	-	Cattleya	Cattleya	Cattleya
Chenopodium quinoa Willd.	Quinoa	Quinoa, Goosefoot	Quinoa	Reismelde, Reisspinat
Columnea L.	-	Columnea	Columnea	Columnea
Cotoneaster Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster, Zwergmispel
Cymbidium Sw.	-	Cymbidium	Cymbidium	Cymbidie
Dendrobium Sw.	-	Dendrobium	Dendrobium	Dendrobium, Baumwucherer
Dipladenia A. DC.	-	Dipladenia	Dipladenia	Dipladenia
Ficus benjamina L.	Birke-figen	Ficus benjamina	Ficus benjamina	-
Ficus pumila L.	Haenge-figen	Creeping Fig	Figuier grim pant	Kletter-Ficus
Godetia Spach	Atlaskblomst	Godetia	Godétie	Godetie, Atlasblume
Gypsophila L.	Brudeslør	Gyp, Gypso- phila, Baby's Breath	Gypsophile	Gipskraut, Schleierkraut
Helichrysum Mill. corr. Pers.	Evighedsblomst	Everlasting	Immortelle	Strohblume
Heliotropium L.	Heliotrop	Heliotrope	Héliotrope	Heliotrop

\* The Danish and Latin names appear in the Order, whereas the English, French and German common names have been added, without guarantee of concordance, by the Office of the Union.

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Helipterum DC. (Acroclinium)	-	Sunray	Héliptère	Sonnenflügel
Hypoestes Soland. ex. R. Br.	-	Hypoestes	Hypoestes	Hypoestes
Limonium Mill.	Hindebaeger	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
Odontoglossum H.B.K.	Tigerorkide	Odontoglossum	Odontoglossum, Orchidée muguet	Odontoglossum
Oxalis triangularis A. St.-Hil.	-	-	-	-
Paphiopedilum- hybridi	Venussko	Lady's Slipper	Sabot de Vénus	Venusschuh
Pentas lanceolata (Forsk.) Deflers	Aegypterstjerne	Pentas	Pentas	Pentas
Petunia Juss.	Petunie	Petunia	Pétunia	Petunie
Phalaenopsis Bl.	-	Moth Orchid	Orchidée papillon	Phalaenopsis
Phlox L.	Floks	Phlox	Phlox	Phlox, Flammenblume
Salix L.	Pil	Willow	Saule	Weide
Salvia L.	Salvie	Sage	Sauge	Salbei
Syngonium Schott	-	Syngonium	Syngonium	Syngonium

By virtue of Order No. 387 of June 16, 1993, of the Plant Directorate on Plant Novelties (List of Genera and Species), protection was extended to the following genera and species, with effect from June 26, 1993\*:

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Dahlia Cav.	Dahlia (Georgine)	Dahlia	Dahlia	Dahlie
Dipteracanthus devosianus (Makoy) Boom	Deltablad	-	-	-

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\* See Footnote on page 5.

**Consolidated List of Taxa Covered by Plant Variety Protection Legislation in Denmark (with effect from June 26, 1993)**

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Abutilon Mill.	-	Abutilon	Abutilon	Abutilon
Achimenes Pers.	Tallerkenblomst	Achimenes	Achimène	Schiefteller
Aeschynanthus Jack.	Aeschynanthus	Aeschynanthus	Aeschynanthus	Aeschynanthus
Agrostis spp.	Hvene	Bentgrass	Agrostis	Straussgras
Allamanda cathartica L.	Allamanda	Allamanda	Allamanda	Allamanda
Allium ascalonicum L.	Skalotteløg	Shallot	Echalote	Schalotte
Allium cepa L.	Kepaløg	Onion	Oignon	Zwiebel
Allium porrum L.	Porre	Leek	Poireau	Porree
Allium schoenoprasum L.	Purløg	Chives, Asatsuki	Ciboulette, Civette	Schnittlauch
Alstroemeria spp.	Inkalilje (Alstroemeria)	Alstroemeria, Herb Lily	Alstroemère, Lis des Incas	Inkalilie
Anethum graveolens L.	Dild	Dill	Aneth	Dill
Anigozanthos Labill.	Kaengurupote	Kangaroo Paw	Anigozanthos	Känguruhblume
Anthriscus cerefolium (L.) Hoffm.	Kørvel	Chervil	Cerfeuil	Kerbel
Anthurium Schott	-	Anthurium, Tail Flower	Anthurium	Flamingoblume
Apium graveolens L.	Selleri (Knold- og Bladselleri)	Celery, Celeriac,	Céleri, Céleri-rave	Sellerie (Knollen- und Blatt-sellerie)
Armeria (DC.) Willd.	Engelskgraes	Thrift, Sea Pink	Arméria	Grasnelke
Armoracia rusticana Ph. Gaertn., B. Mey. et Scherb.	Peberrod	Horse Radish	Raifort sauvage	Meerrettich
Asparagus officinalis L.	Asparges	Asparagus	Asperge	Spargel
Asparagus setaceus (Kunth) Jessop	Slørasparges	"Asparagus Fern"	Asparagus	Asparagus, Federspargel



<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Aster L.	Asters	Aster, Michaelmas Daisy	Aster	Aster
Avena nuda L.	Nøgen Havre	Naked Oats	Avoine nue	Nackthafer
Avena sativa L., Avena byzantina K. Koch	Havre	Oats	Avoine	Hafer
Begonia spp.	Begonie	Begonia	Bégonia	Begonie
Berberis spp.	Berberis	Berberis, Barberry	Berberis, Epine-vinette	Berberitze
Beta vulgaris L. var. conditiva Alef.	Rødbede	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe
Beta vulgaris L. var. crassa Mansf.	Foderbede	Fodder Beet	Betterave fourragère	Runkelrübe
Beta vulgaris L. var. vulgaris	Bladbede	Mangel, Leaf Beet, Spinach Beet	Bette commune, Poirée	Mangold
Bougainvillea spp.	Bougainvillea	Bougainvillea	Bougain- villier	Bougainvillea
Brassica napus L.	Raps	Swede Rape, incl. Oilseed Rape	Colza	Raps
Brassica napus L. var. napobrassica (L.) Rchb.	Kålroe	Swede	Chou-navet, Rutabaga	Kohlrübe
Brassica oleracea L. convar. acephala (DC.) Alef. var. gongylodes L.	Knudekål	Kohlrabi	Chou-rave	Kohlrabi
Brassica oleracea L. convar. acephala (DC.) Alef. var. medullosa Thell.	Fodermarvkål	Marrow-stem Kale	Chou moellier	Markkohl
Brassica oleracea L. convar. acephala (DC.) Alef. var. sabellica L.	Grønkål	Curly Kale	Chou frisé	Grünkohl

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis L.	Blomkål	Cauliflower	Chou-fleur	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. alba DC.	Hvidkål	White Cabbage	Chou cabus	Weisskohl
Brassica oleracea L. convar. capitata (L.) Alef. var. rubra DC.	Rødkål	Red Cabbage	Chou rouge	Rotkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. sabauda L.	Savoykål	Savoy Cabbage	Chou de Milan	Wirsing
Brassica oleracea L. convar. oleracea var. gemmifera DC.	Rosenkål	Brussels Sprouts	Chou de Bruxelles	Rosenkohl
Brassica pekinensis (Lour.) Rupr.	Kinakål	Chinese Cabbage	Chou de Chine, Pé-tsai	Chinakohl
Brassica rapa L. var. rapa	Majroe	[Spring] Turnip	Navet [de printemps]	Mairübe
Brassica rapa L. var. rapa	Turnips	[Autumn] Turnip	Navet [d'automne]	Herbstrübe
Brassica rapa L. var. silvestris (Lam.) Briggs	Rybs	Turnip Rape	Navette	Rübsen
Camelina sativa (L.) Crantz	Saed-Dodder	Large-seeded False Flax	Caméline cultivée	Angebauter Leindotter
Campanula L.	Klokke	Campanula, Bellflower	Campanule	Glockenblume
Capsicum annuum L.	Spansk Peber	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
Carum carvi L.	Kommen	Caraway	Carvi, Cumin des prés	Kümmel
Cattleya Lindl.	-	Cattleya	Cattleya	Cattleya

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Chamaecyparis spp.	Dvaergcypres	Chamaecyparis	Chamaecyparis	Scheinzypresse
Chenopodium quinoa Willd.	Quinoa	Quinoa, Goosefoot	Quinoa	Reismelde, Reisspinat
Chrysanthemum spp.	Krysanthemum	Chrysanthemum	Chrysanthème	Chrysantheme
Cichorium endivia L.	Endivie	Endive	Chicorée frisée, Scarole	Winterendivie
Cichorium intybus L.	Cikorie	Chicory	Chicorée, Endive	Wurzelzichorie, Salatzichorie
Clematis L.	Klematis	Clematis	Clématite	Waldrebe
Columnnea L.	-	Columnnea	Columnnea	Columnnea
Cotoneaster Medik.	Cotoneaster	Cotoneaster	Cotoneaster	Cotoneaster, Zwergmispel
Crassula schmidtii Regel (including its hybrids)	-	-	-	-
Cucumis melo L.	Melon	Melon	Melon	Melone
Cucumis sativus L.	Agurk	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cucurbita maxima Duch.	Centnergraeskar	Pumpkin	Potiron, Giraumon	Riesenkürbis
Cucurbita pepo L.	Mandelgraeskar	Pumpkin, Marrow, Courgette, Vegetable Marrow	Courge, Pâtisson, Citrouille	Gartenkürbis, Oelkürbis, Zucchini
Cydonia spp.	Kvaede	Quince	Cognassier	Quitte
Cymbidium Sw.	-	Cymbidium	Cymbidium	Cymbidie
Cynosurus cristatus L.	Almindelig Kamgraes	Crested Dog's-tail	Crételle	Kammgras
Dactylis glomerata L.	Hundegraes	Cocksfoot, Orchard Grass	Dactyle	Knautgras
Dahlia Cav.	Dahlia (Georgine)	Dahlia	Dahlia	Dahlie
Daucus carota L.	Gulerod	Carrot	Carotte	Möhre
Dendrobium Sw.	-	Dendrobium	Dendrobium	Dendrobium, Baumwucherer

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Dianthus caryophyllus</i> L.	Havenellike	Carnation	Oeillet	Nelke
<i>Dieffenbachia</i> Schott	Dieffenbachia	Dieffenbachia, Tuft Root, Dumb Bane	Dieffenbachia	Dieffenbachia
<i>Dipladenia</i> A. DC.	-	Dipladenia	Dipladenia	Dipladenia
<i>Dipteracanthus devosianus</i> (Makoy) Boom	Deltablåd	-	-	-
<i>Euphorbia fulgens</i> Karw. ex Klotzsch	Koralranke	<i>Euphorbia fulgens</i>	<i>Euphorbia fulgens</i>	Korallenranke
<i>Euphorbia milii</i> Desm. et hybridæ	Kristi Tornekrone	Christ's Thorn, Crown of Thorns	Epine du Christ	Christusdorn
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch	Julestjerne	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
<i>Exacum</i> spp.	Exacum	Exacum	Exacum	Blaues Lieschen
<i>Fagopyrum esculentum</i> Moench	Almindelig Boghvede	Buckwheat	Sarrasin, Blé noir	Buchweizen
<i>Festuca</i> spp.	Svingel	Fescue	Fétuque	Schwingel
<i>Ficus benjamina</i> L.	Birke-figen	<i>Ficus benjamina</i>	<i>Ficus benjamina</i>	-
<i>Ficus pumila</i> L.	Haenge-figen	Creeping Fig	Figuier grim pant	Kletter-Ficus
<i>Fragaria x ananassa</i> Duch.	Havejordbaer	Strawberry	Fraisier	Erdbeere
<i>Freesia</i> spp.	Freesia	Freesia	Freesia	Freesie
<i>Fuchsia</i> spp.	Fuchsia	Fuchsia	Fuchsia	Fuchsie
<i>Gerbera</i> L.	Gerbera	Gerbera	Gerbera	Gerbera
<i>Godetia</i> Spach	Atlaskblomst	Godetia	Godétie	Godetie, Atlasblume
<i>Gypsophila</i> L.	Brudeslør	Gyp, Gypsophila, Baby's Breath	Gypsophile	Gipskraut, Schleierkraut
<i>Hebe</i> Comm. ex Juss.	Hebe	Shrubby Speedwell	Véronique	Strauch-veronika

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Hedera helix</i> L.	Almindelig Vedbend	Ivy	Lierre	Efeu
<i>Helichrysum</i> Mill. corr. Pers.	Evighedsblomst	Everlasting	Immortelle	Strohblume
<i>Heliotropium</i> L.	Heliotrop	Heliotrope	Héliotrope	Heliotrop
<i>Helipterum</i> DC. ( <i>Acroclinium</i> )	-	Sunray	Héliptère	Sonnenflügel
<i>Helleborus</i> L.	Julerose	Christmas Rose	Hellébore, Rose de Noël	Schneerose, Christusrose
<i>Hibiscus rosa- sinensis</i> L. et hybridae	Hawaiibloomst (potteplante- typer)	Chinese Hibiscus (pot plant types)	Ketmie, Rose de Chine (plante en pot)	Chinesischer Roseneibisch (Topfpflanzen- typen)
<i>Hippeastrum</i> Herb.	Ridderstjerne ( <i>Amaryllis</i> )	<i>Amaryllis</i>	<i>Amaryllis</i>	Ritterstern, <i>Amaryllis</i>
<i>Hordeum vulgare</i> L.	Byg	Barley	Orge	Gerste
<i>Hyacinthus orientalis</i> L.	Hyacint	Common Hyacinth	Jacinthe	Hyazinthe
<i>Hydrangea macro- phylla</i> (Thunb.) Ser.	Almindelig Hortensie	Hydrangea	Hortensia	Hortensie
<i>Hypoestes Soland.</i> ex. R. Br.	-	<i>Hypoestes</i>	<i>Hypoestes</i>	<i>Hypoestes</i>
<i>Ilex</i> L.	Krisstorn	Holly	Houx	Ilex, Stechpalme
<i>Impatiens</i> spp.	Balsamin	Balsam, Busy Lizzie, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
<i>Juniperus</i> spp.	Ene	Juniper	Genévrier	Wacholder
<i>Kalanchoë</i> Adans.	Kalanchoë	Kalanchoë	Kalanchoë	Kalanchoë
<i>Lactuca sativa</i> L.	Salat	Lettuce	Laitue	Salat
<i>Lepidium sativum</i> L.	Karse	Cress	Cresson alénois	Gartenkresse
<i>Limonium</i> Mill.	Hindebaeger	Sea Lavender, Statice	<i>Limonium</i> , Statice	Widerstoss, Meerlavendel
<i>Linum usitatissimum</i> L.	Hør	Flax, Linseed	Lin	Lein
<i>Lolium</i> spp.	Rajgraes	Ryegrass	Ray-grass	Weidelgras

