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# PLANT VARIETY PROTECTION

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

No. 72

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Geneva

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# GAZETTE

## ACCESSION TO THE 1978 ACT OF THE UPOV CONVENTION

## Norway

On August 13, 1993, the Government of Norway 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 Norway on September 13, 1993. On that date, Norway became the twenty-fourth member State of UPOV and the twenty-second State bound by the Act of 1978.

## ENTRY INTO OPERATION OF THE PLANT VARIETY PROTECTION SYSTEM

## Norway

The Act of March 12, 1993, Relating to Plant Breeders' Rights and the Regulations of August 6, 1993, Relating to Plant Breeders' Rights entered into force on September 15, 1993. They will be published in a forthcoming issue of "Plant Variety Protection."

The address of the national office is as follows:

Plantesortsnemnda (The Plant Variety Board)  
STIL, Boks 3                      visiting address: Moerveien 2  
N-1430 Ås                          N-1430 Ås  
Norway                               Norway  
Phone: 47-64-94.35.60; Telefax: 47-64-94.23.50

By virtue of Section 1 of the Regulations Relating to Plant Breeders' Rights the genera and species covered by plant variety protection legislation are as follows (the Latin and Norwegian names appear in the Regulations, whereas the English, French and German names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>Norwegian</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Agrostis spp.	Kvein	Bentgrass	Agrostis, Agrostide	Straussgras
Allium spp.	Løk	-	-	Lauch
Alstroemeria spp.	Alstromeria	Alstroemeria, Herb Lily	Alstroèmère, Lis des Incas	Inkalilie
Avena sativa L.	Hayre	Oats	Avoine	Hafer

<u>Latine</u>	<u>Norwegian</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Begonia spp.	Begonia	Begonia	Bégonia	Begonie
Beta vulgaris L. spp. Sukkerbete vulgaris var. altissima Doell		Sugar Beet	Betterave sucrière	Zuckerrübe
Beta vulgaris L. spp. Fôrbete vulgaris var. crassa Alef.		Fodder Beet	Betterave fourragère	Runkelrübe
Beta vulgaris L. spp. Rødbete vulgaris var. conditiva Alef.		Beetroot, Garden Beet	Betterave rouge, Betterave potagère	Rote Rübe
Brassica napus L. var. napobrassica Rchb.	Kålrot	Swede	Chou-navet, Rutabaga	Kohlrübe
Brassica napus L. var. oleifera Metzg.	Raps	Swede Rape	Colza	Raps
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Blomkål	Cauliflower	Chou-fleur	Blumenkohl
Brassica oleracea L. convar. capitata (L.) Alef. var. capitata	Hodekål	Cabbage	Chou pommé	Kopfkohl
Brassica pekinensis (Lour.) Rupr.	Kinakål	Chinese Cabbage	Chou de Chine, Pé-tsai	Chinakohl
Brassica rapa L. var. Nepe rapifera Metzg.		Turnip	Navet	Herbstrübe, Mairübe
Brassica rapa L. var. Rybs oleifera Metzg.		Turnip Rape	Navette	Rübsen
Bromus inermis Leyss. Bladfaks		Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe
Campanula spp.	Klokker	Campanula, Bell Flower	Campanule	Glockenblume
Chrysanthemum spp.	Krysantemum	Chrysanthemum	Chrysanthème	Chrysantheme
Cucumis sativus L.	Agurk	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Dactylis glomerata L. Hundegras		Cocksfoot, Orchard Grass	Dactyle	Knautgras
Daucus carota L.	Gulrot	Carrot	Carotte	Möhre

<u>Latine</u>	<u>Norwegian</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Dianthus spp.	Nellik	Carnation, Pink	Oeillet	Nelke
Euphorbia pulcherrima Willd. ex Klotzsch	Julestjerne	Poinsettia	Poinsettia	Poinsettie, Weihnachts- stern
Festuca spp.	Svingel	Fescue	Fétuque	Schwingel
Fragaria spp.	Jordbaer	Strawberry	Fraisier	Erdbeere
Hordeum vulgare L.	Bygg	Barley	Orge	Gerste
Ilex aquifolium L.	Kristtorn	Common Holly	Houx	Ilex, Stechpalme
Lactuca sativa L.	Hagesalat	Lettuce	Laitue	Salat
Lolium spp.	Raigras	Ryegrass	Ray-grass	Weidelgras
Lupinus spp.	Lupin	Lupin	Lupin	Lupine
Lycopersicon esculen- tum P. Mill.	Tomat	Tomato	Tomate	Tomate
Malus spp.	Eple	Apple	Pommier	Apfel
Medicago sativa L.	Blåluserne	Lucerne, Alfalfa	Luzerne (cultivée)	Blaue Luzerne
Pelargonium spp.	Pelargonia	Pelargonium	Pelargonium	Pelargonie
Phalaris arundinacea L.	Strandrør	Reed Canary Grass	Alpiste roseau	Rohrglanzgras
Phaseolus spp.	Bønner	Beans	Haricots	Bohnen
Phleum pratense L.	Timotei	Timothy	Fléole	Lieschgras
Pisum sativum L.	Erter	Pea	Pois	Erbse
Poa spp.	Rapp	Meadow-grass, Bluegrass	Pâturin	Rispengras
Prunus spp.	Steinfrukt	Stone fruit	Fruits à noyaux	Steinobst
Pyrus spp.	Paerer	Pear	Poirier	Birne
Raphanus sativus L. var. oleiformis Pers.	Fôrreddik	Fodder Radish, Oil Radish	Radis oleifère, Radis chinois	Oelrettich
Rhododendron spp.	Rododendron	Rhododendron, Azalea	Rhododendron, Azalée	Rhododendron, Azalee

<u>Latine</u>	<u>Norwegian</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ribes spp.	Rips, Solbaer, Stickelsbaer	Currants, Gooseberry	Cassis, Groseilliers	Johannis- beeren, Stachelbeere
Rosa spp.	Roser	Rose	Rosier	Rose
Rubus spp.	Rubus	Raspberry, Bramble, Blackberry	Framboisier, Ronce	Himbeere, Brombeere
Saintpaulia ionantha H. Wendl.	Saintpaulia	African Violet, Saintpaulia	Saintpaulia	Usambara- veilchen
Salix spp.	Pil, Selje, Willow Vier		Saule	Weide
Secale cereale L.	Rug	Rye	Seigle	Roggen
Solanum tuberosum L.	Potet	Potato	Pomme de terre	Kartoffel
Trifolium spp.	Kløver	Clover	Trèfle	Klee
x Triticosecale Wittmack	Rughvete	Triticale	Triticale	Triticale
Triticum aestivum L.	Hvete	Wheat	Blé	Weizen
Vicia sativa L.	Fôrvikke	Common Vetch	Vesce commune	Saatwicke

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### EXTENSION OF PERIOD OF PROTECTION

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#### Ireland

By virtue of the Plant Varieties (Proprietary Rights) (Amendment) Regulations, 1993, issued on March 11, 1993 (Statutory Instrument No. 78 of 1993), the period of protection for potato (Solanum tuberosum L.) was extended from 20 to 25 years with effect from the same date.

#### Israel

By virtue of the Order of the Minister for Agriculture published in Kovetz Hatakanot No. 5526 of June 8, 1993, the protection period for melon (Cucumis melo L.) was extended, with effect from the same date, from 15 to 25 years.

## EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Ireland

By virtue of the Plant Varieties (Proprietary Rights) (Amendment) (No. 2) Regulations, 1992, issued on December 4, 1992 (Statutory Instrument No. 369 of 1992), protection was extended, with effect from the same date, to the following (the Latin and English names appear in the Regulations, whereas the French and German common names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of protection (in Years)</u>
Acer platanoides L.	Norway Maple	Erable plane	Spitzahorn	20
x Cupressocyparis leylandii (A.B. Jacks. et Dallim.) Dallim.	Leyland Cypress	Cyprès de Leyland	Leylandzypresse	20
Dendranthema (DC.) Desmoul.	Chrysanthemum	Chrysanthème	Chrysantheme	15
Helianthus annuus L.	Sunflower	Tournesol	Sonnenblume	15
Helipterum anthemoides (Spreng.) DC.	Paper Daisy	-	-	20
Houttuynia cordata Thunb.	-	-	-	20
Osteospermum L.	Osteospermum	Osteospermum	Osteospermum	20
Zea mays L.	Maize	Maïs	Mais	15

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

List of Taxa Covered by Plant Variety Protection in Ireland (with Effect from March 11, 1993)

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of Protection (in Years)</u>
Acer platanoides L.	Norway Maple	Erable plane	Spitzahorn	20
Agrostis tenuis Sibth.	Brown Top	Agrostide commune	Rotes Straussgras	20
Avena sativa L.	Oats	Avoine	Hafer	15

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of protection (in Years)</u>
Beta vulgaris L. ssp. vulgaris var. alba DC.	Fodder Beet	Betterave fourragère	Runkelrübe	20
Betula L.	Birch	Bouleau	Birke	20
Brassica napus L. var. napobrassica Peterm.	Swede	Chou-navet, Rutabaga	Kohlrübe	20
Brassica napus L. ssp. oleifera (Metzg.) Sinsk	Swede Rape	Colza	Raps	20
Brassica oleracea L. convar. acephala (DC.)	Fodder Kale	Chou fourrager	Futterkohl	20
Choisya H.B.K.	Mexican Orange	Oranger du Mexique	Orangenblume	20
x Cupressocyparis leylandii (A.B. Jacks. et Dallim.) Dallim.	Leyland Cypress	Cyprès de Leyland	Leylandzypresse	20
Dactylis glomerata L.	Cocksfoot	Dactyle	Knautgras	20
Dendranthema (DC.) Desmoul.	Chrysanthemum	Chrysanthème	Chrysantheme	15
Escallonia laevis L.	Escallonia	Escallonia	Escallonia	20
Festuca rubra L.	Red Fescue	Fétuque rouge	Rotschwengel	20
Fragaria L.	Strawberry	Fraisier	Erdbeere	20
Hebe Comm. ex Juss.	Shrubby Speedwell, Shrubby Veronica	Véronique	Strauchveronika	20
Helianthus annuus L.	Sunflower	Tournesol	Sonnenblume	15
Helipterum anthe- moides (Spreng.) DC.	Paper Daisy	-	-	20
Hordeum vulgare L.	Barley	Orge	Gerste	15
Houttuynia cordata Thunb.	-	-	-	20



<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of Protection (in Years)</u>
Linum usitatissimum L.	Flax, Linseed	Lin	Lein	20
Lolium x hybridum Hausskn.	Hybrid Ryegrass	Ray-grass hybride	Bastardweidel- gras, Olden- burgisches Weidelgras	20
Lolium multiflorum Lam.	Italian Ryegrass	Ray-grass d'Italie	Welsches Weidel- gras, Italieni- sches Raygras	20
Lolium perenne L.	Perennial Ryegrass	Ray-grass anglais	Deutsches Weidelgras	20
Lupinus albus L.	White Lupin	Lupin blanc	Weisse Lupine	20
Lupinus angusti- folius L.	Blue Lupin	Lupin bleu	Blaue Lupine	20
Lupinus luteus L.	Yellow Lupin	Lupin jaune	Gelbe Lupine	20
Malus Mill.	Apple	Pommier	Apfel	20
Osteospermum L.	Osteospermum	Osteospermum	Osteospermum	20
Phleum pratense L.	Timothy	Fléole des prés	Wiesenlieschgras	20
Pisum sativum L. (partim)	Field Pea	Pois fourrager	Futtererbse	20
Potentilla fruticosa L.	Shrubby Cinquefoil	Potentille ligneuse	Strauchfinger- kraut	20
Rosa L.	Rose	Rosier	Rose	20
Ruscus aculeatus L.	Butcher's Broom	Fragon piquant, Petit houx	Mäusedorn	20
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel	25
Trifolium pratense L.	Red Clover	Trèfle violet	Rotklee	20
Trifolium repens L.	White Clover	Trèfle blanc	Weissklee	20
x Triticosecale Wittmack	Triticale	Triticale	Triticale	15
Triticum aestivum L. emend. Fiori et Paol.	Wheat	Blé	Weizen	15

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Period of Protection (in Years)</u>
Vicia faba L. (partim)	Field Bean	Féverole	Ackerbohne	20
Zea mays L.	Maize	Maïs	Mais	15

### Israel

By virtue of the Plant Breeders' Rights Order (Amendment to Schedule) published in Kovetz Hatakanot (Israel Official Gazette) No. 5501 of February 16, 1993, protection was extended, with effect from the same date, to the following\*:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Casimiroa edulis Llave et Lex.	White Sapote	Sapotier	Sapote
Cereus peruvianus (L.) Mill.	Apple Cactus, Rock Cactus	Cierge du Pérou	Felsenkaktus
Dodonaea Mill.	Akeake, Dodonaea, Hop Seed Bush	Dodonée	Dodonäe
Hylocereus spp.	Pitaya	Hylocereus	Waldcereus
Ziziphus mauritiana Lam.	Jujube, Ziziphus	Jujubier	Jujube

By virtue of the Plant Breeders' Rights Order (Amendment to Schedule) published in Kovetz Hatakanot No. 5524 of May 25, 1993, protection was extended, with effect from the same date, to the following\*:

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Phyllica L.	Phyllica	Phyllica	Kapmyrte

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

#### List of Taxa Covered by Plant Variety Protection Legislation in Israel (with Effect from May 25, 1993)\*

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Achillea L.	Milfoil, Yarrow	Achillée	Schafgarbe

\* The Latin names have been provided by the Secretariat of the Plant Breeders' Rights Council of Israel, whereas the English, French and 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>
<i>Actinidia chinensis</i> Pl.	Kiwifruit	<i>Actinidia</i> , Groseille de Chine, Kiwi	Kiwifrucht
<i>Allium cepa</i> L.	Onion	Oignon	Zwiebel
<i>Allium sativum</i> L.	Garlic	Ail	Knoblauch
<i>Alocasia</i> (Schott) G. Don	<i>Alocasia</i>	<i>Alocasia</i>	<i>Alocasia</i> , Pfeilwurz, Tropenwurz
<i>Alstroemeria</i> L.	<i>Alstroemeria</i>	<i>Alstroemère</i> , Lis des Incas	Inkalilie
<i>Amygdalus communis</i> L.	Almond	Amandier	Mandel
<i>Anemone</i> L.	<i>Anemone</i>	Anémone	<i>Anemone</i> , Windröschen
<i>Annona cherimola</i> Mill.; <i>A. squamosa</i> L.	<i>Annona</i> , Cherimoya; <i>Annona</i> , Sugar Apple, Sweet Sop	Chérimolier; Pommier-cannelle	"Cherimoya"; Rahmapfel, Süsssack, Zuckerapfel
<i>Anthurium</i> Schott	<i>Anthurium</i> , Tail Flower	<i>Anthurium</i>	Flamingoblume
<i>Arachis hypogaea</i> L.	Groundnut	Arachide	Erdnuss
<i>Artemisia</i> L.	Mugwort	Armoise	Beifuss
<i>Aster</i> L.	<i>Aster</i>	<i>Aster</i>	<i>Aster</i>
<i>Athanasia parviflora</i> L.	<i>Athanasia</i>	<i>Athanasia</i>	<i>Athanasia</i>
<i>Avena sativa</i> L.	Oat	Avoine	Hafer
<i>Averrhoa carambola</i> L.	Carambola	Carambole	Karambola
<i>Baccharis</i> L.	<i>Baccharis</i> , Groundsel Tree	Baccharide	Kreuzstrauch
<i>Begonia</i> L.	<i>Begonia</i>	Bégonia	Begonie
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef.	Cauliflower	Chou-fleur	Blumenkohl
<i>Callistephus</i> Cass.	(China) <i>Aster</i>	<i>Aster</i> , <i>Aster de Chine</i> , Reine-marguerite	Sommeraster
<i>Capsicum annuum</i> L.	Sweet Pepper, <i>Capsicum</i> , Chili	Poivron, Piment	Paprika