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Lupinus albus L.	Hvid Lupin	White Lupin	Lupin blanc	Weisslupine
Lupinus angustifolius L.	Smalbladet Lupin	Blue Lupin	Lupin bleu	Blaue Lupine
Lupinus luteus L.	Gul Lupin	Yellow Lupin	Lupin jaune	Gelbe Lupine
Lycopersicon lycopersicum (L.) Karst. ex Farw.	Tomat	Tomato	Tomate	Tomate
Malus sylvestris Mill.*	Aeble	Apple	Pommier	Apfel
Matthiola spp.	Levkøj	Stock	Giroflée	Levkoje
Medicago lupulina L.	Humlesnegle Baelg	Black Medick, Yellow Trefoil	Luzerne lupuline, Minette	Gelbklee (Hopfenklee)
Medicago sativa L.	Lucerne	Lucerne, Alfalfa	Luzerne	Luzerne
Medicago x varia Martyn	Sandlucerne	(Hybrid) Lucerne	Luzerne hybride	Bastardluzerne
Myrtus communis L.	Almindelig Myrte	True Myrtle	Myrte commun	Brautmyrte
Narcissus L.	Narcis	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
Odontoglossum H.B.K.	Tigerorkide	Odontoglossum	Odontoglossum, Orchidée muguet	Odontoglossum
Osteospermum ecklonis (DC.) Norl.	-	Osteospermum	Osteospermum	Osteospermum
Oxalis triangularis A. St.-Hil.	-	-	-	-
Papaver somniferum L.	Opiatvalmue	Opium Poppy	Oeillette, Pavot	Mohn
Paphiopedilum-hybridi	Venusko	Lady's Slipper	Sabot de Vénus	Venusschuh
Pastinaca sativa L.	Pastinak	Parsnip	Panaïs	Pastinak

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

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Pelargonium L'Hérit. ex Ait. (incl. hybrids of P. grandiflorum, P. zonale and P. peltatum)	Pelargonie	Geranium, Pelargonium, Stork's Bill	Géranium, Pelargonium	Pelargonie
Pentas lanceolata (Forsk.) Deflers	Aegypterstjerne	Pentas	Pentas	Pentas
Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. tuberosum (Bernh. ex Rchb.) Soó.	Rodpersille	Turnip-rooted Parsley	Persil à grosse racine	Wurzelpeter- silie
Petroselinum crispum (Mill.) Nym. ex A.W. Hill ssp. crispum	Kruspersille	Parsley	Persil	Blattpetersilie
Petunia Juss.	Petunie	Petunia	Pétunia	Petunie
Phalaenopsis Bl.	-	Moth Orchid	Orchidée papillon	Phalaenopsis
Phaseolus coccineus L.	Pralbønne	Runner Bean, Kidney Bean	Haricot d'Espagne	Prunkbohne
Phaseolus vulgaris L.	Bønne	French Bean	Haricot	Gartenbohne
Phleum bertolonii DC.	Knoldrottehale	Timothy	Fléole diploïde, Petite fléole	Zwiebel- lieschgras
Phleum pratense L.	Timothe	Timothy	Fléole des prés	Wiesen- lieschgras
Phlox L.	Floks	Phlox	Phlox	Phlox, Flammenblume
Pisum sativum L.	Aert	Pea	Pois	Erbse
Poa spp.	Rapgræs	Meadow-grass	Pâturin	Rispengras
Potentilla fruticosa L.	Buskpotentil	Shrubby Cinquefoil	Potentille ligneuse	Strauch- fingerkraut

<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Prunus avium</i> (L.) L.*	Sødkirse- baer	Sweet Cherry	Cerisier (cerises douces: guignes, bigarreaux)	Süsskirsche
<i>Prunus cerasus</i> L.*	Surkirsebaer	Morello, Sour Cherry	Cerisier (cerises acides: griottes, amarelles)	Sauerkirsche
<i>Prunus domestica</i> L.*	Blomme	Plum	Prunier	Pflaume
<i>Pyrus communis</i> L.	Paere	Pear	Poirier	Birne
<i>Radermachera sinica</i> (Hance) Hemsl.	Stueask	Radermachera	Radermachera	Radermachera
<i>Raphanus sativus</i> L. var. <i>niger</i> (Mill.) S. Kerner	Raeddike	Black Radish	Radis d'été, d'automne et d'hiver	Rettich
<i>Raphanus sativus</i> L. var. <i>olei-</i> <i>formis</i> Pers.	Olieraeddike	Fodder Radish	Radis oléifère, Radis chinois	Oelrettich
<i>Raphanus sativus</i> L. var. <i>sativus</i>	Radis	Radish	Radis de tous les mois	Radieschen
<i>Rheum rhabar-</i> <i>barum</i> L.	Rabarber	Rhubarb	Rhubarbe	Krauser Rhabarber
<i>Rhipsalidopsis</i> Britt. et Rose et <i>hybridae</i>	Ledkaktus, herunder Paske- og Pinsekaktus	Cactus with jointed stems, including Easter and Whitsun Cactus	Cactus à articles, y compris les Cactus de Pâques et de la Pentecôte	Gliederkaktus, einschl. Oster- und Pfingstkaktus
<i>Rhododendron</i> spp.	Rhododendron, herunder Azalea	Rhododendron, including Azalea	Rhododendron, y compris Azalée	Rhododendron, einschl. Azalee
<i>Ribes nigrum</i> L.	Solbaer	Black Currant	Cassis	Schwarze Johannisbeere
<i>Ribes niveum</i> Lindl., <i>Ribes</i> <i>sylvestre</i> (Lam.) Mert. et W.D.J. Koch	Ribs	White and Red Currant	Groseillier à grappes	Weisse und Rote Johannisbeere

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



<u>Latine</u>	<u>Dansk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Ribes uva-crispa</i> L.	Stikkelsbaer	Gooseberry	Groseillier à maquereau	Stachelbeere
<i>Rosa</i> L.	Rose	Rose	Rosier	Rose
<i>Rubus fruticosus</i> L.	Brombaer	Blackberry	Ronce fruitière	Brombeere
<i>Rubus idaeus</i> L.	Hindbaer	Raspberry	Framboisier	Himbeere
<i>Saintpaulia ionantha</i> H. Wendl.	Saintpaulia	African Violet	Saintpaulia	Usambara-veilchen
<i>Salix</i> L.	Pil	Willow	Saule	Weide
<i>Salvia</i> L.	Salvie	Sage	Sauge	Salbei
<i>Scaevola aemula</i> R. Br.	-	-	-	-
<i>Scorzonera hispanica</i> L.	Skorzoner	Black Salsify	Scorsonère, Salsifis noir	Schwarzwurzel
<i>Schlumbergera</i> Lem. et hybridæ	Ledkaktus, herunder November- og Julekaktus	Cactus with jointed stems, including November and Christmas Cactus	Cactus à articles, y compris les Cactus de novembre et de Noël	Gliederkaktus, einschl. November- und Weihnachtskaktus
<i>Secale cereale</i> L.	Rug	Rye	Seigle	Roggen
<i>Sinapis alba</i> L.	Gul Sennep	White Mustard	Moutarde blanche	Weisser Senf
<i>Solanum melongena</i> L.	Aubergine	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
<i>Solanum tuberosum</i> L.	Kartoffel	Potato	Pomme de terre	Kartoffel
<i>Spathiphyllum</i> spp.	Fredslilje (Spathiphyllum)	Spathiphyllum	Spathiphyllum	Spathiphyllum
<i>Spinacia oleracea</i> L.	Spinat	Spinach	Epinard	Spinat
<i>Streptocarpus x hybridus</i> Voss	Streptocarpus	Streptocarpus, Cape Primrose	Streptocarpus	Drehfrucht
<i>Syngonium</i> Schott	-	Syngonium	Syngonium	Syngonium
<i>Thuja</i> spp.	Thuja	Thuya	Thuya	Lebensbaum
<i>Trifolium hybridum</i> L.	Alsikekløver	Alsike Clover	Trèfle hybride	Schwedenklee

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

### FINLAND

#### List of Taxa Covered by Plant Variety Protection Legislation in Finland (with effect from October 15, 1992)

By virtue of Decree 905 of October 9, 1992, on Genera and Species of Plants Under the Law on Breeders' Rights, the genera and species covered by plant variety protection legislation are as reproduced on the following pages (the Latin, Finnish and Swedish names appear in the Decree, whereas the English, French and German names have been added, without guarantee of concordance, by the Office of the Union).

<u>Latine</u>	<u>Finnish</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Agrostis spp.	Röllit	Ven	Bentgrass	Agrostis, Agrostide	Straussgras
Allium cepa L.	Ruokasipuli	Matlök	Onion	Oignon	Zwiebel
Allium cepa L. var. aggregatum	Ryvässipuli	Potatislök	Potato Onion	Oignon patate	Kartoffelzwiebel
Allium cepa L. var. viviparum	Ilmasipuli	Luftlök	Tree Onion, Egyptian Onion	Oignon d'Egypte	Luftzwiebel
Allium fistulosum	Pillisipuli	Piplök	Welsh Onion	Ciboule	Winterzwiebel
Allium schoenoprasum	Ruohosipuli	Gräslök	Chives, Asatsuki	Ciboulette, Civette	Schnittlauch
Alnus spp.	Leppä	Al	Alder	Aulne	Erle
Alstroemeria spp.	Intiaaninkukat	Alströmeria	Alstroemeria, Herb Lily, Peruvian Lily	Alstroemère, Lis des Incas	Inkalilie
Avena sativa L.	Kaura	Havre	Oats	Avoine	Hafer
Begonia spp.	Begoniat	Begonia	Begonia	Bégonia	Begonie
Beta vulgaris L. spp. vulgaris var. altissima Doell	Sokerijuurikas	Sockerbeta	Sugar Beet	Betterave sucrière	Zuckerrübe
Beta vulgaris L. spp. vulgaris var. conditiva Alef.	Punajuurikas	Rödbeta	Beetroot, Garden Beet, Red Beet	Betterave rouge, Betterave potagère	Rote Rübe
Betula spp.	Koivu	Björk	Birch	Bouleau	Birke
Brassica napus L. var. napobrassica (L.) Rchb.	Lanttu	Kålrot	Swede, Rutabaga	Chou-navet, Rutabaga	Kohlrübe
Brassica napus var. oleifera Sinsk.	Rapsi	Raps	Swede Rape	Colza	Raps
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Kukkakaali	Blomkal	Cauliflower	Chou-fleur	Blumenkohl

<u>Latine</u>	<u>Finnish</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>capitata</i>	Keräkaali	Vitkal	Cabbage	Chou pommé	Kopfkohl
<i>Brassica pekinensis</i> (Lour.) Rupr.	Salaattikiinankaali	Salladskål <sup>o</sup>	Chinese cabbage	Chou de Chine, Pé-tsai	Chinakohl
<i>Brassica rapa</i> L.	Nauris	Rova	Turnip	Navet	Herbstrübe, Mairübe
<i>Brassica rapa</i> L. var. <i>oleifera</i> Metzg.	Rypsi	Rybs	Turnip Rape	Navette	Rübsen
<i>Chrysanthemum</i> spp.	Krysanteemit	Prästkrage, Krysantemum	Chrysanthemums	Chrysanthèmes	Chrysanthemen
<i>Cucumis sativus</i> L.	Kurkku	Gurka	Cucumber, Gherkin	Concombre, Cornichon	Gurke
<i>Cyclamen persicum</i> Mill.	Syklaami	Cyklamen	Ivy-leaved Cyclamen, Persian Cyclamen	Cyclamen de Perse	Persisches Alpenveilchen
<i>Dactylis glomerata</i> L.	Koiranheinä	Hundäxing	Cocksfoot, Orchard Grass	Dactyle	Knäulgras
<i>Daucus carota</i> L.	Porkkana	Morot	Carrot	Carotte	Möhre
<i>Dianthus</i> spp.	Neilikat	Nejlika	Carnation	Oeillet	Nelke
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch	Joulutähti	Julstjärna	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
<i>Fagopyrum esculentum</i>	Viljatattari	Bovete	Buckwheat	Sarrasin, Blé noir	Buchweizen
<i>Festuca</i> spp.	Nadat	Svingel	Fescue	Fétuque	Schwingel
<i>Fragaria</i> spp.	Mansikat	Smultron	Strawberry	Fraisier	Erdbeere
<i>Galega</i> spp.	Vuohenherneet	Getruta	Goat's Rue	Galéga	Geissraute
<i>Gerbera x cantabrigensis</i> Lynch.	Sädelatva	Gerbera	Transvaal Daisy	-	-
<i>Helianthus annuus</i> L.	Auringonkukka	Vanlig Solros	Common Sunflower	Tournesol, Soleil	Sonnenblume
<i>Hordeum vulgare</i> L.	Ohra	Korn	Barley	Orge	Gerste