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
<i>Carica papaya</i> L.	Papaya, Pawpaw	Papayer, Arbre à melon	Melonenbaum, Papaya
<i>Carthamus tinctorius</i> L.	Safflower	Carthame, Safran bâtard	Saflor, Färberdistel
<i>Carum carvi</i> L.	Caraway	Carvi, Cumin des prés	Kümmel
<i>Carya illinoensis</i> (Wangenh.) C. Koch	Pecan Nut	Pacancier	Pekan, Pekannuss
<i>Casimiroa edulis</i> Llave et Lex.	White Sapote	Sapotier	Sapote
<i>Catharanthus roseus</i> (L.) G. Don	Vinca	Catharanthus	Catharanthus
<i>Celosia pyramidalis</i>	Celosia	Célosie	Celosia
<i>Cereus peruvianus</i> (L.) Mill.	Apple Cactus, Rock Cactus	Cierge du Pérou	Felsenkaktus
<i>Chamelaucium</i> Desf.	Geraldton Wax	Chamelaucium	Chamelaucium
<i>Chlorophytum</i> Ker-Gawl.	Chlorophytum	Chlorophytum	Chlorophytum
<i>Chrysanthemum</i> L.	Chrysanthemum	Chrysanthème	Chrysantheme
<i>Cicer arietinum</i> L.	Chick-pea	Pois chiche	Kichererbse
<i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai	Watermelon	Pastèque	Wassermelone
<i>Citrus spec.</i>	Citrus	Agrumes	Zitrus
<i>Cucumis melo</i> L.	Melon	Melon	Melone
<i>Cucumis sativus</i> L.	Cucumber, Gherkin	Concombre, Cornichon	Gurke
<i>Cucurbita pepo</i> L.	Pumpkin, Marrow, Courgette	Courge, Pâtisson, Citrouille	Gartenkürbis, Oelkürbis
<i>Cupressus glabra</i> Sudw.	Smooth-barked Arizona Cypress	Cyprès glabre, Cyprès lisse, Cyprès blanc de l'Arizona	Glatte Arizona- zypresse
<i>Cynara</i> spp.	Artichoke, Cardoon	Artichaut, Cardon	Artischoke, Kardone
<i>Dahlia</i> Cav.	Dahlia	Dahlia	Dahlie
<i>Dianthus</i> L.	Carnation	Oeillet	Nelke

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Diospyros kaki L. f.	Japanese Persimmon, Kaki	Plaqueminier, Kaki	Kakipflaume
Dodonaea Mill.	Akeake, Dodonaea, Hop Seed Bush	Dodonée	Dodonäe
Duboisia leichardtii F. Moell.	Duboisia	Duboisia	Duboisie
Eriobotrya japonica (Thunb.) Lindl.	Loquat	Néflier du Japon	Japanische Mispel, Loquate
Euphorbia fulgens Karw.	Euphorbia fulgens	Euphorbia fulgens	Korallenranke
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Euryops virgineus (L. f.) DC.	Euryops virgineus	-	-
Feijoa sellowiana (Berg) Berg	Feijoa	Feijoa	Feijoa
Fragaria L.	Strawberry	Fraisier	Erdbeere
Freesia Klatt	Freesia	Freesia	Freesie
Gerbera L.	Gerbera	Gerbera	Gerbera
Gladiolus L.	Gladiolus	Glaïeul	Gladiole
Glycine max. (L.) Merrill	Soya Bean, Soybean	Soja	Sojabohne
Gossypium L.	Cotton	Cotonnier	Baumwolle
Gypsophila L.	Gyp, Gypsophila, Baby's Breath	Gypsophile	Gipskraut, Schleierkraut
Helianthus annuus L.	Sunflower	Tournesol, Soleil	Sonnenblume
Hibiscus L.	Hibiscus	Hibiscus	Eibisch
Hordeum vulgare L.	Barley	Orge	Gerste
Hylocereus spp.	Pitaya	Hylocereus	Waldcereus
Impatiens L.	Impatiens, Busy Lizzie, Balsam, Touch-me-not	Balsamine, Impatiente	Springkraut, Balsamine
Iris L.	Iris	Iris	Iris, Schwertlilie
Kalanchoë Adans.	Kalanchoë	Kalanchoë	Kalanchoë

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Lachenalia Jacq. f. ex Murray	Lachenalia, Cape Cowslip	Lachenalia, Coucou du Cap	Lachenalia
Lactuca sativa L.	Lettuce	Laitue	Salat
Lemnaceae S.F. Gray	Duckweed	Lemnacées	Wasserlinsen- gewächse
Leucadendron R. Br.	Leucadendron	Leucadendron	Leucadendron
Leucospermum R. Br.	Leucospermum	Leucospermum	Leucospermum
Liatris Gaertn. ex Schreb.	Liatris, Blazing Star, Gayfeather	Liatris	Prachtscharte
Lilium L.	Lily	Lis	Lilie
Limonium Mill.	Sea Lavender, Statice	Limonium, Statice	Widerstoss, Meerlavendel
Lisianthus L.	Lisianthus	Lisianthus	Lisianthus
Litchi sinensis Sonn.	Litchi	Litchi	Litschi
Lobelia L.	Lobelia	Lobélie	Lobelie
Lycopersicon esculentum P. Mill.	Tomato	Tomate	Tomate
Malus sylvestris Mill.	Apple	Pommier	Apfel
Mangifera indica L.	Mango	Manguier	Mango
Maranta L.	Maranta	Maranta, Dormeuse	Maranta, Pfeilwurz
Medicago hispida Gaertn.; M. sativa L.	Alfalfa (Hairy Medick and Lucerne)	Luzerne (hérissée et cultivée)	Schneckenklee (Sichelluzerne und Blaue Luzerne)
Monstera Adans.	Monstera	Monstera, Ananas du pauvre	Monstera
Musa L.	Banana	Bananier	Banane
Narcissus L.	Narcissus, Daffodil, Jonquil	Narcisse, Jonquille	Narzisse
Nicotiana tabacum L.	Tobacco (common)	Tabac	Tabak
Olea europaea L.	Olive	Olivier	Oelbaum, Olive
Opuntia ficus-indica (L.) Mill.	Barbary Fig	Figuier de Barbarie	Feigenopuntie
Orchidaceae Juss.	Orchids	Orchidées	Orchideen

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Origanum L.	Sweet Marjoram	Origan	Dost
Ornithogalum spp.	Chinkerinchee, Star of Bethlehem	Ornithogale, Dame d'onze heures	Milchstern, Vogelmilch, Stern von Bethlehem
Oryzopsis holciformis (N. B.) Hack.	Oryzopsis	Petit millet, Oryzopsis, Faux-millet	Grannenhirse
Pelargonium L'Hér. ex Ait.	Pelargonium	Pelargonium	Pelargonie
Pennisetum orientale Rich. in Pers.	Pennisetum	-	-
Pentas lanceolata (Forsk.) K. Schum.	Pentas	Pentas	Pentas
Persea americana Mill.	Avocado	Avocatier	Avocado
Petunia Juss.	Petunia	Pétunia	Petunie
Phalaris tuberosa L.	Hardings Grass	Herbe de Harding, Alpiste tubéreux	Knolliges Glanzgras
Phaseolus vulgaris L.	French Bean	Haricot	Gartenbohne
Philodendron Schott corr. Schott	Philodendron	Philodendron	Philodendron
Phlox L.	Phlox	Phlox	Phlox, Flammenblume
Phylica L.	Phylica	Phylica	Kapmyrte
Piqueria Cav.	Piqueria	Piqueria	Piqueria
Pistacia vera L.	Pistache	Pistachier	Echte Pistazie
Polygala myrtifolia L.	Polygala	Polygala	Kreuzblume
Portulacaria Jacq.	Portulacaria, Purslane Tree	Portulacaria	Strauchportulak, Speckbaum
Prunus armeniaca L.	Apricot	Abricotier	Aprikose
Prunus domestica L.; P. salicina Lindl.	Plum	Prunier	Pflaume
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich
Psidium guajava L.	Guava	Goyavier	Guayave
Pyrus communis L.	Pear	Poirier	Birne

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ranunculus L.	Ranunculus, Buttercup	Renoncule	Hahnenfuss
Raphanus sativus L.	Radish	Radis	Rettich
Ricinus communis L.	Castorbean	Ricin	Wunderbaum, Palma Christi
Rosa L.	Rose	Rosier	Rose
Saintpaulia ionantha H. Wendl.	African Violet	Saintpaulia	Usambaraveilchen
Salvia L.	Sage	Sauge	Salbei
Senecio L.	Groundsel, Ragwort	Séneçon	Kreuzkraut
Sesamum indicum L.	Sesame	Sésame	Sesam
Simmondsia chinensis (Link) Schneid.	Jojoba	Jojoba	Jojobastrauch
Solanum melongena L. var. esculentum Nees	Eggplant, Aubergine	Aubergine	Eierfrucht, Aubergine
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Solidago L.	Golden Rod	Verge d'or	Goldrute
x Solidaster Wehrh.	Solidaster	Solidaster	Solidaster
Sorghum vulgare Pers.	Sorghum	Sorgho	Mohrenhirse
Streptocarpus Lindl.	Streptocarpus, Cape Primrose	Streptocarpus	Streptocarpus, Drehfrucht
Syngonium Schott	Syngonium	Syngonium	Syngonium
Trachelium Tourn.	Throatwort	Trachélie	Halskraut
Trifolium alexandrinum L.; T. berytheum Boiss.; T. repens L.; T. subterraneum L.	Clover	Trèfle	Klee
Triteleia Dougl. ex Lindl.	Triteleia	Triteleia	Triteleia
Triticum aestivum L. emend. Fiori et Paol. (T. aestivum L. ssp. vulgare (Vill., Host) Mac Kay); Triticum durum Desf.	Wheat	Blé	Weizen
Vicia faba L.	Horse Bean	Fève	Dicke Bohne



<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Vicia sativa L.	Common Vetch	Vesce commune	Saatwicke
Vitis L.	Vine	Vigne	Rebe
Zea mays L.	Maize	Maïs	Mais
Ziziphus mauritiana Lam.	Jujube, Ziziphus	Jujubier	Jujube

### South Africa

By virtue of the Regulations Relating to Plant Breeders' Rights: Amendment No. R. 2415 of October 4, 1991 (Government Gazette of October 4, 1991), protection was extended to the following with effect from the same date (the Latin and English names appear in the Gazette, whereas the French and German names have been added by the Office of the Union without guarantee of concordance):

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Anthurium spp.	Anthurium	Anthurium	Flamingoblume
Clivia spp.	Bush-lily	Clivia	Klivie, Riemenblatt
Lilium spp.	Lily	Lis	Lilie

A consolidated list of the taxa which are covered by plant variety protection legislation will be published in a forthcoming issue of "Plant Variety Protection."

### Spain

By Order No. 28259 of December 4, 1992 (Boletín Oficial del Estado No. 306 of December 22, 1992, p. 43383), Establishing Protection for New Varieties of Swede Rape and Cotton, protection was extended to the crops mentioned in the title of the Order with effect from December 23, 1992.

The duration of protection was set at 16 years for both species.

A consolidated list of the taxa now covered by plant variety protection legislation is reproduced below (the Spanish names appear in the successive Orders, whereas the English, French and German names have been added, without guarantee of concordance, by the Office of the Union).

#### List of Taxa Covered by Plant Variety Protection Legislation in Spain (with Effect from December 23, 1992)

<u>Español</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Duration/ Durée/Dauer</u>
Alfalfa	Lucerne, Alfalfa	Luzerne	Luzerne	16

<u>Español</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Duration/ Durée/Dauer</u>
Algodon	Cotton	Cotonnier	Baumwolle	16
Almendro	Almond	Amandier	Mandel	20
Arroz	Rice	Riz	Reis	16
Avena	Oats	Avoine	Hafer	16
Cebada	Barley	Orge	Gerste	16
Clavel	Carnation	Oeillet	Nelke	16
Colza	Swede Rape	Colza	Raps	16
Fresa	Strawberry	Fraisier	Erdbeere	16
Girasol	Sunflower	Tournesol	Sonnenblume	16
Guisantes	Peas	Pois	Erbsen	16
Habas	Broad Beans	Fèves	Dicke Bohne, Ackerbohne	16
Híbridos de almendro por melocotonero	Hybrids between Almond and Peach	Hybrides entre Amandier et Pêcher	Hybriden zwischen Mandel und Pfirsich	20
Judías	Beans	Haricots	Bohnen	16
Lechuga	Lettuce	Laitue	Salat	16
Lentejas	Lentil	Lentille	Linse	16
Limonero	Lemon	Citronnier	Zitrone, Limone, Zitronatzitrone	20
Maíz (exclusiva- mente limitada a líneas puras)	Maize (limited to pure lines only)	Maïs (limitée aux seules lignées pures)	Mais (nur auf reine Linien beschränkt)	16
Mandarino	Mandarine	Mandarinier	Mandarine	20
Manzano (exclusi- vamente limitada a variedades frutales)	Apple (limited to fruiting varieties only)	Pommier (limitée aux seules varié- tés fruitières)	Apfel (nur auf Obstsorten beschränkt)	20
Melocotonero	Peach	Pêcher	Pfirsich	20
Melón	Melon	Melon	Melone	16
Naranja	Orange	Oranger	Apfelsine, Orange	20
Nectarina	Nectarine	Nectarinier	Nektarine	20
Patata	Potato	Pomme de terre	Kartoffel	15

<u>Español</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>	<u>Duration/ Durée/Dauer</u>
Pomelo	Grapefruit	Pomélo	Grapefruit	20
Raygrass	Ryegrass	Ray-grass	Weidelgras	16
Rosal	Rose	Rosier	Rose	18
Sandía	Watermelon	Pastèque	Wassermelone	16
Soja	Soya Bean	Soja	Sojabohne	16
Trébol violeta	Red Clover	Trèfle violet	Rotklee	16
Trigo	Wheat	Blé	Weizen	16
Triticale	Triticale	Triticale	Triticale	16
Veza común	Common Vetch	Vesce commune	Saatwicke	16

### Sweden

By virtue of the Law of December 17, 1992 (SFS 1992:1690 of December 30, 1992), Amending the Plant Breeders' Rights Law (1971:392), protection was extended, with effect from January 1, 1993, to the following plant taxa (the Latin and Swedish names appear in the Law, whereas the English, French and German names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Acer spp.	Lönn	Maple	Erable, Sycomore	Ahorn
Begonia spp.	Begonia	Begonia	Bégonia	Begonie
Betula spp.	Björk	Birch	Bouleau	Birke
Caragana spp.	Artbuske	Pea Shrub, Pea Tree	Caragana	Erbsen- strauch
Cornus spp.	Kornell, Snöbär	Dogwood, Cornel	Cornouiller	Hartriegel
Euonymus spp.	Spindelträd	Spindle Tree	Fusain	Pfaffen- hütchen, Spindel- strauch
Potentilla spp.	Fingerört, Tok	Cinquefoil	Potentille	Fingerkraut
Rhododendron spp.	Azalea, Rhododendron	Azalea, Rhododendron	Azalée, Rhododendron	Azalee, Rhododendron

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Spiraea spp.	Spirea	Bridal Wreath, Spirea	Spriée	Spierstrauch
Syringa spp.	Syrén	Lilac	Lilas	Flieder
Viburnum spp.	Olvon	Snowball Tree	Viorne	Schneeball

The former entries corresponding to Begonia elatior (Begonia x hiemalis) and Potentilla fruticosa L. were deleted. Some minor adjustments were also made to the Latin names.