<u>Latine</u>	<u>Finnish</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Impatiens walleriana</i> Hook. f.	Ahkeraliisa	Flitiga Lisa	Busy Lizzie	Impatiente	Fleißiges Lieschen
<i>Lactuca sativa</i> L.	Salaatti	Trädgårdssallat	Lettuce	Laitue	Salat
<i>Linum usitatissimum</i> L.	Pellava	Oljelin, Spånadslin	Flax, Linseed	Lin	Lein
<i>Lolium</i> spp.	Raiheinät	Rajgräs	Ryegrass	Ray-grass	Weidelgras
<i>Lupinus</i> spp.	Lupiinit	Lupin	Lupin	Lupin	Lupine
<i>Malus</i> spp.	Omenapuut	Äppelträd	Apple	Pommier	Apfel
<i>Medicago sativa</i> L.	Sinimailanen	Blåusern, Alfalfa	Lucerne, Alfalfa	Luzerne (cultivée)	Blaue Luzerne
<i>Pelargonium</i> spp.	Pelargonit	Pelargon	Pelargonium	Pelargonium	Pelargonie
<i>Petunia x hybrida</i> Vilm.	Petunia	Petunia	Petunia	Pétunia	Petunie
<i>Phaseolus</i> spp.	Pavut	Böna	Bean	Haricot	Bohne
<i>Phleum pratense</i> L.	Timotei	Timotej	Timothy	Fléole des prés	Wiesenlieschgras
<i>Picea</i> spp.	Kuusi	Gran	Spruce	Epicéa	Fichte
<i>Pinus</i> spp.	Mänty	Tall	Pine	Pin	Kiefer
<i>Pisum sativum</i> L.	Herne	Ärt	Pea	Pois	Erbse
<i>Poa</i> spp.	Nurmikat	Gröe	Meadow-grass, Bluegrass	Pâturin	Rispengras
<i>Populus</i> spp.	Haapa	Asp	Poplar	Peuplier	Pappel
<i>Prunus</i> spp.	Kirsikat, Luumu, Kriikuna	Körsbär, Plommon, Krikon	Cherry, Plum, Damson, Bullace, Mirabelle	Cerisier, Prunier, Prunier de Damas, Mirabelle	Kirsche, Pflaume, Haferpflaume, Mirabelle
<i>Pyrus</i> spp.	Päärynät	Päron	Pear	Poirier	Birne
<i>Rhododendron</i> spp.	Alppirusut, Azalea	Rhododendron, Azalea	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee
<i>Ribes</i> spp.	Herukat, Karviaiset	Vinbär, Krusbär	Currants, Gooseberry	Cassis, Groseilliers	Johannisbeere, Stachelbeere
<i>Rosa</i> spp.	Ruusut	Ros	Rose	Rosier	Rose

<u>Latine</u>	<u>Finnish</u>	<u>Swedish</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Rubus spp.	Vadelma, Mesimarja, Lakka	Hallon, Åkerbär, Hjortron	Raspberry, Bramble, Cloudberry	Framboisier, Ronce, Ronce des marais	Brombeere, Himbeere, Torfbeere
Saintpaulia ionantha	Paavalinkukka	Prinsessblomma	African Violet	Saintpaulia	Usambaraveilchen
Salix spp.	Paju	Pil	Willow	Saule	Weide
Secale cereale L.	Ruis	Råg	Rye	Seigle	Roggen
Sinapis spp.	Sinapit	Senap	Mustard	Moutarde	Senf
Solanum lycopersicum L.	Tomaatti	Tomat	Tomato	Tomate	Tomate
Solanum tuberosum	Peruna	Potatis	Potato	Pomme de terre	Kartoffel
Sorbus spp.	Pihlaja	Rönn	Rowan, Mountain Ash, Whitebeam	Sorbier	Eberesche, Mehlbeere, Elsbeere
Trifolium spp.	Apilat	Klöver	Clover	Trèfle	Klee
Triticum aestivum L.	Vehnä	Vete	Wheat, Soft Wheat	Blé tendre, Froment	Weichweizen
Tulipa spp.	Tulppaanit	Tulpan	Tulip	Tulipe	Tulpe
Vicia faba L.	Härkäpapu	Bondböna	Broad Bean, Horse Bean, Field Bean, Tick Bean	Fève, Féverole	Ackerbohne, Dicke Bohne (Puffbohne)
Vicia sativa L.	Rehuvirna	Fodervicker	Common Vetch	Vesce commune	Saatwicke

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**NEWSLETTER**


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**MEMBER STATES**


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**Finland: Address of Office**

The competent office for plant variety protection in Finland is the Plant Variety Rights Office, Ministry of Agriculture and Forestry, Hallituskatu 3 A, 00170 Helsinki, Finland (Phone: 00358-0-16.03.16; Fax: 00358-0-160.24.43).

**Finland: Tariff of Fees**

By virtue of Decision 943 of October 21, 1992, of the Ministry of Agriculture and Forestry the fees for the services of the Plant Variety Board are as follows (in Finnish Markka), with effect from October 28, 1992:

<u>Type of Fees</u>	<u>Amount</u>
Registration	1200
Annual fee	1400
Reconsideration of application	500
Entry of data in the Register	200

**Netherlands: Modification of Fees**

By virtue of the Decree of January 6, 1993 (Stb. No. 61 of February 2, 1993), of the Minister for Agriculture, Nature Management and Fisheries on the Tariff of Fees of the Board for Plant Breeders' Rights, the annual maintenance fees were amended with effect from March 1, 1993. The main fees are now as follows (in Dutch Florins):

<u>Type of Fees</u>	<u>Amount</u>
<b><u>Application fee</u></b> (to be paid in advance)	500
<b><u>Examination fees</u></b>	
- 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  |
| - 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****Agricultural crops**

- |                                |     |
|--------------------------------|-----|
| - first annuity                | 250 |
| - second annuity               | 350 |
| - third annuity                | 450 |
| - fourth annuity               | 600 |
| - fifth and subsequent annuity | 850 |

\* 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.



**Vegetables**

- first annuity	450
- second annuity	650
- third annuity	850
- fourth annuity	1.050
- fifth and subsequent annuity	1.500

**Ornamentals and forest trees**

- first annuity	200
- second annuity	300
- third annuity	400
- fourth annuity	500
- fifth and subsequent annuity	700

**Spain: Modification of Fees**

By virtue of Article 79 of Law No. 39/1992 of December 29, 1992, Concerning the General Budgets for 1993 (Boletín Oficial del Estado of December 30, 1992), a new tariff of plant variety protection fees was laid down with effect from January 1, 1993. The main fees are now as follows (in pesetas):

Type of Fee	Group	1	2	3	4
1. Application fee		13,123	13,123	13,123	13,123
2. Examination fee (per year)		30,622	30,622	21,873	17,498
3. Grant fee		13,123	13,123	13,123	13,123
4. Maintenance fee					
- first year		10,936	6,563	4,374	4,374
- second year		15,310	10,936	8,750	6,563
- third year		21,873	17,498	13,123	10,936
- fourth year		26,246	21,873	17,498	13,123
- fifth and subsequent years		30,622	26,246	21,873	17,498
5. Fee for priority claim, change of denomination, sending copies, certificates and duplicates of documents as well as the registration of licences		4,374	4,374	4,374	4,374
6. Fee for reregistration of a cancelled title		13,123	13,123	13,123	13,123
7. Fee for sending copies of titles and certificates of rejection		2,186	2,186	2,186	2,186

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: New Address of Office

As from June 2, 1993, the National Plant Variety Board has the following addresses and telephone numbers:

Postal address: Statens växtsortnämnd, Box 1247, S-17124 Solna, Sweden

New address for visitors: Sundbybergsvägen 9, S-17124 Solna, Sweden

Telephone: 46-8-730.66.30 or 730.66.40; Telefax: 46-8-83.31.70.

### United Kingdom: Modification of Fees

By virtue of the Plant Breeders' Rights (Fees) (Amendment) Regulations 1993 (No. 430 of 1993), a new tariff of fees came into effect on April 1, 1993. The 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	270
(c) Any other decorative variety	135
(d) Any other variety	270

#### 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)	830
(b) A maize variety (tests in any one year)	515
(c) A potato variety (tests in any one year)	775
(d) A beetroot, Brussels sprout, cabbage, celery, fenugreek, turnip or fodder variety (tests in any one year)	725
(e) A herbage variety (tests in any one year)	515
(f) A field pea, vegetable pea, field bean or broad bean variety (tests in any one year)	620
(g) An oil and fibre (including oilseed rape) variety (tests in any one year)	515
(h) A rose variety (tests in any one year)	95
(i) A year-round perennial chrysanthemum variety (tests in each flowering season)	205

(j) Any other chrysanthemum variety (tests in any one year)	205
(k) A cymbidium variety (each examination)	260
(l) A fruit variety (tests in any one year)	205
(m) Any other variety (tests in any one year)	260

### 3. Renewal Fees

(a) A rose variety	50
(b) A chrysanthemum variety	325
(c) Any other decorative variety	170
(d) A vegetable variety (excluding a vegetable pea or broad bean variety)	165
(e) A fruit variety	325
(f) Any other variety (including a vegetable pea or broad bean variety)	435

### 4. Fees Payable in Respect of Other Matters

(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)	105
(iii) any other variety not mentioned above (including chrysanthemum)	130
(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
(j) Purchase of a report from a testing authority in another country	165

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**United States of America: Modification of Fees**

A new tariff of fees was published in Volume 57, No. 244, page 60073 of the National Register of December 18, 1992, under the Plant Variety Protection Act.<sup>\*</sup> The fees, which came into effect on January 19, 1993, are now as follows (in US dollars):

(a) Filing the application and notifying public of filing	275
(b) Search or examination	2,050
(c) Allowance and issuance of certificate and notifying public of issuance	275
(d) Revive an abandoned application	275
(e) Reproduction of records, drawings, certificates, exhibits, or printed material (copy per page of material)	1
(f) Authentication (each page)	1
(g) Correcting or reissuance of a certificate	275
(h) Recording assignments (per certificate/application)	25
(i) Copies of 8 x 10 photographs in color	25
(j) Additional fee for reconsideration	275
(k) Additional fee for late payment	25
(l) Additional fee for late replenishment of seed	25
(m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision)	2,600
(n) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations.	
(o) Any other service not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed \$40 per employee-hour.	

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<sup>\*</sup> For the tariff of fees applicable to plant patents under the Patent Act, see "Plant Variety Protection" No. 68, page 17.

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UPOV

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Development of Plant Variety Protection  
Throughout the World in 1992

At its twenty-sixth session held on October 29, 1992, the Council of UPOV noted reports by representatives of States (member States and observer States) and international organizations on the development of plant variety protection and related matters in their country or at international level. The reports were made in a written form and orally. A summary of the statements is given below in the alphabetical order of the names in English of the States.

**MEMBER STATES****Australia**

The preparations for the accession to the 1991 Act, starting with the amendment of the Plant Variety Rights Act of 1987, were moving ahead at a fair pace at one stage. The proposed amendments to the Act were entered onto the legislative program for the current parliamentary session. However, possibly as a result of the increased awareness of environmental issues created by the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro (Brazil) in June 1992, the proposed legislation might be delayed. It is hoped that it would then be included in the next legislative program, in April 1993.

As mentioned in the previous report to the Council, it had been a condition for the establishment of a breeders' rights scheme in Australia, in 1986, that the scheme was to be reviewed after five years. An independent review under Department of Finance guidelines is now complete and is due to be issued in mid-November. A favorable report is anticipated. Relevant details would be published in the Gazette.

**Belgium**

An intensive activity was deployed at the end of 1991 and the first months of 1992 with regard to the preparation of a new plant variety protection law. The text is quite advanced. However, the finalization of a first official draft is currently suspended:

(a) in view of a fundamental reform of the financial mechanisms governing plant variety protection and related areas (plant protection, national lists of varieties, seed certification and control);

(b) in expectation of the final definition of the main provisions of the Community Regulation on plant variety protection.

First contacts have been made by the Dutch colleagues with a view to establishing the official translation of the revised text of the Convention in the Dutch language.

Further to the extension of protection to some 120 new taxa under the Royal Decree of March 12, 1991, which entered into force on June 22 of the same year, a new notice to interested circles was published in the Belgian

Bulletin No. 3, of June 30, 1992. By August 31, more than 20 requests had been received by the Service.

Since the extension of protection in June 1991, all agreements on bilateral cooperation have been reviewed. New agreements have been concluded with Israel, the United Kingdom (March 2, 1992), Sweden (April 30, 1992) and the Netherlands (June 22, 1992). Furthermore, three agreements--with Denmark, France and Germany--are awaiting confirmation.

From the entry into force of the system for the protection of new plant varieties to August 31, 1992, 1441 applications for protection had been filed and 853 certificates issued, of which 436 were still in force. In 1991, 108 titles of protection were issued, which is a--perhaps modest--record since the introduction of plant variety protection in Belgium.

The certificates were issued in respect of 57 genera and species, out of 290 in total.

The situation has become stable in the field of protection.

Since the extension of the list of protected taxa which took place in 1991, a certain enthusiasm for the protection of ornamental varieties has been noted. Ornamental varieties represent 50% of the total number of the varieties currently protected, and rose varieties 21%.

In the field of the national lists of varieties the fees for the examination of the value for cultivation and use (VCU) of the varieties whose entry in one of the national lists of varieties has been applied for, have been increased by at least 100% (Royal Ordinance of February 3, 1992, amending the Royal Ordinance of September 24, 1982, Fixing the Fees to be Paid in Relation to Entry of Varieties in the National Lists of Varieties).

As for the system of seed certification the fees have also been substantially increased (Royal Ordinance of October 25, 1991 (Moniteur belge of January 9, 1992) Fixing the Considerations to be Paid in Respect of the Certification of Seeds and Plants of Agricultural and Horticultural Crops and the Considerations Connected with the Exercise of Certain Professions in Agriculture, Horticulture and Sylviculture).

Concerning the Rules and Regulations in the Field of Genetic Engineering--Release of Genetically Modified Organisms--EEC Directive 90/220 of April 23, 1990, the Ministry of Agriculture, in addition to the Ministry of Public Health and Environment--and the Regions--, is concerned with the conversion of this directive into Belgian law. A draft Royal Decree is almost completed and will be submitted shortly to the Conseil d'Etat before publication in the Moniteur belge (on the basis of a law of July 20, 1991, empowering the King to regulate the release of genetically modified organisms into the environment).

### Canada

Regulations covering the first six taxa came into effect on November 6, 1991. As of October 23, 1992, a total of 113 applications had been received for those taxa. Regulations extending the list of protected taxa to an additional 17 have been drafted, and it is hoped that they will come into operation early in 1993.