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

List of Taxa Covered by Plant Variety Protection Legislation in Sweden (with effect from January 1, 1993)

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Acer spp.	Lönn	Maple	Erable, Sycomore	Ahorn
Agrostis spp.	Ven	Bentgrass	Agrostis, Agrostide	Straussgras
Allium spp.	Lök	-	-	Lauch
Alopecurus pratensis L.	Ängskavle	Meadow Foxtail	Vulpin des prés	Wiesen- fuchsschwanz
Alstroemeria L.	Perulilja	Alstroemeria, Herb Lily	Alstroemère, Lis des Incas	Inkalilie
Anethum graveolens L.	Dill	Dill	Aneth	Dill
Apium graveolens L.	Selleri	Celery, Celeriac	Céleri, Céleri-rave	Sellerie
Aronia spp.	Aronia	Chokeberry	Aronia	Apfelbeere
Asparagus officinalis L.	Sparris	Asparagus	Asperge	Spargel
Avena byzantina K. Koch	Rödhavre	Algerian Oats	Avoine (d'Algérie)	Mittelmeer- hafer
Avena sativa L.	Havre	Oats	Avoine	Hafer
Begonia spp.	Begonia	Begonia	Bégonia	Begonie
Beta vulgaris L. ssp. vulgaris var. altissima Döll	Sockerbeta	Sugar Beet	Betterave sucrière	Zuckerrübe

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Beta vulgaris L. ssp. vulgaris var. conditiva Alef.	Rödbeta	Garden Beet, Beetroot	Betterave rouge, Betterave potagère	Rote Rübe
Beta vulgaris L. ssp. vulgaris var. crassa Alef.	Foderbeta	Fodder Beet	Betterave fourragère	Runkelrübe
Betula spp.	Björk	Birch	Bouleau	Birke
Brassica napus L. var. oleifera Metzg.	Raps	Swede Rape, incl. Oilseed Rape	Colza	Raps
Brassica napus L. var. napo- brassica (L.) Rchb.	Kälrot	Swede	Chou-navet, Rutabaga	Kohlrübe
Brassica nigra (L.) W. Koch	Svartsenap	Black Mustard	Moutarde noire	Schwarzer Senf
Brassica oleracea L.	Käl	Brassica vegetables	Choux maraîchers	Gemüsekohl
Brassica ole- racea L. ssp. acephala DC.	Fodermärgkäl	Fodder Kale	Chou fourrager	Futterkohl
Brassica rapa L. var. oleifera Metzg.	Rybs	Turnip Rape	Navette	Rübsen
Brassica rapa L. var. rapa (L.) Thell.	Rova	Turnip	Navet	Herbstrübe, Mairübe
Bromus arvensis L.	Renlosta	Field Brome	Brome des champs	Ackertrespe
Bromus inermis Leyss.	Foderlosta	Smooth Brome (Awnless Brome)	Brome inerme	Wehrlose Trespe
Camelina sativa (L.) Crantz	Oljedädra	Large-seeded False Flax	Caméline cultivée	Angebauter Leindotter
Cannabis sativa L.	Hampa	Hemp	Chanvre	Hanf
Capsicum annuum L.	Paprika	Sweet Pepper, Capsicum, Chili	Poivron, Piment	Paprika
Caragana spp.	Ärtbuske	Pea Shrub, Pea Tree	Caragana	Erbsen- strauch

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Chrysanthemum spp.	Krysantemum	Chrysanthemum	Chrysanthème	Chrysantheme
Cornus spp.	Kornell, Snöbär	Dogwood, Cornel	Cornouiller	Hartriegel
Cucumis melo L.	Melon	Melon	Melon	Melone
Cucumis sativus L.	Gurka	Cucumber, Gherkin	Concombre, Cornichon	Gurke
Cynosurus cristatus L.	Kamäxing	Crested Dog's-tail	Crételle	Kammgras
Dactylis glomerata L.	Hundäxing	Cocksfoot, Orchard Grass	Dactyle	Knaulgras
Daucus carota L.	Morot	Carrot	Carotte	Möhre
Dianthus caryophyllus L.	Nejlíka	Carnation	Oeillet	Nelke
Euonymus spp.	Spindelträd	Spindle Tree	Fusain	Pfaffen- hütchen, Spindel- strauch
Euphorbia pulcherrima Willd. ex Klotzsch	Julstjärna	Poinsettia	Poinsettia	Poinsettie, Weihnachts- stern
Festuca spp.	Svingel	Fescue	Fétuque	Schwingel
Festulolium spp.	Rajsvingel	Festulolium	Festulolium	Festulolium
Fragaria spp.	Jordgubbar, Smultron	Strawberry	Fraisier	Erdbeere
Glycine max (L.) Merrill	Sojaböna	Soya Bean, Soybean	Soja	Sojabohne
Helianthus annuus L.	Solros	Common Sunflower	Tournesol, Soleil	Sonnenblume
Hippophaë spp.	Havtorn	Sea Buckthorn	Argousier	Sanddorn
Hordeum vulgare L.	Korn	Barley	Orge	Gerste
Lactuca sativa L.	Sallat	Lettuce	Laitue	Salat
Linum usitatissimum L.	Lin	Flax, Linseed	Lin	Lein
Lolium spp.	Rajgräs	Ryegrass	Ray-grass	Weidelgras

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

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\* Även grundstam / Including rootstocks / Y compris les porte-greffes / Ein-  
schliesslich Unterlagen

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

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



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

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**United Kingdom**

By virtue of the Plant Breeders' Rights (Trees, Shrubs and Woody Climbers) (Variation) Scheme 1993 (Statutory Instrument No. 1733 of 1993), protection was extended to Lavatera L. with effect from August 1, 1993.

The period of protection was set at 30 years. The period, computed from the date of the grant of rights in a variety, for which a compulsory licence granted by the Controller would not have effect was set at five years.

Plant variety protection legislation of the United Kingdom does not impose any restriction on the access by foreigners to protection on the basis of nationality or place of residence or registered office.

A list of the other taxa protected in the United Kingdom is reproduced in "Plant Variety Protection" No. 64, starting on page 24.

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**NEWSLETTER**

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**MEMBER STATES**

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**Hungary: Tariff of Fees**

The main fees currently applicable are the following (in Forint):

1. **Application fee (payable to the National Office of Inventions)**
  - (1) in the case of private application 1,000
  - (2) in the case of employee's invention 2,000
2. **DUS testing fees (payable to the Institute for Agricultural Qualification)**
  - (1) For agricultural crops 20,000/year
  - (2) For vegetables 20,000/year
  - (3) For ornamental plants, fruit trees, grapevines 10,000/year
3. **Annual maintenance fees (payable to the National Office of Inventions)**
  - (1) for the first to the fifth year 9,000/year
  - (2) for the sixth to the tenth year 18,000/year
  - (3) for the eleventh to the fifteenth year 27,000/year
  - (4) for the sixteenth to the twentieth year 36,000/year

Ireland: Tariff of Fees

The fees with respect to plant variety protection are as follows (in Irish Pounds):

	<u>Amount</u>
1. Application for a grant of plant breeders' rights	100.00
2. Annual renewal fees	
Year 1	100.00
Year 2	110.00
Year 3	120.00
Year 4	130.00
Year 5	140.00
Year 6 (maximum)	150.00
3. Grant of plant breeders' rights	50.00
4. Application for an extension of the period for which plant breeders' rights are exercisable	25.00
5. The grant of an extension of the period for which plant breeders' rights are exercisable	25.00
6. Application for the approval of a substituted name for a plant variety	15.00
7. Application for a compulsory licence	10.00
8. Application under Section 21 of Act for the amendment of the register of plant varieties, except in a case where the plant breeders' rights are transferred to another person	10.00
9. Application under Section 22 of Act to correct register of plant varieties	10.00
10. Application for registration of title under Section 17 of Act	15.00
11. Supplying a copy of a grant of plant breeders' rights or of an extension of the period for which plant breeders' rights are exercisable	5.00
12. Supplying a copy of an entry in the register	5.00

Norway: Tariff of Fees

By virtue of Section 18 of the Regulations of August 6, 1993, Relating to Plant Breeders' Rights, the fees payable in respect of plant variety protection are as follows (in Kroner), with effect from September 15, 1993:

	<u>Amount</u>
1. Application fee	1,500
2. Annual fee for a protected variety	1,800

3.	Supplement for extension of deadline for payment of the annual fee	500
4.	Appeal fee	1,300
5.	Resumption fee	500
6.	Reinstatement request fee	1,000
7.	Printing fee, per page	200
8.	Fee for annotation of transfers and denomination changes in the Register	200
9.	Fee for annotation of changes in respect of agents in the Register	200
10.	Fee for transcripts from the Register	200
11.	Examination fees:	
	(1) Registration fee	3,000
	(2) Examination fee, per year:	
	(i) Cereals	6,000
	(ii) Grasses	7,500
	(iii) Clover	7,500
	(iv) Potatoes	10,000
	(v) For the other species, the Plant Variety Board will set the fees after an individual assessment, based upon the fees of the testing institution.	

An annual fee is not be required for the year in which a breeder's right is granted.

The Plant Variety Board may, in special cases, defer the due date of annual fees.

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#### NON-MEMBER STATES

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#### Austria: Entry into Force of the Plant Variety Protection System

The Federal Law on the Protection of Plant Varieties (Variety Protection Law) entered into force on March 1, 1993.

Pursuant to Section 2(1) of the Law, protection is available for the following genera and species (the Latin and German names appear in the Law, whereas the English and French 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 sativa L.	Oats	Avoine	Hafer

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Beta vulgaris ssp. vulgaris var. altissima Döll	Sugar Beet	Betterave sucrière	Zuckerrübe
Capsicum annuum L.	Sweet Pepper, Capsicum, Chilli	Poivron, Piment	Paprika
Hordeum vulgare L. sensu lato	Barley	Orge	Gerste
Populus sp.	Popular	Peuplier	Pappel
Raphanus sativus L.	Radish	Radis	Radies, Rettich
Salix sp.	Willow	Saule	Weide
Secale cereale L.	Rye	Seigle	Roggen
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Triticum aestivum L. emend. Fiori et Paol.	Wheat	Blé tendre, Froment	Weizen
Triticum durum Desf.	Durum Wheat	Blé dur	Durumweizen
Vitis sp.	Grapevine	Vigne	Rebe
Zea mays L.	Maize	Maïs	Mais

Pursuant to Section 17 of the Law, the Federal Institute of Plant Productions has been appointed as Variety Protection Office. The address is as follows:

Sortenschutzamt  
Bundesanstalt für Pflanzenbau  
Alliiertenstr. 1  
Postfach 64  
1201 Wien

Telephone: 43-222-211.13  
Telefax: 43-222-16.20.56  
Telex: 135 259 banst a

Pursuant to the Ordinance of the Federal Minister for Agriculture and Forestry No. 143 on the Application Fees and Examination Fees under the Variety Protection Law (Bundesgesetzblatt of February 26, 1993), the tariff of fees was set as follows (in Austrian schillings):

	<u>Amount</u>
1. Application fee	2,000
2. Examination fees	
(1) if carried out by the Federal Institute of Plant Production or other testing centers in the country	
(i) for cereals, maize, potato, sugar beet, pea, swede rape and sunflower	3,500
(ii) for forestry species	500
(iii) for all other species	2,500

- (2) if the Variety Protection Office is provided with complete examination results satisfying the requirements laid down in Section 5(2) to (4) of the Law and established either by the Variety Protection Office or another testing center in the country, or by a testing center of another EEA country, outside the procedure under the Variety Protection Law or on the basis of an application for entry of the variety into the Breeding Book for Cultivated Plants

2,000

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

By virtue of Ministerial Order No. 379/93 of April 3, 1993, of the Minister for Agriculture, protection was extended, with effect from the same date, to the following plant taxa (the Portuguese names appear in the Order, whereas the English, French and German common names have been added, without guarantee of concordance, by the Office of the Union):

<u>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Amora	Mulberry	Mûrier	Maulbeerbaum
Anona	Annona, Sugar Apple, Sweet Sop	Pommier-cannelle	Rahmapfel, Süßsack, Zuckerapfel
Craveiro	Carnation	Oeillet	Nelke
Framboesa	Raspberry	Framboisier	Himbeere
Groselha	Gooseberry	Groseiller à maquereau	Stachelbeere
Leucadendro	Leucadendron	Leucadendron	Leucadendron
Leucospermo	Leucospermum	Leucospermum	Leucospermum
Mirtilo	Bilberry, Blueberry, Whortleberry	Myrtille	Heidelbeere
Prótea	Protea	Protea	Protea

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

### List of Taxa Covered by Plant Variety Protection Legislation in Portugal (with effect from April 3, 1993)

<u>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Ameixeira	Plum	Prunier	Pflaume
Amendoeira	Almond	Amandier	Mandel
Amora	Mulberry	Mûrier	Maulbeerbaum
Anona	Annona, Sugar Apple, Sweet Sop	Pommier-cannelle	Rahmapfel, Süßsack, Zuckerapfel
Arroz	Rice	Riz	Reis
Aveia	Oats	Avoine	Hafer
Azevéns	Ryegrass	Ray-grass	Weidelgrass

<u>Português</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Batata	Potato	Pomme de terre	Kartoffel
Cebola	Onion	Oignon	Zwiebel
Centeio	Rye	Seigle	Roggen
Cerejeira	Cherry	Cerisier	Kirsche
Cevada	Barley	Orge	Gerste
Craveiro	Carnation	Oeillet	Nelke
Crisântemo	Chrysanthemum	Chrysanthème	Chrysantheme
Damasqueiro	Apricot	Abricotier	Aprikose
Ervilhaca	Common Vetch	Vesce commune	Saatwicke
Fava	Broad Bean, Horse Bean, Field Bean, Tick Bean	Fève, Féverole	Dicke Bohne (Puffbohne), Ackerbohne
Feijão	French Bean	Haricot	Gartenbohne
Festucas	Fescue	Fétuque	Schwingel
Framboesa	Raspberry	Framboisier	Himbeere
Girassol	Sunflower	Tournesol	Sonnenblume
Groselha	Gooseberry	Groseiller à maquereau	Stachelbeere
Leucadendro	Leucadendron	Leucadendron	Leucadendron
Leucospermo	Leucospermum	Leucospermum	Leucospermum
Luzerna	Lucerne	Luzerne	Luzerne
Macieira	Apple	Pommier	Apfel
Melão	Melon	Melon	Melone
Milho	Maize	Maïs	Mais
Mirtilo	Bilberry, Blueberry, Whortleberry	Myrtille	Heidelbeere
Morangueiro	Strawberry	Fraisier	Erdbeere
Nabo	Turnip	Navet	Herbstrübe, Mairübe
Pereira	Pear	Poirier	Birne
Pessegueiro	Peach	Pêcher	Pfirsisch
Pimento	Pepper	Poivron, Piment	Paprika
Prótea	Protea	Protea	Protea
Roseira	Rose	Rosier	Rose
Soja	Soya Bean	Soja	Sojabohne
Tomate	Tomato	Tomate	Tomate
Tremoceira	Lupin	Lupin	Lupine
Trevos	Clover	Trèfle	Klee
Trigo	Wheat	Blé	Weizen
Triticale	Triticale	Triticale	Triticale
Videira	Vine	Vigne	Rebe

## A U S T R I A

Federal Law on the Protection of Plant Varieties\*  
(Variety Protection Law)

## PART I

## GENERAL

Section 1Definitions

(1) For the purposes of this Federal Law:

1. "Species" shall mean species of plants and their groupings and subdivisions, including those characterized by a specific system of propagation or a specific final use,
2. "Variety" shall mean a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder's right are fully met, can be
  - defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
  - distinguished from any other plant grouping by the expression of at least one of the said characteristics and
  - considered as a unit with regard to its suitability for being propagated unchanged;
3. "Propagating material" shall mean seed, plants and parts of plants, intended for the production of plants or for other growing,
4. "Marketing" shall mean announcing, advertising, offering, placing on sale, selling or any other form of cession where such activities are performed commercially,
5. "Related species" shall mean species within a genus or of related genera in which the same or a similar variety denomination can lead to confusion in trade and which are specified in an ordinance under subsection (2), and
6. "Union State" shall mean a member State of the International Union for the Protection of New Varieties of Plants.

(2) The Federal Minister for Agriculture and Forestry shall specify the related species (subsection (1), item 5) by ordinance.

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\* German Title: Bundesgesetz über den Schutz von Pflanzensorten (Sortenschutzgesetz)

Source: Bundesgesetzblatt für die Republik Oesterreich of February 12, 1993

Entry into Force: March 1, 1993



## Section 2

### Material Scope of Application

(1) The grant of variety protection may be claimed for varieties of the following species:

1. Wheat (*Triticum aestivum*)
2. Durum Wheat (*Triticum durum*)
3. Barley (*Hordeum vulgare*)
4. Oats (*Avena sativa*)
5. Rye (*Secale cereale*)
6. Maize (*Zea mays*)
7. Potato (*Solanum tuberosum*)
8. Sugar beet (*Beta vulgaris* subsp. *vulgaris* var. *altissima*)
9. Sweet pepper (*Capsicum annuum*)
10. Radish (*Raphanus sativus*)
11. Poplar (*Populus* sp.)
12. Willow (*Salix* sp.)
13. Grapevine (*Vitis* sp.)

(2) The Federal Minister for Agriculture and Forestry shall declare further species to be eligible for protection, by ordinance, if there exists the possibility of carrying out the necessary variety examination (Section 23) and the need for commercial production or marketing of varieties exists in Austria.