The fees for plant breeders' rights will remain unchanged. The current Government policy requires the Office to operate on a full cost-recovery basis within ten years.

No action has been taken so far to revise the Plant Breeders' Rights Act to comply with the 1991 Convention, since it is only in its first year of operation.

### Czechoslovakia

The current situation shows that the Czech and Slovak Federal Republic is moving towards partition into two subjects of international law--the Czech Republic and the Slovak Republic. This will effect Czechoslovakia's membership in UPOV, and both potential successor States are considering separate membership, which is facilitated by the current structure of the institutions and organs responsible for the implementation of the plant variety protection law. So far, all measures for the implementation and development of the law have been taken jointly, although this was known to cause some delays.

There has been no amendment since adoption of the Law on the Legal Protection of New Varieties of Plants and Breeds of Animals (No. 132/1989 of the Collection of Laws). The Law has been supplemented by Decree No. 134/89 of the Collection of Laws which contains the list of species to which protection applies.

The first draft consolidated text of the new law on varieties and seeds has been prepared both in the Czech Republic and in the Slovak Republic.

Czechoslovakia prepares the accession to the text of the Convention which has been adopted by the 1991 Diplomatic Conference.

However, in view of the current institutional situation, accession will take some time, but the fulfillment of the obligations resulting from membership in UPOV will also be guaranteed once the two Republics have been founded. The efforts deployed by the Czech Republic and the Slovak Republic, in line with those of the current Czechoslovakia, with a view to acceding to the European Community demonstrate that the harmonization of the legal norms relating to plant variety protection has a high priority from the point of view of the interests of the above-mentioned States.

The fees have remained unchanged, and no amendment is planned.

So far, there has been no case of litigation in Czechoslovakia as regards protection.

The list of genera and species to which protection applies was extended by Decree No. 515 of November 15, 1991, to the following taxa:

<i>Amygdalus communis</i> L.	<i>Pelargonium zonale</i> hort.
<i>Carum carvi</i> L.	<i>Persica vulgaris</i> Mill. var. <i>amygdaloides</i>
<i>Castanea sativa</i> Mill.	<i>Pharbitis purpurea</i> Roth.
<i>Cerasus vulgaris</i> (L.) Mill.	<i>Potentilla</i> L.
<i>Cornus mas</i> L.	<i>Prunus cerasifera</i> Ehrh.
<i>Coronilla varia</i> L.	<i>Silybum marianum</i> (L.) Gaertn.
<i>Digitalis lanata</i> Ehrh.	<i>Solanum melongena</i> L.
<i>Festuca arundinacea</i> Schreb.	<i>Weigela</i> Thunb.
<i>Lolium multiflorum</i> Lam. x	
<i>Festuca pratensis</i> Huds.	

So far, Czechoslovakia has not concluded any agreement on cooperation in examination. However, the matter is actively pursued, in particular with the United Kingdom, with which there is already a general agreement, and with other EC member States, first and foremost with the neighboring Germany; but the agreements with Denmark, France, the Netherlands and other EC member States are just as important.

The situation in the administrative field remains unchanged. The Federal Ministry for Economy is competent; it is in contact with the Agriculture services of the Czech Republic and the Slovak Republic and prepares a progressive transfer of the administrative files in anticipation of a partition.

The technical issues are already dealt with by the independent control institutes of the Czech Republic and the Slovak Republic, which cooperate closely. In case of partition, the first agreement on cooperation would be concluded between those Republics.

Both institutes are sufficiently equipped for the examination of distinctness, homogeneity and stability; part of the high-ranking staff have been abroad on study visits; the main groups of species are therefore handled by qualified staff.

Computer equipment is available for all corresponding posts, even if the software is not at the level of that available in the most advanced member States of UPOV.

The most important assistance was given by NIAB, Cambridge, in the form of a one-month training period for 17 specialists. The assistance was provided by the Government of the United Kingdom through the know-how fund and has been much appreciated by Czechoslovakia.

A seminar which took place for 12 days in France for 17 staff should also be mentioned; they were given the opportunity to familiarize themselves with all activities in the field of varieties and seeds. The Czech and the Slovak experts were the guests of the French Government. The seminar had been organized by ACTIM.

There is also close cooperation with Austria and Germany, and it is hoped that this cooperation will be extended in future to other States, in particular to EC member States.

Czechoslovakia is one of the countries enjoying a long tradition in research in the field of genetic resources; in 1992, it endorsed the FAO Undertaking on Plant Genetic Resources. The relevant institutions of both Republics are conscious of the importance of genetic resources for the development of plant production and agriculture in general; they support the activities in this area.

No special law has been adopted so far in the field of genetic engineering; activities in this area are supervised by a special commission of the Czechoslovak Academy of Sciences.

In the field of patents, an independent Federal Office of Inventions has been set up.



**Denmark**

On August 27, 1992, *Hibiscus rosa-sinensis* and hybrids thereof (pot plant types) were included under the Plant Variety Protection Act.

The inclusion of 23 additional ornamental species and one agricultural species is under preparation. A Ministerial Order will be issued as soon as possible.

As for Cooperation in examination, new bilateral agreements with Belgium and Israel are under preparation.

In 1991, 242 applications for plant breeders' rights were received, as follows:

Agricultural crops	96
Fruit	1
Vegetables	1
Ornamentals	144

In 1991, the number of titles of protection issued was 250 of which :

Agricultural crops	81
Fruit	3
Vegetables	6
Ornamentals	160

In the period from January 1, 1992, to August 20, 1992, 196 applications for protection were received and 131 titles of protection were issued.

On the basis of the experience gained from the pilot project concerning the testing of ornamental varieties at the breeders' premises, it has been decided to use this possibility in future for species for which no official testing facilities are available domestically or abroad.

The Plant Novelty Board will decide on a case-by-case basis, considering also whether one or more breeders are involved and whether the place of residence of the breeders is in Denmark only or also in other countries.

Requests for breeder's testing of varieties of four species have been submitted recently and are at present under consideration.

The testing for value for cultivation and use (VCU) of agricultural crops is at present under discussion with the purpose of improving the testing to the benefit of both the breeders and the farming industry. At the same time, the goal is to achieve self-financing within the various groups of crops.

The study is not yet finalized, but to ensure the best possible testing and at the same time economize the use of resources, it seems most likely that part of the testing will be carried out in future on the breeders' premises. However, the supervision of the trials will remain with the authorities.

**France**

There was no legislative change in 1991. It is hoped that the report to be submitted to the next session will reflect a resumption of the fundamental legislative activity. This does not mean, however, that nothing has been done in the past year; activities were regional rather than national.

France has taken firm positions at the Diplomatic Conference, and it feels strongly about the new provisions included in the 1991 Act. It hopes to finalize the preparatory work for the adoption of new legislation in the course of 1993, but it should be kept in mind that there is a major problem to be solved: that of farm-saved seed and of a provision under Article 15(2) of the 1991 Act. The current overall political situation calls for caution if one wishes to have the amended legislation adopted expeditiously. It is the firm intention of the Ministry of Agriculture to start soonest the work which will lead to ratification of the 1991 Act.

### Germany

The first law amending the plant variety protection law entered into force on April 8, 1992. It provides that breeders' rights may henceforth be granted for varieties of all species from the plant kingdom. In the case of vegetatively propagated species such as fruit crops, ornamental plants and trees --except grapevine and potato--, the effects of the title of protection have been extended considerably since the authorization of the holder of the rights is henceforth required for any propagation, including for the own needs of the propagator, and for the importation of plants or plant parts. The provision, made under the Treaty on German unity, under which the production of farm-saved seeds of cereals, oilseed rape, field bean, French bean, lupin, pea or potato is subject to authorization in the new Länder has been repealed. A uniform rule has thereby been established again in Germany.

Work has started with a view to incorporate the substantive provisions of the 1991 Act into German law.

The bilateral agreement on technical cooperation in variety testing concluded with Sweden has been extended. The agreement now covers 37 species in total.

Twenty-five experts from seven countries from Eastern and Southern Europe have been trained in variety testing at the Federal Office of Plant Varieties. Six further countries from that region have expressed an interest for such a training.

During the period covered by this report, 1088 applications for protection were received; 571 titles were issued. About 10,000 titles of protection would be in force at the end of 1992.

### Hungary

There has been no major change in legislation during the past year. However, the examination fees were amended by a Ministerial Decree of March 1992. As a compensation, the limitations on royalties payable by users to breeders were eliminated.

Concerning accession to the 1991 Act, which is a matter to be referred to Parliament, it has to be understood that Hungary is building up a new State and that the UPOV Convention is a very marginal problem in this respect. It is nevertheless hoped that the matter will be put on Parliament's agenda in 1993.

In 1992, 37 applications for protection were filed and 31 titles were issued.

The authorities have made a considerable effort to improve activities in the technical field. Experts have been delegated for the first time to the sessions of three Technical Working Parties. The ring tests on barley, pea and wheat with Austria, Czechoslovakia, Germany and the Netherlands have completed their first year, providing training opportunities for Hungarian staff.

### Ireland

Some preliminary work has been carried out on redrafting the current Act, but was suspended pending clarification of the situation at Community level.

Activities have slightly increased during the past year, with 41 applications received and 28 titles granted. Protection has been extended to two further taxa.

A bilateral agreement with the United Kingdom, covering potatoes, is in preparation.

### Israel

The Plant Breeders' Rights Council has decided to extend protection to the whole plant kingdom, in line with the provisions of the 1991 Act. Work has started on the amendments to the law that are required for the ratification of the 1991 Act.

During the last year, 89 new applications were filed and 195 new rights were granted.

### Italy

The application and annual fees have been increased by Ministerial Decree of August 20, 1992.

A request for extension of protection to 35 further genera and species has been forwarded to the Ministry of Industry and Commerce. Protection will be available for those genera and species after publication of the corresponding decree in the official gazette.

Contacts have been made with the French Government with a view to concluding an agreement on cooperation in technical examination. Similar contacts will be made with other Governments for the same purpose.

### Japan

The amendment of the law and the implementing regulations with a view to adapting them to the 1991 Act is under way.

The conclusion of agreements on cooperation in examination with Australia, Germany, the Netherlands, New Zealand and the United Kingdom is planned.

The Japanese authorities will actively contribute to the UPOV Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention to be held in Suwon (Republic of Korea) on November 17 and 18, 1992.

### Netherlands

The 1991 Act of the Convention will be implemented in Dutch legislation by an amendment of the Seeds and Planting Material Act (Zaaizaad- en Plantgoedwet). In May 1992, the Minister for Agriculture, Nature Management and Fisheries reported to the Agricultural Commission of the Dutch Parliament that he intended not to launch an amendment Bill until the EEC Regulation on Community Plant Variety Rights had been finalized, mainly because the Dutch national system should as far as possible be in line with the Community scheme as far as the optional elements of the 1991 Act are concerned. It is hoped that the EEC Regulation would be finalized by the end of this year. If it were to be delayed for a longer period, the national policy might be reconsidered. In the meantime, preparations are being made with a view to presenting a draft law amending the Dutch law as soon as possible.

In 1991, the duration of the plant breeder's right has been extended to 30 years for the varieties of potato, acacia, apple, common ash, elm, cherry, pear, poplar, plum and willow, and to 25 years for all other taxa. This--and the extension of protection to all taxa which became effective in 1990--is a reinforcement of the plant breeder's right that anticipates the implementation of the new UPOV Convention.

A second important change concerns the fees of the Board for Plant Breeders' Rights. By virtue of a change implemented on December 24, 1991, new differentiated fees are charged for the examination in relation to the grant of a plant breeder's right. For the first and second growing period, the examination fee now amounts to DFL 1,000.- (ornamentals), DFL 1,200.- (agricultural crops) and DFL 2,150.- (vegetables) a year. DFL 600.- are charged for the third period (this applies only to agricultural crops). The administrative fees remained unchanged. The fee increase is a consequence of the ministerial objective to achieve 100% cost-recovery. The Minister will consider in 1992 to what extent this aim has been achieved.

Two important legislative projects have been launched. The first is the amendment of the Seeds and Planting Material Act as a consequence of the new UPOV Convention, as described above. The second attempts to create conditions for a more transparent marketing system. In 1991, the Ministry for Agriculture, Nature Management and Fisheries exchanged views with the interested parties on how this system should look like in the future. The results of the discussions were put in a memorandum, which was formulated in the beginning of 1992. Some main lines of that memorandum are as follows: Plant breeders' rights and the licensing of varieties for sale are currently closely connected in the Netherlands. It is likely that the decisions will be more independent from each other in the future. Furthermore, it has been proposed to delete some articles dealing with the system of lists of recommended varieties that are currently included in chapter V of the Seeds and Planting Material Act. The amendment is currently being counselled. A project group set up by the Ministry will give further advice on the organizational consequences of the amendment.

No new bilateral agreement has been concluded. The agreements with Belgium and the United Kingdom have been amended recently. In the first case, a large number of (mostly new) taxa have been included in the list of taxa that the Netherlands examines on behalf of Belgium. The second agreement has been modified by the inclusion of two vegetable species in the list of taxa that are examined by the Netherlands on behalf of the United Kingdom and the deletion of four species from the list of taxa for which both countries exchange reports.

The record number of applications received in 1990 (1,455) was not reached in 1991. Nevertheless the 1,431 applications filed in 1991 can be considered as consolidating the increases that characterized the previous years.

As in previous years, the ornamental sector accounted for the majority of the applications (66%); the agricultural crops, vegetables and forest trees accounted for 18%, 14% and 2%, respectively.

The large number of applications and registrations leads the Board to adapt the administrative procedures. Assuming a constant work force, the increasing workload can only be met by further automation.

In 1991, the Board initiated the computerized processing of applications and registrations on a modest scale. The Board further participates in a project group which, in cooperation with CPRO, tries to come up with a comprehensive automated system. It is hoped that these efforts will be rewarded in the course of 1992/1993.

The examination concerning the applications for plant breeders' rights is carried out in the Netherlands by the permanent experts of the Board. About 65% of the applications filed in 1991 were examined by them, and the remaining 35%, by one of the foreign authorities with which the Board cooperates.