## Section 3

### Right to File Applications

(1) The person having entitlement to the variety (Section 4(1)) may file an application for protection of the variety with the Variety Protection Office if he belongs to one of the following categories of persons:

1. citizens of an EEA State,
2. natural and legal persons, unincorporated commercial law companies and trading companies having their place of residence or place of business in an EEA state,
3. natural and legal persons, unincorporated commercial law companies and trading companies having their place of residence or place of business in a Union State as also nationals of a Union State, if such Union State affords variety protection or an equivalent protective right to varieties of the same species and,
4. natural and legal persons, unincorporated commercial law companies and trading companies if, in the States to which they belong or in which they have their place of residence or place of business, Austrian citizens may obtain variety protection or an equivalent right for varieties of the same species and the fact that this condition is met has been established by ordinance of the Federal Minister for Agriculture and Forestry.

(2) A person who has neither place of residence nor place of business in an EEA State may only assert rights under this Federal Law before the Variety Protection Office or before the Federal Minister for Agriculture and Forestry through a representative with powers of attorney and before the Nullity Section

of the Patent Office or before the Supreme Patent and Trademark Chamber through an attorney-at-law or a patent attorney. A representative who is not an attorney-at-law or patent attorney must have his place of residence in Austria. Patent attorneys and attorneys-at-law shall be subject to the regulations governing their profession. The powers of attorney shall entitle the representative to assert any rights under this Federal Law before those authorities; any restriction of the powers of attorney shall be without effect. The powers of attorney shall be submitted in the original or as a certified copy.

#### Section 4

##### Entitled Persons

(1) The person who has bred or discovered and developed a variety (original breeder) or his successor in title may claim the grant of variety protection. If more than one person has discovered or bred the variety jointly, the claim shall belong to such persons jointly. If more than one person has discovered or bred the variety independently, Section 20(4) shall be of application.

(2) Save proof to the contrary, the person who first files an application for the variety shall be deemed to be the entitled person.

(3) Variety protection may be assigned. It shall not revert to the State.

(4) Sections 6 to 19 of the Patent Law 1970, BGBl. Nr. 259, shall apply mutatis mutandis to varieties discovered or bred by employees.

#### Section 5

##### Variety Requirements

(1) Variety protection shall be granted by the Variety Protection Office for varieties that are distinct, homogeneous, stable and new.

(2) A variety shall be deemed to be distinct if its individuals are clearly distinguishable, as a whole or with respect to a specific distribution, in the expression of at least one characteristic, from the individuals of all other varieties that are a matter of common knowledge on the filing date of the application. The existence of another variety shall be a matter of common knowledge, in particular, if, on the day of the application,

- (a) it is already entered in an official list of varieties,
- (b) its entry in an official list of varieties had been applied for, subject to subsequent acceptance of the application, or
- (c) individuals of the variety have been propagated for commercial purposes or individuals, other plant parts or harvested material of the variety and products directly obtained therefrom have already been offered, supplied to others, used, imported or exported.

(3) A variety shall be deemed to be homogeneous if its individuals, as a whole or with respect to a given distribution, are sufficiently uniform in the expression of each relevant characteristic, notwithstanding a small number of variations, taking into account the particular features of its propagation.

(4) A variety shall be deemed to be stable if its individuals, as a whole or with respect to a given distribution, correspond in each relevant characteristic to the expression that is characteristic of the variety after each propagation or each propagation cycle.

(5) A variety shall be deemed to be new if, on the filing date of the application, individuals of the variety have not yet been supplied to others for commercial purposes or, if so, only within the following periods of time:

(a) one year in Austria

(b) four years, or six years in the case of vine and trees, abroad.

### Section 6

#### Effect of Variety Protection

(1) Variety protection shall have the effect that the owner of variety protection alone shall be entitled to

1. market propagating material of the protected variety or produce it for such purpose or
2. utilize plants or parts of plants of the protected variety, normally marketed for purposes other than those of propagation, for the commercial production of ornamental plants or cut flowers or
3. utilize propagating material of the protected variety for the commercial production of propagating material of another variety where propagating material of the protected variety must be used repeatedly to produce the propagating material of the other variety or
4. introduce propagating material of the protected variety into another State in which natural and legal persons and unincorporated commercial law companies having their place of residence or place of business in an EEA State and citizens of an EEA State are not granted variety protection or an equivalent protective right for varieties of the same species.

(2) The use of propagating material of a protected variety as initial material for creating a new variety and the marketing thereof shall not require the consent of the owner of variety protection, subject to subsection (1), item 3.

(3) Variety protection shall not extend to the conditioning and use of propagating material for

1. private and non-commercial breeding,
2. science and research,
3. cultivation and mutual agricultural aid,

when the propagating material originates from the own cultivation.

### Section 7

#### Obligations of the Owner of Variety Protection

(1) The owner of variety protection shall be required to take the necessary measures to ensure the continued existence of the variety.

(2) The owner of variety protection shall be required, at the request of the Variety Protection Office, to provide free of charge to that Office the propagating material of the variety required for examination of the protected variety and also propagating material of hereditary components used in producing the variety and to provide any information required to assess the continued existence of the variety.

(3) The owner of variety protection shall enable the Variety Protection Office to verify that the continued existence of the variety is ensured and shall provide all necessary information.

### Section 8

#### Duration and Termination of Variety Protection

(1) The duration of protection shall be 30 years in the case of grapevine and trees, including their rootstocks, and in the case of hops and 25 years in the case of all other species as from grant of variety protection.

(2) Variety protection shall terminate

1. on renunciation of protection by the owner of variety protection
2. on expiry of the term of protection,
3. on entry into force of revocation (Section 9),
4. on entry into force of a declaration of lack of title where no transfer takes place (Section 11(5)).

(3) Termination of variety protection as a result of renunciation shall take effect at the beginning of the day following communication of renunciation to the Variety Protection Office.

### Section 9

#### Revocation of Variety Protection

Variety protection shall be revoked by the Variety Protection Office if the owner of variety protection, despite a written reminder and the grant of a reasonable additional time limit,

1. does not satisfy his obligations under Section 7 or
2. does not pay the required annual fee.

### Section 10

#### Annulment of Variety Protection

Variety protection shall be annulled on request by the Nullity Section of the Patent Office if it transpires that the variety was not distinct (Section 5(2)) or was not new (Section 5(5)). The final declaration of nullity shall have retroactive effect as from the day of grant of variety protection.

### Section 11

#### Declaration of Lack of Title and Ex Officio Transfer of Variety Protection

- (1) Variety protection shall be withdrawn by the Nullity Section of the Patent Office, on request, from the owner of variety protection if it is proved that he was not entitled thereto (Section 4(1)).
- (2) Together with the request for declaration of lack of title to variety protection, the petitioner may request the Nullity Section of the Patent Office to transfer the variety protection to himself ex officio.
- (3) The right to declaration of lack of title and ex officio transfer of variety protection shall belong exclusively to the person who has the right to grant of variety protection and it shall lapse in respect of a bona fide owner of variety protection within 3 years of the time of entry in the Variety Protection Register.
- (4) Any reciprocal claims to damages or reimbursement deriving from the declaration of lack of title and the transfer shall be assessed in accordance with civil law and asserted in civil proceedings.
- (5) Where no transfer takes place, variety protection shall expire with the entry into force of the declaration of lack of title.
- (6) Transfer shall become effective on entry in the Variety Protection Register.

### Section 12

#### Voluntary Licenses

The owner of variety protection shall be entitled to permit other persons to use the protected variety (Section 6).

### Section 13

#### Compulsory Licenses

- (1) Where it appears justified to ensure that domestic plant production is adequately supplied with suitable propagating material and it is economically acceptable for the owner of variety protection, permission shall be granted by the Nullity Section of the Patent Office on request to commercially produce, market or repeatedly use in the production of another variety propagating material of a protected variety without the consent of the owner of variety protection. Permission shall only be granted where the applicant convincingly shows that the objectives of the compulsory license can be attained.
- (2) The compulsory license shall be restricted or withdrawn by the Nullity Section of the Patent Office, on a request from the owner of variety protection, where the grounds for its grant no longer apply.
- (3) The entitled person may renounce the compulsory license at any time.

(4) The owner of variety protection shall be required to make propagating material available to the person entitled under the compulsory license, to at least the extent necessary for the maintenance breeding that corresponds to the scope of the compulsory license.