Apart from the examination taking place in the Netherlands under the authority of the Board--and under bilateral agreements on cooperation with several UPOV partners entered into by the Netherlands--the permanent experts also act as technical advisors to the Board and as representatives of the Netherlands in UPOV.

### New Zealand

While there have been no actual changes to the PVR law or regulations since the last Council meeting, discussion has continued on adapting the law to the 1991 UPOV Convention. Further progress depends upon obtaining Government approval for including an amendment bill in the legislative programme. Such Government approval was sought but refused in 1991 and also in 1992--approval will be sought again in 1993.

Because of the delay in progress in amending the Act renewed attention has been given to a proposal made by the PVR Office in 1989 for a possible regulatory change that would limit farmers' rights in respect of farm-saved seed. When the proposal was first made, farmers expressed strong opposition to it. However the national farmers' organisation now appears to be moving to the view that existing farmers' rights to farm-saved seed must be limited if the Plant Variety Rights Act is to provide an adequate incentive for investment in farm crop breeding, especially breeding of cereals and pulses.

A co-operative testing agreement with the United Kingdom was signed in March 1992 under which New Zealand agreed to test varieties from an extensive list of New Zealand indigenous plant taxa. This is the first such agreement into which New Zealand has entered.

A further change has been made to the system for testing ryegrass varieties. Prior to 1990, ryegrass varieties were tested according to the applicant testing system that applied, and still applies, to other agricultural varieties. Under this system each ryegrass applicant had the responsibility for such testing as was necessary to establish that his new variety was distinct, uniform and stable. Then in 1990 a new scheme was put

into effect under which ryegrass breeders organised on a co-operative basis the testing of their varieties. Each candidate variety was tested at two sites in New Zealand in the one season. Now early this year a further change has occurred involving extending the scheme to include Australia. Testing is now organized co-operatively by Australian and New Zealand ryegrass breeders according to a protocol approved by the Australian and New Zealand PVR Offices. Each variety is tested in one season at two sites, one in Australia and one in New Zealand. Each of the PVR Offices is prepared to accept test results from the other country.

### Poland

The preparation of a new revision of the Seed Industry Law, which governs plant variety protection, in the light of the 1991 Act, is well advanced.

On October 15, 1992, a total of 195 applications for protection had been received and 91 certificates issued. The interest in plant variety protection is increasing and is expected to increase even further in the years to come.

### South Africa

The Republic of South Africa is revising its Plant Breeders' Rights Act of 1976 (as revised at Pretoria in 1980, 1981 and 1983) so that it will conform to the Convention for the Protection of New Varieties of Plants as revised at Geneva on March 19, 1991. It is anticipated that the revised Plant Breeders' Rights Act will be submitted to the South African Parliament for ratification during the 1993 session.

In South Africa, there is still considerable interest in plant breeders' rights despite fees having risen by at least 20% per annum over the last few years. During the period October 1, 1991, to September 30, 1992, 109 plant breeders' rights were granted and 129 applications were filed. To date a total of 656 plant breeders' rights have been granted and 324 applications are under consideration.

During 1992, a variety list for strawberry was established and three new plant genera, namely Anthurium, Clivia and Lilium, were added to the list of kinds of plants for which plant breeders' rights can be obtained.

A variety list for tobacco is being finalized and will probably come into operation in 1993.

Presently, the plant variety lists are being amended to include the names of the holders of plant breeders' rights. This amendment will not only make it easier for inspectors to establish whether plant breeders' rights are being infringed by retailers of propagating material, but also assist prospective buyers in identifying the holder of a plant breeder's right.

Studies on the use of electrophoresis to distinguish between morphologically similar plant varieties have been continued, but difficulties are still being experienced in obtaining consistent results.

### Spain

The fees were increased by 5% on January 1, 1992. Preparatory studies have been made with a view to adapting the plant variety protection law to the

1991 Act. Like the majority of EC member States, Spain is waiting for the final decisions to be taken in Brussels before initiating the procedure for amending the law.

An appeal against a ruling on the novelty of inbred lines used in the commercial production of maize hybrid seeds is pending.

The plant variety protection system will be extended to cover varieties of cotton, rapeseed, Prunus cerasifera and P. insititia.

Work is under way to solve some internal difficulties arising from the proposed conclusion of bilateral agreements.

The National Institute of Seeds and Nursery Plants, which is responsible for the administration of the plant variety protection system, is no longer an autonomous body but has come under a Vice Directorate-General of the Ministry of Agriculture, Food and Fisheries.

The activities between October 1, 1991, and September 30, 1992, were as follows:

- Applications received: 247
- Certificates granted: 229
- Certificates in force on September 30, 1992: 769

Plant variety protection has been on the agenda of several meetings and seminars recently held in Spain.

Experts and officials from Spain participated during the 1991-92 period in seminars in Argentina, Bolivia, Brazil, Colombia and Mexico. They noted a great interest for plant breeders' rights both at national and regional level.

Experts from Argentina, Morocco and Portugal visited Spain to study the implementation and operation of the plant variety protection system.

Work on updating of the National Lists (for 92 species of economic interest) was continued during the last year.

A draft law on the release of genetically modified organisms is under preparation.

New regulations governing the marketing of plantlets of vegetables, ornamentals and fruit crops are under preparation to follow up the corresponding EC Directives.

### Sweden

Sweden has not yet adapted its law to the 1991 Act of the Convention. Preparations are being made for legislation on the exhaustion of plant breeders' rights following the Agreement on the European Economic Area.

The National Plant Variety Board has suggested an extension of the list of protected taxa as follows:

Acer spp.	Maple
Begonia spp.	Begonia
Betula spp.	Birch
Caragana spp.	Pee Shrub

Cornus spp.	Cornel
Euonymus spp.	Spindle Tree
Potentilla spp.	Cinquefoil
Rhododendron spp.	Rhododendron, Azalea
Spiraea spp.	Spirea
Syringa spp.	Lilac
Viburnum spp.	Snowball Tree

Furthermore, it is proposed to extend protection to varieties of hybrids between genera or species included in the list of protected taxa.

A new agreement has been concluded with Belgium and covers:

Begonia x tuberhybrida Voss	Tuberous Begonia	(Belgium)
Anethum graveolens L.	Dill	(Sweden)
Allium schoenoprasum L.	Chives	(Sweden)

The existing agreements on testing in Germany and the Netherlands have been extended as follows:

#### Germany

Aronia spp.	Chokeberry
Beta vulgaris ssp. vulgaris var. conditiva Alef.	Garden beet
Hippophaë spp.	Sea Buckthorn
Populus spp.	Poplar
Raphanus sativus L. var. radicula Pers.	Radish
Secale cereale L.	Rye
Vaccinium vitis-idaea L.	Lingonberry

#### Netherlands

Allium L.	Ornamental Allium
Allium cepa L.	Onion
Allium ascalonicum L.	Shallot

Amendments to the existing agreements with France, the Netherlands and the United Kingdom are under discussion.

Discussions have taken place with Finland and Norway concerning their planned plant breeders' rights legislation. Possible activities might be extended to the Baltic States.

Legislative work is under way concerning the adjustment of the Swedish seed certification law to the EEA-Agreement.

A Government Commission report on gene technology is to be submitted to the Government shortly. The report contains proposals concerning guidelines and legislation in the field of genetics that would apply to both plants and animals.

#### Switzerland

The draft amendment law and its explanatory memorandum have been prepared. Unfortunately, the matter has not been pursued in view of the fact that the



current policy is to refuse to entertain any legislative project that is not EC-compatible. The developments in Brussels have therefore to be awaited.

This year, 60 applications have been filed, bringing the overall total to 840, and 53 titles have been granted, bringing the overall total to 610.

### United Kingdom

Parallel to the activities deployed at Community level, the United Kingdom authorities have initiated the legal procedure required for implementing the 1991 Act domestically. The law requires a formal consultation with industry; a consultation document was issued in May this year, and the replies have now been received and are being examined in relation to both the Convention and the draft EC Regulation. The authorities have taken the precaution of seeking a place in the parliamentary timetable in anticipation of decisions being taken.

The fees were increased by 3% on average as from April 1, 1992. Protection was extended to *Galtonia candicans* in August and it is intended to extend it to a further 70 species by the end of this year. The duration of protection has also been extended from 25 to 30 years in the case of potatoes.

Bilateral agreements have been concluded with Belgium and New Zealand, and a further agreement, with Ireland, is to be concluded soon. Finally, the United Kingdom authorities are conducting the first tests for distinctness, uniformity and stability on a genetically modified chrysanthemum variety, on behalf of the Netherlands.

The statistics for the year which ended on March 31, 1992, are as follows:

- Applications received: 441 (12% decrease over previous year)
- Grants issued: 430 (44% increase over previous year)
- Grants terminated: 260 (11% increase over previous year)
- Grants renewed: 1,470 (2% increase over previous year)

The number of grants is artificially high because it includes 40 rose varieties held from the previous year when hot weather distorted the growth of the plants and prevented the Panel reaching a decision. Correcting for this anomaly, the increase would be nearer to 15%.

### United States of America

No report has been submitted essentially because activities in the past year were basically routine.

### **NON-MEMBER STATES**

#### Argentina

The National Seed Institute (Instituto nacional de semillas - INASE) began its operations on April 6 of this year. INASE is a decentralized organ of the Secretariat for Agriculture, Livestock and Fisheries whose primary function is to operate the Seed Law, the law regulating in particular plant variety protection.

The supreme organ of INASE is the Board of Directors, on which breeders, farmers, seed merchants and producers, the provincial States, the National

Institute of Agricultural Technology (INTA) and SAGYP are represented. INASE is financially autonomous and has a highly qualified staff.

A National Commission of Agricultural Biotechnology has also been set up. This is the body which delivers the permits for tests on transgenic varieties. At present, such tests are being conducted on 12 varieties, and five further permits have been applied for recently. The biosecurity norms of the Department of Agriculture of the United States of America (USDA) have been adopted in this respect.

The Government is well aware of the fact that the regulatory activity of the State requires a well-organized breeding industry. It is in the public interest that both the public and the private sector promote respect for the rights of breeders. The private sector has realized that it had to structure itself, and has set up the Argentine Association of Producers of New Plant Varieties (Asociación argentina de productores de obtenciones vegetales - ARPOV), which unites 95% of the national and multinational breeding firms operating in Argentina and whose primary function is to administer the license contracts relating to protected varieties.

Such cooperation was soon to bear fruit since a major campaign was launched this year in cooperation with ARPOV and INTA to promote awareness of breeders' rights and of the benefits accruing from research and development in the field of plant varieties. The campaign involved the mass media and the main agricultural events and fairs and was country-wide.

Many companies have started again work on plant breeding and research. This is the result of the redefinition of the legal framework for such activities and the setting up of an executing agency in which all interested circles are represented. These initiatives naturally fall under the more general policy of deregulation and economic opening-up pursued by the Government.

This year, 130 titles of ownership have been issued--an increase of 242% over the preceding year--bringing the total number of such titles to 569.

Finally, this session of the Council should be the last one in which the Delegation of Argentina would participate as an observer, since the National Congress currently sitting in extraordinary session has before it the law on the accession to the 1978 Act of the UPOV Convention. The Argentine authorities wish to thank UPOV for its support and cooperation and the delegations from member States for the experience which they have shared with them and their cooperation.

### Austria

In addition to the Government Bill on Variety Protection, the Parliament will also have to deal with an amendment of the plant health law. A new seed law is under consideration as well.

The regulation of genetic engineering, including the release of genetically modified organisms in the environment, is also the subject of intensive discussions in Austria. There is no draft law on this at the present stage.

### Bolivia

Bolivia is very interested in plant variety protection. It is a country endowed with biodiversity.

### Chile

At the end of 1991, the Vice Secretary-General paid a visit to Chile, where he had discussions with the Undersecretary for Agriculture and other officials from the Ministry. These contacts and the further contacts established thereafter in Geneva set the basis for a national information seminar on the UPOV system of plant variety protection which took place on October 15 and 16, 1992. The Chilean authorities wish to thank UPOV and the speakers from UPOV for their contribution.

Chile views such activities as very important. The seminar, the first of its kind, was presided over by the Minister for Agriculture and attracted more than 60 participants from the plant varieties and seeds industry, the farming community and industrial property circles. The seminar was a success not only in view of the interest which it aroused, but also from the point of view of its conclusions. Chile attaches great importance to agricultural research and consequently to a possible accession to the UPOV Convention. To this effect, it was agreed to set up a working group with participation from the Ministry of Agriculture and Members of Parliament to study together the preparation of a draft for a modern law on seeds and plant varieties which would at the same time respond to national circumstances and be compatible with the provisions of the Convention.

### Colombia

The authorities of Colombia wish to stress the readiness of the Office of the Union to respond to requests for cooperation extended by that country. Members of the Office of the Union accepted an invitation by the Government of Colombia to hold a workshop in Santa Fé de Bogotá in November 1991. The attendance to the workshop reflected the attention given to the aims of the Union. The workshop has been of great importance and has aroused great interest in the protection of the rights of breeders.

A system common to the countries of the Andean subregion is being negotiated within the framework of the Cartagena Agreement. It is hoped that it will conform to the provisions of the UPOV Convention.

### Côte d'Ivoire

The legal and administrative structure exists; the National Office of Seeds and Seedlings is responsible for seed certification and control.

Côte d'Ivoire, like other countries from western Africa, has based its economy on agriculture. It conducts classical plant breeding work in the form of interspecific and intraspecific crossings; it is also adopting modern biotechnological techniques.

From August 4 to 14, 1992, a Regional Introductory Course on Industrial Property organized by the World Intellectual Property Organization (WIPO) in cooperation with the African Intellectual Property Organization and the Government of Côte d'Ivoire took place; unfortunately, it did not extend to plant variety protection. The Government of Côte d'Ivoire has sent a delegation to this Council session with an instruction to express the wish that, after the seminars to be held in Kenya for the eastern and southern regions of Africa and in Morocco for the northern region, a seminar be organized in western Africa to create awareness of plant variety protection among the Governments of the region.

### Croatia

Croatia participates for the first time as a new State in a session of the Council. Official variety testing has already been organized within the Ministry of Agriculture.

### Egypt

Egypt has been developing regulations on the protection of new plant varieties and the organization of the seed industry for quite some time. This matter is now taking much more importance in view of the policy of the Government to go out of seed production and to privatize the sector concerned. It is expected that the Office of the Union will soon receive correspondence in relation to Egypt's accession to the Convention.

### Finland

The Law on Breeders' Rights entered into force on October 15, 1992. The administration was set up on the same date. The first application was received on Friday, October 23. It is intended to deposit an instrument of accession as soon as possible, in the beginning of 1993.

### Norway

The Ministry of Agriculture has been in contact with the Office of the Union in relation to draft legislation over the last year and a half. The Bill is now ready and will be presented to Parliament probably in the early spring of 1993. On the assumption that it is enacted into law, which is likely since Parliament has already taken a decision in principle to join UPOV, Norway will request an advice from the Council on the occasion of the next session of the Consultative Committee, next April.

### Portugal

Plant variety protection legislation entered into force in Portugal in October 1990, and the Plant Variety Protection Office was set up thereafter. The number of protected species was 14 at that time.

The law is currently undergoing revision with a view to bring it into conformity with the UPOV Convention. Portugal intends to accede to the Convention in the course of next year.

In 1992, protection was extended to eight further species. The law currently applies to 34 species.

An agreement for cooperation in examination with Spain is under preparation and it is hoped that it will be concluded in the near future.

Since entry into force of the law, 20 applications for protection have been filed. No title of protection has been issued yet.

### Republic of Korea

The Republic of Korea has a keen interest in the activities of UPOV for the protection of new varieties of plants, including in the achievements in the administrative, legal and technical fields. In particular, the work of the Administrative and Legal Committee on the harmonization of legislation and the implementation of the 1991 Act should be furthered to the benefit of both UPOV member States and non-member States preparing their accession to UPOV.

The Government of the Republic of Korea will host from November 17 to 19, 1992, a Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention, which is organized by UPOV, in cooperation with the Rural Development Administration of the Republic of Korea and with the assistance of the Japanese Ministry of Agriculture, Forestry and Fisheries, for developing countries in the Asian and Pacific Region.

The Government of the Republic of Korea will continue preparatory work, including on an amendment of national legislation, with a view to acceding to the UPOV Convention and participating actively in future meetings organized by UPOV.

### Romania

The new Law Concerning Patents for Inventions (No. 64/1991), which contains specific provisions on the protection by means of patents of plant varieties and animal breeds came into force. New regulations were drafted and approved by the Government on April 13, 1992; a separate chapter thereof was devoted to the conditions for the grant of a patent for a new variety or animal breed, conditions that conform to the provisions of the 1991 Act of the UPOV Convention.

The text is being implemented in cooperation with the Ministry of Agriculture using the UPOV standards for each species. Difficulties are being faced, however, because there is no specialized staff able to work according to the UPOV Convention and because the necessary equipment for tests regarding minimum distances is lacking.

### Senegal

The question of plant variety protection did not arise in Senegal until two or three years ago, since plant breeding was conducted in governmental research centers by either civil servants or experts sent to Senegal in the framework of international cooperation and since the varieties belonged to the State. Since 1990, when privatization of the seed industry began, the private sector is taking an interest in seed production from selections. A draft law to regulate seed production, certification and trade was then initiated; unfortunately, it did not yet go through the Parliamentary Commission for Agriculture. It is planned to take up the matter again after the elections of February and May 1993 and, with the assistance of UPOV and France--a country with which there is a very fruitful cooperation in the field of agriculture, and seeds in particular--to see how the new legislation can be adapted to the UPOV Convention so as to permit accession thereto.

## ORGANIZATIONS

### European Community (EC)\*

There is no legal instrument of the Community that would oblige the EC member States to ratify the 1991 Act of the UPOV Convention or to accede thereto. However, the Community is working on a Regulation on Community plant variety rights which would conform to the 1991 Act. Individual member States of the Community will have to ensure that their laws are in conformity or do not conflict with the Community law itself. To that extent, it may be assumed that the laws of the member States, when amended, will be in conformity with both the 1991 Act and the Community law itself.

In relation to the timing of the amendments, the theoretical position is that each EC member State can amend any time its legislation to bring it into line with the 1991 Act. In practice, however, it is to be noted that the 1991 Act contains a number of provisions allowing discretion to member States, of which the most important are on farm-saved seed and on the extension of protection to products directly obtained from harvested material. The EC member States tend to await the positions established by the European Community as such before starting to amend their laws. The discussions on the draft Regulation are at a fairly advanced stage. Consultation with the European Parliament will hopefully be completed by the end of this year.

### Organization for Economic Co-operation and Development (OECD)

The OECD is mainly an economic and even political discussion forum. It comprises 24 member States, all so-called "industrialized" countries. Its headquarters is in Paris and its Secretariat has a staff of 1,700.

The OECD is concerned mainly with the marketing of seed, not with breeders' rights, but there is a link between the two. Since 1962 the OECD has published annually a list of cultivars eligible for certification. It has registered more than 10,000 cultivars and more than 800 breeders for more than 150 species. At the same time it has introduced, since 1953, six voluntary schemes for the varietal certification of seed moving in international trade. The designated authorities meet once a year, which gives the systems great flexibility. The latest developments are the introduction of sorghum in the "maize" scheme and the revision of the "herbage and oilseed crops" scheme as applied to sunflower and rape hybrids.

In the minds of a number of breeders, the OECD list of cultivars is an international catalogue, and some wrongly believe that all the countries participating in the system are allowed to produce and market a cultivar entered in the list using OECD labels, and that according to OECD rules any unregistered cultivar cannot be produced according to OECD rules, and therefore is not

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\* Due to commitments in relation to the proposed Regulation of the Council (of the EC) on Plant Variety Rights, the Commission of the European Community had not been able to participate in the session of the Council. A report was given by the Delegation of the United Kingdom, the country holding the presidency of the Community, on the invitation of the Secretary-General, who had observed that there was always an interest in WIPO to learn that the European Community has prepared legislation obliging each EC member State to ratify the latest text of a Convention administered by WIPO. The report amalgamates the declarations of the Delegation of the United Kingdom and the observations of the Secretary-General.

marketable. The truth is that cultivars are entered in the OECD list on the sole responsibility of the designated authorities. According to Rule 3 of each system, every participating State has to publish annually an official list of varieties open to certification in its territory. An advisory group will meet in Paris in November 1992 to draw up a foreword to the list of cultivars and explain its scope in detail.

The use of characteristics in control plots is of more direct interest to UPOV. The role of the control plots is twofold: verification of cultivar identity, and verification of the varietal purity of seed batches. In both cases, a list of morphological characteristics has been devised in order to facilitate the conduct of the test. The last annual meeting of the OECD approved the publication of a non-compulsory list of characteristics. The list is largely based on the UPOV Test Guidelines. What it is in fact is a simplified list for the benefit of experts in the field.

At European Community level, vegetable varieties were described too broadly towards the end of the 1970s, and it is becoming impossible today to renew their acceptance. The EC has therefore decided to revise its Directive 72/168 with regard to the list of characteristics to be used to describe varieties. A document containing revised lists of characteristics for each of the varieties was published last May.

Today we are faced with three different approaches:

(i) the UPOV approach, with the publication of exhaustive lists of characteristics, from which those useful in the description of a variety may be selected;

(ii) the OECD approach, involving a simplified list of characteristics, all of which have to be used to determine varietal purity;

(iii) the EC approach, where lists by variety have been drawn up in the case of vegetables, allowing a minimum description to be given for new varieties.

#### **International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) and International Federation of the Seed Trade (FIS)**

ASSINSEL and FIS thank UPOV for inviting them to Council sessions, which are very instructive and at which very beneficial contacts may be made or renewed with representatives of official departments.

At the more practical level, it is at the sixth meeting with international organizations that one of the most important questions for users will be discussed. The introduction of dependency will be a very long drawn-out job which will also require close collaboration on the part of all those involved. The collaboration has already begun, and ASSINSEL and FIS are grateful to UPOV for it.

The growing influence of developing countries - and also the international negotiations within GATT or at the Rio de Janeiro Summit - will give a very powerful stimulus to breeders' rights. It is important therefore that UPOV should further increase its membership, and ASSINSEL and FIS are pleased to note the growth in the number of observer States attending Council sessions.

Farm seed is of course one of the great concerns of breeders and seed traders. They are following with great attention and interest the discussions that are going on at present within the EC. It is very important that breeders

should be not just protected but well protected. They have a crucial role to play in development and environmental protection processes, as described for instance at the Rio de Janeiro Summit. In order to heighten awareness of the problems encountered in its area of concern, ASSINSEL has embarked on the publication of a series of information brochures.

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**Association of Plant Breeders of the European Economic Community (COMASSO)**

The representative of COMASSO wishes to underline the interest shown by the Secretary-General in the state of affairs regarding the draft Community plant variety rights system and to thank the Delegation of the United Kingdom, as representative of the Community, for its report. The EC Regulation might be the first instrument converting the 1991 Act into internal law. COMASSO also wishes to thank wholeheartedly the representatives of the States that are members of both UPOV and the EC: as a result of negotiations that have not always been that easy with the Commission, they seem to be on the best way towards establishing a legal instrument that conforms to the 1991 Act and might be adopted already in the beginning of 1993.

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**CASE LAW**

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**United States of America: Decision 92-1048 of the Court of Appeals for the Federal Circuit on the "Crop Exemption"**

(Decided on December 21, 1992)  
(Petition for Rehearing denied on March 25, 1993)

The United States District Court for the Northern District of Iowa held that 7 U.S.C. 2543 (the crop exemption) of the Plant Variety Protection Act (PVPA) quantitatively limits a farmer's sale of seed of a variety protected under the PVPA to the amount of seed necessary to grow another crop ("ensuing crop limitation") (see "Plant Variety Protection" No. 69, pages 51 to 57).

The defendants appealed the decision to the United States Court of Appeals for the Federal Circuit. The latter held that the District Court had misinterpreted the crop exemption and reversed the decision and remanded the case for further proceedings.

The Court of Appeals held that the crop exemption is subject to the following statutory limitations:

- "- a farmer remains subject to infringement under subsections 113(3) and (4) of PVPA (7 U.S.C. 2541(3) and (4));
- "- a farmer may only save, use, or sell seed produced from or descended from seed obtained by authority of the PVPA certificate owner for seeding purposes;
- "- a farmer selling a novel variety must primarily grow crops from that seed for consumption;



- "- a farmer acquiring a novel variety must primarily grow crops from that seed for consumption;
- "- a farmer who acquires a novel variety in a brown bag sale can neither save nor sell seed harvested from that seed;
- "- the sale must comply with state laws; and
- "- a farmer cannot divert seed originally sold for consumption to planting purposes.

The Court of Appeals held that the "term 'primarily' carries its customary meaning of 'first in importance; chief; principle; main' and that the crop exemption applies on a crop-by-crop basis (i.e., on a crops produced from a particular novel seed variety by crops produced from a particular novel seed variety basis)." "Thus, buyers or sellers of brown bag seed qualify for the crop exemption only if they produce a larger crop from a protected seed for consumption (or other non-reproductive purposes) than for sale as seed."

The Court of Appeals further observed that the crop exemption only "permits direct farmer-to-farmer sales where both farmers satisfy the limit of the crop exemption. "Marketing in the context of the PVPA means extensive or coordinate selling activities, such as advertising, using an intervening sales representative, or similar extended merchandising or retail activities. This form of marketing of sexually multiplied novel varieties violates exclusive rights under the Act, without regard to the crop exemption."

Finally, the Court of Appeals "recognize[d] that, without meaningful limitations, the crop exemption could undercut much of the PVPA's incentives." The appellee requested a rehearing and suggested a rehearing en banc, which was denied.

Rader, J., concurred in the denial of rehearing en banc. The Court, in his opinion acknowledged and respected the purpose of the Act, which is "to provide the indicated protection for new varieties ... so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. 7 U.S.C. paragraph 2581 (1988) (emphasis added)."

Newman, J., dissented. In his opinion, "the importance of the issue merits the attention of the full court, for it is not too dramatic to observe that this ruling nullifies the Plant Variety Protection Act as an incentive for innovation in agriculture. If this statutory construction is to be adopted, it should be done en banc." He highlighted the purpose of the PVPA, which "was intended to invigorate industrial development of new varieties, in the national interest. This was designed to be achieved by providing limited exclusivity to the plant breeder." ... "The Act was not designed to permit farmers to grow and sell seed of certified varieties as a business, to enter the commercial seed business in competition with the creator of the new variety. The panel majority, by allowing up to half of a farmer's crop to be sold as seed, authorizes this practice, in a travesty of statutory interpretation."

He interpreted 7 U.S.C. 2543 (crop exemption) to permit "a farmer who does not use the saved seed himself to sell it to another farmer, provided that neither farmer is in the seed business." The passage whereby a person may "use such saved seed in the production of a crop for use on his farm, or for sale as provided in this section" was relevant for the qualification of seed as saved seed.

## F I N L A N D

## LAW ON BREEDERS' RIGHTS

of August 21, 1992\*

## CHAPTER I

## GENERAL PROVISIONS

Section 1

## Breeders' Rights

The breeder of a plant variety or the person to whom his right has been transferred (owner of the variety) may, by application for registration, obtain the exclusive right afforded by this Law to exploit the variety.

Section 2

## Scope of Application

Breeders' rights may be granted in respect of a plant variety that belongs to a genus or species which, when cultivated in or imported to Finland, may have commercial significance here.

Further provisions shall be issued by decree on the plant genera or species of those plant varieties in respect of which the breeders' rights may be granted.

## CHAPTER II

## CONDITIONS FOR PROTECTION

Section 3

## Conditions in Respect of the Breeder

Breeders' rights in a plant variety may be granted to

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- \* Entry into Force: October 15, 1992  
Finnish Title: Laki Kasvinjalostajanoikeudesta  
Swedish Title: Lag om växtförädlarrätt

English translation supplied by the Finnish Ministry of Agriculture and Forestry

- (1) the person who has bred the variety in Finland or the party to whom his right has been transferred or
- (2) a plant breeder who is a citizen of a member State of the Union established for the international protection of new plant varieties, UPOV (Union), or his successor in title.

Notwithstanding the provisions of paragraph (1), breeders' rights may also be granted in other cases if the Ministry of Agriculture and Forestry deems it justified in view of Finnish plant breeding or the import of the plant variety.

#### Section 4

##### **Conditions in Respect of the Variety**

Breeders' rights may be granted only to a variety:

- (1) which is clearly distinguishable by one or more important characteristics from any other variety whose existence is a matter of common knowledge at the time an application is filed,
- (2) which is sufficiently homogenous and
- (3) the essential characteristics of which are stable when the variety is reproduced in the manner proposed by the breeder.

#### Section 5

##### **Novelty**

Breeders' rights may not be granted if the cultivation material of the variety has, with the consent of the breeder or his successor in title, been offered for sale or marketed

- (1) in this country before the application was filed;
- (2) abroad for longer than six years before the application was filed in the case of a vine, fruit tree, forest tree, ornamental tree or the rootstock thereof;
- (3) abroad for longer than four years when the variety in question is a plant other than one referred to in item (2).

### **CHAPTER III**

#### **SCOPE OF PROTECTION**

#### Section 6

##### **Protected Varieties in General**

Under the exclusive right of the breeder, no person other than the owner of the variety may, without the authorization of the owner, use the variety for commercial purposes

- (1) by producing or importing the material of the variety for use as reproductive or vegetative propagating material or
- (2) by offering the reproductive or vegetative propagating material for sale and marketing it for reproductive or vegetative propagating purposes.

### Section 7

#### **Ornamental Plants**

Breeders' rights shall also extend to the seedlings of ornamental plants or the parts thereof normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers.

### Section 8

#### **Exploitation of the Variety in Plant Breeding**

The authorization of the owner of the variety shall not be required for the exploitation of a protected variety in the breeding of new varieties.

The authorization of the owner of the variety shall be required for the acts referred to in Section 6

- (1) if the acts concern a variety that has been essentially developed from a protected variety (a derived variety), unless the protected variety is itself a derived variety,
- (2) if the acts concern a variety that is not clearly distinguishable from the protected variety or
- (3) if the repeated use of propagating material of the protected variety is needed for the commercial production of another variety.

## **CHAPTER IV**

### **APPLICATION FOR REGISTRATION AND ITS CONSIDERATION**

### Section 9

#### **Register Authority**

The register authority is the Plant Variety Board, which shall maintain the plant variety register.

The Plant Variety Board shall be appointed by the Ministry of Agriculture and Forestry. The Board shall have a chairman, a deputy chairman and at most ten members. Each member shall have an alternate. The Board shall be appointed for a term of three years at a time. Further provisions on the Board shall be laid down by Decree.

### Section 10

#### **Application**

Applications for breeders' rights shall be made in writing to the register authority.

The application shall contain a description of how the variety in question differs from other varieties, and a variety denomination. The application shall state the name of the breeder. If a person other than the breeder of the variety applies for the breeders' rights, such applicant shall demonstrate his right to the variety. The applicant shall state that the variety has not, before the application was filed, been offered for sale or marketed in the manner referred to in Section 5.

The applicant shall pay the application fee.

The date on which the application documents have been furnished to the authority and the application fee has been paid shall be entered as the date of application.

### Section 11

#### **Variety Denomination**

The variety denomination must enable the variety to be identified. A denomination shall not be accepted for a variety:

- (1) if it consists solely of figures, except where this is an established practice for designating the varieties in question;
- (2) if it is liable to mislead the public;
- (3) if it is against the law, public policy or morality;
- (4) if it is liable to cause confusion with the denomination of a variety that belongs to the same or to a closely related plant species that has been entered or proposed for entry in the official register of varieties or that is used for reproductive material of such a variety;
- (5) if it is liable to cause confusion with a trademark, name, company name or other identifying mark that a person other than the applicant has protected and that would be a bar to the registration of the variety name as a trademark of the reproductive material of the plant variety or of similar products;
- (6) if it is liable to cause confusion with the trademark of plant variety material or of similar products that the applicant has protected.

### Section 12

#### **Period of Priority**

If the owner of the variety has previously applied for breeders' rights in a member State of the Union, the application, if it is filed within twelve months of the filing of the earlier application (the period of priority), shall be deemed to have been filed in Finland at the same time.

### Section 13

#### **Supplementing the Application**

If the applicant has not followed the provisions and instructions issued on the filing of the application or if there is another reason why the application cannot be considered, the applicant shall be invited by an interim decision to make a statement or to supplement the application.

If the applicant has not made a statement or supplemented the application to remedy the defect within the specified period, the application shall be rejected. This consequence shall be mentioned in the interim decision.

A rejected application shall be reconsidered if, within one month of the end of the term specified in the interim decision, the applicant so requests or undertakes to supplement the application and, within the same period, pays the reapplication fee.

### Section 14

#### **Rejection of the Application**

If the application cannot be approved even after the applicant has made a statement or supplemented the application, the application shall be rejected, unless there is cause to issue the applicant a new interim decision.

### Section 15

#### **Claim to a Better Right**

If a person claims to the register authority that he has a better right to the variety than the applicant and the matter is in doubt, the authority shall invite him in an interim decision to institute an action in court within the period determined by the authority. If the claim is not filed within that period, the claim shall be disregarded in the consideration of the application, and that fact shall be mentioned in the interim decision.

If the issue of a better right is under consideration by a court, the consideration of the application may be postponed until the issue has been decided on a final basis.

### Section 16

#### **Transfer of the Application**

If a person demonstrates to the register authority that he has a better right to the variety than the applicant, the register authority shall transfer the application to his name if he so requests. The person to whom the application is transferred shall pay a new application fee.

Until a decision is finally made on the request for transfer, the application may not be withdrawn, rejected or approved.

### Section 17

#### **Publication of the Application**

If the application meets the requirements, the register authority shall, through publication of the application, provide the public with an opportunity to file claims regarding the application.

Claims regarding the application shall be filed in writing with the register authority within the period determined by it.

### Section 18

#### **Examination of the Variety**

The register authority shall arrange for an examination of the plant material of the variety. The examination may be made in part or may be omitted if another official examination has previously been made of the variety.

The applicant shall supply the necessary plant material and the necessary information to the entity carrying out the examination.

The applicant who has requested priority on the basis of an application filed in another country shall have four years from the end of the period of priority to supply the plant material and the necessary data.

### Section 19

#### **Decision on the Application**

After the period provided for the filing of claims has ended and the necessary examination of the variety has been carried out, the application shall be subjected to continued consideration and the register authority shall decide on the registration of the variety.

The applicant shall be given the opportunity to make a statement on the comments that have been made and the examination that has been carried out.

### Section 20

#### **Registration of the Breeders' Rights**

After the decision of the register authority referred to in Section 19 is no longer subject to ordinary channels of appeal, the variety shall be entered in the plant variety register. The registration shall be published. The applicant shall be given a certificate of registration.

A decision on the rejection of an application shall be published after it is no longer subject to ordinary channels of appeal.

## CHAPTER V

PERIOD OF PROTECTION OF THE BREEDERS' RIGHTS  
AND USE OF THE VARIETY DENOMINATIONSection 21

## Period of Protection

The breeders' rights shall be valid from the date on which the register authority has taken its decision on the approval of the variety for registration. The breeders' rights may be maintained through payment of an annual fee for twenty years from the beginning of the year following the taking of the decision.

Section 22

## Use of the Variety Denomination

When reproductive or vegetative propagating material of a registered plant variety is offered for sale, its registered denomination shall be used even after the period of protection has ended or the breeders' rights have otherwise ended.

The registered variety denomination or a denomination that is easily confused with it may not be used for a variety belonging to the same species or to a closely related species or for the reproductive or vegetative propagating material of such a variety as long as the variety denomination is registered.

## CHAPTER VI

## LICENSES, COMPULSORY LICENSES AND NOTATIONS IN THE REGISTER

Section 23

## Licence

If the owner of the variety has granted permission to another person to use the registered variety on a professional basis (license), such other person may transfer his right to a third person only if agreed.

If the license belongs to a company, it may be transferred in connection with the transfer of the company, unless otherwise agreed.

Section 24

## Compulsory Licenses

If the reproductive or vegetative propagating material of a registered variety is not placed on the market under reasonable conditions and to a



sufficient extent in view of the food economy or other public interest, a person who wishes to exploit the variety in Finland on a professional basis may obtain a compulsory license to do so, unless the owner of the variety has an acceptable reason for his actions. The compulsory license shall also include the right to receive a sufficient quantity of reproductive or vegetative propagating material of the variety from the owner of the variety.

A compulsory license may be granted only to a person who is deemed to have the prerequisites for exploiting, in an acceptable manner and under the conditions determined in the compulsory license, the variety that is the subject of the breeders' rights.

The compulsory license shall not prevent the owner of the variety from himself using his right or from granting a license to the variety.

The compulsory license shall be granted by the court, which shall order to what extent the registered variety may be used and determine the remuneration as well as the other conditions of the compulsory license. The court may, at the request of the owner of the variety, withdraw the compulsory license or determine new conditions if required by essential changes in the circumstances.

## Section 25

### **Notations in the Register**

When the breeders' rights have been transferred to another or when a license has been granted to another, a notation thereof shall be made in the plant variety register if so requested. The same shall apply to a lien on the breeders' rights. However, the granting of a compulsory license shall always be noted in the register.

If it is shown that the license, lien or compulsory license entered in the register is no longer in force, the notation shall be deleted from the register.

A fee shall be paid for the entry of the notation in the register.

The person who has most recently been entered in the register as the owner of the variety shall be considered the owner of the variety.

## **CHAPTER VII**

### **TERMINATION OF THE BREEDERS' RIGHTS**

## Section 26

### **Renunciation of the Breeders' Rights**

The owner of the variety may renounce his right by notifying the register authority thereof in writing, in which case the authority shall delete the variety from the register.

The breeders' rights shall end if the annual fee is not paid within the prescribed period.

### Section 27

#### **Nullity of the Rights Protected**

The court shall declare the breeders' rights null and void if the conditions laid down in Sections 2, 3, 4(1) or 5 for the granting of the rights are not complied with.

The court shall ask the register authority for a statement in cases that concern a declaration of nullity of the plant breeders' rights.

In other cases pertaining to the right of the breeder, the court may ask the register authority for a statement if there is reason for this.

### Section 28

#### **Forfeiture of the Rights Protected**

The register authority may declare the breeders' rights forfeit if

- (1) the owner of the variety is not in a position to produce reproductive or vegetative propagating material of the variety with its characteristics as defined when the protection was granted; or
- (2) the owner of the variety does not, after being requested to do so by the register authority, provide reproductive or vegetative propagating material of the variety, the documents and other information deemed necessary for checking that the variety is maintained appropriately or if the owner of the variety does not allow inspection of the measures which have been taken for the maintenance of the variety.

## **CHAPTER VIII**

### **PROTECTION UNDER PRIVATE LAW**

### Section 29

#### **Prevention of Infringements**

If anyone infringes the exclusive right under the breeders' rights, the court may prohibit him from continuing or renewing the act.

### Section 30

#### **Action for a Declaratory Judgment**

The owner of the variety or the person who, on the basis of a license or compulsory license, has the right to exploit the plant variety protected by

the breeders' rights may institute a declaratory action to establish whether, on the basis of the breeders' rights that have been granted to him, he enjoys protection against others, if there is uncertainty regarding this matter and this uncertainty is to his detriment.

A person who exploits or intends to exploit a plant variety that is subject to the protection granted on the basis of the breeders' rights may, under the same conditions, institute a declaratory action against the holder of the breeders' rights to determine whether the granting of the breeders' rights constitutes a bar to such activity.

### Section 31

#### **Damages**

A person who infringes the breeders' rights or the provisions of Section 22 on the exploitation of the variety denomination, deliberately or negligently, shall be required to pay damages for the exploitation of the variety and to compensate any other loss caused by the infringement. If the negligence is slight, the amount of the damages may be adjusted.

If the infringement of the breeders' rights or the infringement of the provisions of Section 22 on the exploitation of the variety denomination is not deliberate or negligent, the infringer shall be required to pay damages only to the extent deemed reasonable.

Compensation for infringement of the breeders' rights or for an infringement of the provisions of Section 22 on the exploitation of the variety denomination may be claimed only for the five years preceding the institution of the action for damages.

If the breeders' rights have been declared null and void by a court decision that is no longer subject to ordinary channels of appeal, no claim for damages may be brought and no punishment may be pronounced.

In addition to the provisions of this Section on compensation, the provisions of the Damages Act (1974/412) shall apply as appropriate.

### Section 32

#### **Return of Reproductive or Vegetative Propagating Material**

On application by the person that has suffered an infringement of his rights, the court may order, as it deems reasonable, that the reproductive or vegetative propagating material of the variety that is the subject of the infringement of rights shall be transferred to the infringed person in return for compensation. This shall not apply to a person who has received the reproductive or vegetative propagating material in good faith or who has a special right thereto and has not himself infringed the breeders' rights.

The reproductive or vegetative propagating material referred to in the first paragraph above may be confiscated if the person that has suffered an infringement of his rights has requested transfer of the reproductive or vegetative propagating material as provided in Chapter VII of the Execution Act.

### Section 33

#### **Interim Protection**

If, after the application referred to in Section 10 has been filed, a person other than the applicant uses on a professional basis the variety that is the subject of the application for breeders' rights, the provisions on infringement of breeders' rights shall apply correspondingly if the rights are subsequently granted.

The penalty referred to in Chapter IX of this Law may not be imposed for acts that took place after the application referred to in Section 10 was filed if, although they infringe the breeders' rights, they took place before the breeders' rights had been granted. Damages for an act that took place before publication of the application referred to in Section 17 may be ordered only in accordance with Section 31, second paragraph.

If the action for damages is brought within a year of the granting of the breeders' rights, the provision in Section 31, third paragraph, shall not apply.

## **CHAPTER IX**

### **PENAL PROVISIONS**

### Section 34

#### **Infringement of Breeders' Rights**

A person who deliberately infringes the exclusive right referred to in Sections 6, 7 or 8 shall be sentenced for infringement of breeders' rights to a fine or imprisonment of at most six months.

The public prosecutor may not bring charges for an offence unless the injured party has reported the offence for prosecution.

### Section 35

#### **Misuse of a Variety Denomination**

A person who deliberately or negligently infringes the provisions of Section 22 on the use of a variety denomination shall be sentenced, unless the offence is petty, for misuse of a variety denomination to a fine.

## CHAPTER X

## MISCELLANEOUS PROVISIONS

Section 36**Use of an Agent**

If the applicant or the holder of the breeders' rights does not reside in Finland, he shall have an agent in Finland authorized to represent him in all matters pertaining to the breeders' rights and to applications for such rights.

Section 37**Appeal**

The final decision of the register authority on the breeders' rights shall be subject to appeal by the applicant or the holder of the breeders' rights, if the decision goes against them. A person that had lodged a claim against the application may appeal a decision approving the application despite the proper lodging of the claim against such application. If the person that had entered an appeal withdraws his appeal, the appeal may nonetheless be considered if there are special reasons.

The applicant may appeal a decision by which a request referred to in Section 16 for the transfer of an application has been approved. The person presenting the claim for transfer of an application may appeal a decision rejecting his request.

The decision of the register authority shall be subject to appeal before the Supreme Administrative Court. Appeal shall be filed within 60 days of the date on which service of the decision was made.

Section 38**Forum**

The forum for cases dealt with under this Law is the City Court of Helsinki.

Section 39**Fees**

The amount of the fees referred to in this Law shall correspond to the total costs for the State of providing the services (cost price). However, the amount of the registration fee and the annual fee may be determined so that the total amount collected from these is estimated to correspond to the total costs incurred by the State in maintaining the register.

Fees of equal size may be required for similar services by the Plant Variety Board even when the costs incurred by the State in providing the services differ. In determining the amount of such a fixed fee, the average total costs of the service shall be taken into consideration.

The fees may be set in general at an amount that is above or below the cost price or the fee calculated in accordance with the second sentence of the first paragraph or may be waived entirely, if this is due to international agreements, reasons of trade policy or practical reasons.

In other respects, the provisions of the State Cost Assessment Act (150/92) shall apply to the fees.

#### Section 40

##### **Supplementary Provisions**

Further provisions on the implementation of this Law shall be issued by Decree. The Plant Variety Board may issue further regulations on the registration of applications and their examination.

#### Section 41

##### **Entry into Force of the Act**

This Law shall enter into force on October 15, 1992. However, Section 8, second paragraph, item 1, shall not enter into force until the date stipulated by Decree.

Measures necessary for the implementation of the Law may be taken before this Law enters into force.

## F I N L A N D

## DECREE ON THE PLANT VARIETY BOARD

No. 906 of October 9, 1992\*

Section 1

The Plant Variety Board shall include experts on field, garden, ornamental and nursery plants as well as representatives of the State Seed Testing Center, experimental activity, information, agricultural and garden crop growers, and the foodstuffs industry. The Board may operate in divisions according to its agenda. The agenda shall be approved by the Ministry of Agriculture and Forestry.

Section 2

The Board shall be assisted by a secretariat (the Plant Variety Rights Office). The Office shall have a Director.

The Director shall be appointed by the Ministry of Agriculture and Forestry.

The qualifications of the Director shall be an appropriate higher university degree and familiarity with the matters dealt with by the Office.

The position of Director shall be created by decision of the Ministry of Agriculture and Forestry.

Section 3

The Board shall have competence to conclude agreements on research to be carried out in Finland or on experiments with material of a plant variety for which breeders' rights have been sought in Finland with the register authority of a State which has acceded to the International Convention for the Protection of New Varieties of Plants (UPOV) to be carried out by the said authority or any other authority or institution authorized by the former.

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\* Entry into Force: October 15, 1992  
Finnish Title: Asetus Kasvilajikelautakunnasta  
Swedish Title: Förordning om växtsortsnämnden

English translation supplied by the Finnish Ministry of Agriculture and Forestry

Section 4

This Decree shall enter into force on October 15, 1992.



## F I N L A N D

## DECREE ON BREEDERS' RIGHTS

No. 907 of October 9, 1992\*

Section 1

## Application for Registration

Applications for registration shall be signed by the applicant or a representative of the applicant and they shall contain the following information:

- (1) The name, domicile and address of the applicant and, if represented by an agent, the name, domicile and address of the agent;
- (2) The origin of the variety and the results of experiments made therewith;
- (3) The proposed provisional denomination for the variety if a definitive denomination is not proposed at this stage;
- (4) Whether an application for registration has been filed in another State and whether a proposal for a variety denomination was then made or a denomination accepted, and the findings of the authorities of that State in examining the registrability of the variety;
- (5) Whether priority is sought under Section 10 hereafter, and where and when previous applications have been filed;
- (6) The data under Section 10 of the Law on Breeders' Rights (789/92).

The following documents shall be attached to the application:

- (1) A power of attorney if the applicant is represented by an agent;
- (2) If the proposed variety denomination is liable to be confused with a trademark designating plant variety material or similar goods to which the applicant has an exclusive right, a certificate from the National Board of Patents and Registration of Trademarks certifying that the said trademark has been removed from the trademark register or, if no such trademark has been registered, a declaration by the applicant stating that he has renounced or a notification that he is ready to renounce his right to such trademark.

The application and the annexes shall be filed in the Finnish, Swedish, Norwegian, Danish or English languages.

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\* Entry into force: October 15, 1992  
Finnish title: Asetus Kasvinjalostajanoikeudesta  
Swedish Title: Förordning om växtförädlarrätt

English translation supplied by the Finnish Ministry of Agriculture and Forestry

## Section 2

### **List of Applications**

The Plant Variety Board shall maintain a list of all the applications submitted to it for the registration of plant varieties.

On the application, the Plant Variety Board shall enter the filing number and the date on which the application has been submitted to the Board.

The list of applications shall state:

- (1) The date of receipt and the filing number of the application;
- (2) The genus or species of the plant variety;
- (3) The proposed provisional or definitive variety denomination;
- (4) The name, domicile and address of the applicant;
- (5) If the applicant is represented by an agent, the name, domicile and address of the agent;
- (6) The name and address of the breeder;
- (7) If priority has been requested and an application for the same variety has been filed in another State, the number of such application;
- (8) Necessary data on the plant material supplied to the Board or to an authority or an institution designated by the Board, and on the propagation of the plant material;
- (9) Data on the documents submitted to the Board and on the fees paid;
- (10) Any decisions taken in the matter;
- (11) Any deferments in the consideration of the matter caused by a previous application; such data shall also be entered in the list with respect to the previous application;
- (12) Any transfer of an application under Section 16 of the Law on Breeders' Rights.

## Section 3

### **Publication by the Board**

The Plant Variety Board shall issue a publication with information on the registration of varieties as prescribed in the Law on Breeders' Rights and in a decree to be issued by virtue of that Law.

## Section 4

### **Publication of the Application for Registration**

An application for registration which complies with the requirements shall be published by the Board. The publication shall state:

- (1) The filing number of the application;

- (2) The name, domicile and address of the applicant;
- (3) The name and address of the breeder;
- (4) The genus or species of the variety;
- (5) The proposed provisional or definitive denomination;
- (6) The date on which the application was submitted to the Plant Variety Board;
- (7) Whether priority has been requested and the State in which the previous application regarding the variety has been filed, and the date and filing number thereof;
- (8) The date on which any claim in respect of the application must be filed at the latest.

### Section 5

#### **Publication of Proposal to Change Variety Denomination**

If a proposal to change a variety denomination is submitted after the publication under Section 4 of an application for registration, the proposal shall be published by the Plant Variety Board.

The publication shall state:

- (1) The filing number of the application;
- (2) The name, domicile and address of the applicant;
- (3) The genus or species of the variety;
- (4) Both the proposed new denomination and the previous denomination;
- (5) The date on which the application was furnished to the Plant Variety Board;
- (6) The date on which any claim in respect of the application shall be filed at the latest.

### Section 6

#### **Filing a Claim**

Any claim in respect of an application for registration or a variety denomination shall be substantiated.

If the claim is filed by an agent, the agent shall present a power of attorney issued by the claimant.

### Section 7

#### **Consideration of Application by the Board**

In considering an application for registration, the Board shall take into account the facts presented in the application as well as other relevant facts.

The Plant Variety Board may request expert advice on issues relative to the consideration of an application.

Any person filing an application for registration in Finland for a variety which has been the object of an earlier application in another State, shall advise to the Board of the response of the authority in such other State.

### Section 8

#### **Inclusion of a Variety in the Plant Variety Register**

The plant variety register shall state:

- (1) The filing number of the application and the registration number of the variety;
- (2) The name, domicile and address of the owner of the variety and, if the applicant is represented by an agent, the name, domicile and address of the agent;
- (3) The name and address of the breeder;
- (4) The genus or species of the variety;
- (5) The registered variety denomination;
- (6) The date on which
  - (a) the application was furnished to the Plant Variety Board,
  - (b) the proposed variety denomination was furnished to the Plant Variety Board,
  - (c) the application was published,
  - (d) the variety was registered;
- (7) Whether the variety has been granted priority under Section 12 of the Law on Breeders' Rights, the State in which the previous application regarding the variety has been filed and the date of such filing.

### Section 9

#### **Notations in the Plant Variety Register on the Transfer of Breeders' Rights, Licensing and Other Matters**

In addition to notations in the register under Section 25 of the Law on Breeders' Rights, the payment of the annual fee shall be entered in the register.

The notations shall state the name, domicile and address of the holders of breeders' rights as well as the dates of any measures under paragraph 1 above. At the request of the person entitled to licence, any restrictions therein with regard to the owner of the variety shall also be entered in the register.

At the request of an appellant, any appeal against the final decision of the register authority with regard to breeders' rights shall be entered in the register. Any court ruling in the matter shall likewise be entered in the register.

Similarly, any distraint or confiscation relative to breeders' rights and any notification of change of agent shall be entered in the register upon request.

If it is not possible immediately to solve a question regarding an entry in the register, a notation shall be entered that a request to that effect has been made.

### Section 10

#### **Notation of Priority**

The priority referred to in Section 12 of the Law on Breeders' Rights may be granted on condition that

- (1) the priority has been expressly claimed in the application,
- (2) copies of the previous application and any documents attached thereto are submitted to the Plant Variety Board within three months after the application has been filed. The copies shall be certified by the authority which received the first application in respect of the variety concerned--and
- (3) any other documents and plant material required in the consideration of the question of priority have been submitted to the Plant Variety Board within four years after the expiry of the period of priority. If the previous application has been rejected or withdrawn, the Board may decide on a different period within which the latter documents and plant material shall be submitted.

### Section 11

#### **Removing a Variety from the Plant Variety Register**

If the owner of a variety renounces his right, if the annual fee has not been paid within the prescribed time, if the breeders' rights are declared null and void by a court of law or if the Plant Variety Board declares the breeders' rights forfeit, the Plant Variety Board shall remove the variety from the register once the decision by the court or the Board has taken effect.

### Section 12

#### **Notification to the National Board of Patents and Registration of Trademarks**

If the application is accompanied by a declaration or notification referred to in Section 1, second paragraph, item 2, the Plant Variety Board shall, once the decision on the registration of the variety has taken effect, notify the National Board of Patents and Registration of Trademarks of the fact and of the variety denomination.

### Section 13

#### **Notification to License Holder**

If the owner of a variety renounces his right and a license to that variety has been entered in the register, the Board shall notify the license holder so as to ensure a reasonable period within which the license holder may defend his rights, before the Plant Variety Board removes the variety from the register.

### Section 14

#### **Publication of the Registration of Breeders' Rights or Rejection of an Application**

The publication of the decision to register breeders' rights or to reject an application shall state the date of registration of the variety, the registration number, the filing number of the application and the date on which the application was furnished to the Plant Variety Board.

### Section 15

#### **Other Matters to be Published**

The Plant Variety Board shall publish any effective decision whereby a variety has been removed from the register, a registered variety denomination has been changed or the breeders' rights have been transferred to another.

### Section 16

#### **Entry Into Force**

This Decree shall enter into force on October 15, 1992.

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**CALENDAR**

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**UPOV Meetings in 1993**

September 15 to 17 (Beijing, China)	UPOV Seminar on the Nature of and Rationale for the Protection of Plant Varieties Under the UPOV Convention.
September 20 to 24 (Wurzen, Germany)	Technical Working Party for Fruit Crops
October 4 to 8 (Antibes, France)	Technical Working Party for Ornamental Plants and Forest Trees
October 25 and 26	Technical Committee
October 27	Administrative and Legal Committee
October 28	Consultative Committee
October 29	Council
November 23 to 27 (New Zealand and Australia)	Technical Working Party for Agricultural Crops

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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

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[Continued from page 48]

Newman, J., further considered that 'marketing' should be given its ordinary, contemporary common meaning of 'selling'. "There is no basis for the panel's conclusion that Congress silently intended 'marketing' to be limited to 'extensive or coordinated selling activities', and thus to be different from 'selling'."

In addition, "to qualify for the crop exemption, the seed must not have been grown for the purpose of sale as seed (paragraph 2541(3)). When a farmer saves only enough seed to replant the crop on the farm, and then forgoes such replanting, it may be inferred that such seed is 'saved seed', and may be sold. If the farmer wishes to sell more, he must establish that the seed was grown and saved for use other than for sale as seed (e.g., for animal feed). The farmer who sells more seed of a certified variety than he could have planted on his farm has a long row to hoe in proving that the crop was not grown for sale as seed."

Against the background of the court's obligation to serve the statutory purpose where a statute is 'insufficiently precise', he observed the following: "The discontinued research projects and abandoned varieties due to massive 'brown bag' sales, reported in detail by various amici curiae, may not interest farmers such as the Winterboers, who have opportunistically entered the seed business for certified varieties. It is the greater national interest that suffers from this eviscerated incentive to innovate in plant varieties. New disease resistant crops, for example, may lower food costs and be more competitive in international trade; but they may be of less short term impact on individual farmers."