(5) The owner of variety protection shall have a claim to appropriate remuneration from the person entitled under the compulsory licence. Both this remuneration and the necessary guarantee, where appropriate, shall be determined on request by the Nullity Section of the Patent Office.

#### Section 14

##### Variety Denomination

(1) A variety denomination shall be registered by the Variety Protection Office for each protected variety.

(2) A variety denomination may consist of three identifying elements at most (words, letters or groups of letters, numbers), but not exclusively of numbers.

(3) Denominations shall be excluded from registration where they

1. are similar to a denomination that is used or has been used, in Austria or in any other Union State, for a variety belonging to the same species as the filed variety or to a related species (Section 1(2)), unless the earlier variety is no longer protected and is no longer used and its denomination has acquired no special significance,
2. may cause offense,
3. are likely to mislead, particularly as regards identity, origin, properties or value of the variety,
4. consist exclusively of statements as to their nature or of names of plants,
5. contain the words "variety" or "hybrid."

(4) Where the variety has already been filed or protected in another Union State, only the variety denomination used in such state may be registered by the Variety Protection Office, except where excluded under subsections (2) and (3).

(5) Once the variety has been entered in the Variety Protection Register, the owner of variety protection may not assert, in respect of the variety concerned, any rights he may have in a mark that is similar to the variety denomination.

(6) The variety denomination shall be cancelled ex officio by the Variety Protection Office if it transpires that the denomination does not satisfy subsection (2), subsection (3), items 1-5, or subsection (4) or if the owner of variety protection himself requests cancellation and is able to prove a legitimate interest. A variety denomination shall further be cancelled by the Variety Protection Office on the basis of a final decision given as the result of a cancellation request under Section 16. In such cases, the Variety Protection Office shall invite the owner of variety protection to submit a new variety denomination for registration, whereby subsection (4) shall not be of application.

(7) The Variety Protection Office shall communicate the registered variety denomination and the species to which the protected variety belongs without delay in writing to the Patent Office.

### Section 15

#### Obligation to Use a Denomination

Propagating material of a variety may only be marketed during the term of variety protection under the variety denomination registered with the Variety Protection Office. Where no variety denomination is registered for the protected variety, propagating material of the variety may not be marketed. Even after the expiry of variety protection, propagating material of the variety may only be marketed under the registered variety denomination.

### Section 16

#### Request for Cancellation of a Variety Denomination

(1) The cancellation of a variety denomination may be requested from the Nullity Section of the Patent Office

1. by the owner of a trademark for the same type of goods or services that was filed before registration of the variety denomination and which is still lawfully valid (Section 14 of the Trademark Protection Law 1970),
2. by any person who shows that an unregistered mark used by him for the same type of goods or services was already recognized by the trade circles concerned as an identification for the goods or services of his undertaking at the time of registration of a similar variety denomination (Section 14 of the Trademark Protection Law 1970) or
3. by an entrepreneur if his name, his trade name or the particular designation of his undertaking or a designation similar to one of such designations (Section 14 of the Trademark Protection Law 1970) has been registered as a variety denomination or as an element of such denomination and if the use of the variety denomination is likely to lead to confusion in commercial transactions with one of the above-mentioned signs of the petitioner's undertaking.

(2) Cancellation under subsection 1, item 2, must be requested from the Nullity Section of the Patent Office within three years of entry of the variety denomination in the Variety Protection Register, unless the mark was known to the owner of variety protection at the time of entry in the Variety Protection Register as identification of the goods or services of the petitioner's undertaking or should have been known to him.

(3) Once variety protection has expired, cancellation proceedings shall be conducted unilaterally by the Nullity Section of the Patent Office.

## PART II

## AUTHORITIES

Section 17Variety Protection Office

The Federal Institute of Plant Production (Section 21 of the Federal Law on Federal Agricultural Institutes, BGBl Nr. 230/1982) shall act as the Variety Protection Office.

Section 18Federal Minister for Agriculture and Forestry

Appeals from decisions taken by the Variety Protection Office shall be heard by the Federal Minister for Agriculture and Forestry. Where it is necessary to take expert evidence, the Federal Minister for Agriculture and Forestry may also call on institutes and other offices as experts.

Section 19Nullity Section of the Patent Office;  
Supreme Patent and Trademark Chamber

(1) Appeals from final decisions of the Nullity Section of the Patent Office shall be heard by the Supreme Patent and Trademark Chamber. The Patent Law 1970 shall apply to proceedings before the Nullity Section of the Patent Office and before the Supreme Patent and Trademark Chamber. The provisions on fees in Section 168(1), items 3 and 4, of the Patent Law 1970 shall likewise apply.

(2) On a proposal by the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Economic Affairs, the Federal President shall additionally appoint such number of non-standing technically qualified members of the Patent Office and such number of technically qualified and legally qualified members of the Supreme Patent and Trademark Chamber as are necessary to assume the duties under this Federal Law. Only persons with qualifications in variety protection matters may be appointed.

(3) The composition of the Chamber in proceedings under Sections 10, 11 and 13 shall be governed by the Patent Law 1970, with the proviso that each Chamber of the Nullity Section of the Patent Office shall comprise a technically qualified member and each Chamber of the Supreme Patent and Trademark Chamber shall comprise a legally qualified and a technically qualified member appointed on the proposal of the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Economic Affairs. The composition in proceedings under Section 16 shall be governed by the Trademark Protection Law 1970.



## PART III

## PROCEDURE

Section 20Variety Application and Communication of the Variety Denomination

(1) An application for variety protection in respect of the variety shall be filed with the Variety Protection Office.

(2) The application shall contain:

1. the name and address of the applicant for the variety and of his representative, where appropriate,
2. the species and, where appropriate, the type of use, the propagating system and a statement that certain hereditary components are used in each propagating cycle to produce the variety,
3. the provisional designation (subsection (6)) or the variety denomination (Section 14) and
4. the category of persons to which the applicant belongs in accordance with Section 3(1).

(3) The application shall be accompanied by:

1. a description of the characteristics that determine the distinctness of the variety,
2. evidence of the statements made under subsection (2), item 4, and
3. the powers of attorney (Section 3(2)), where the applicant acts through a representative.

(4) Where a variety is filed with the Variety Protection Office by more than one person, independently of each other, the earlier application shall take precedence over the subsequent applications. The day of receipt of the application at the Variety Protection Office shall be decisive. Where more than one application is received on the same day, they shall all have the same precedence.

(5) By derogation from the second sentence of subsection (4), where the applicant has already filed an application for variety protection for the variety in another Union State, the Variety Protection Office shall grant him precedence corresponding to the date of that application (priority right). However, the priority right shall only be acquired if:

1. it is explicitly claimed in the application filed with the Variety Protection Office,
2. at the time of assertion, not more than one year has passed since the application in the other Union State and
3. three months, at the latest, after assertion, proof is furnished of the earlier application by submitting copies of the application documents; the copies must have been certified by the foreign application authority.

(6) The provisional designation shall only be valid for the variety protection granting procedure. Section 14(3), items 2 and 3, shall be of application. Where the result of the variety examination (Section 23) is positive, the Variety Protection Office shall invite the applicant, in the case of a variety for which only a provisional designation has been given, to communicate a variety denomination within the meaning of Section 14 and shall set a reasonable time limit. Where the applicant does not comply with this invitation, the application for the variety shall be rejected by a decision of the Variety Protection Office.

(7) Where the provisional designation or variety denomination is not acceptable, the applicant shall be invited by the Variety Protection Office to communicate an acceptable designation or denomination within a reasonable period of time. Where no communication is made within the time limit, the application for the variety shall be rejected by a decision of the Variety Protection Office.

(8) The order of precedence of a variety denomination shall be governed by subsection (4), mutatis mutandis, with the proviso that in the event of communications of variety denominations for varieties of related species having the same precedence, lots shall be drawn by the Variety Protection Office to decide for whom the communicated variety denomination is to be registered should no agreement be achieved.

#### Section 21

##### Plant Variety Gazette

(1) The Variety Protection Office shall publish a Plant Variety Gazette to appear at least quarterly.

(2) In addition to the communications governed by Section 22, the Variety Protection Office shall communicate the withdrawal, refusal and rejection of published variety applications, the grant, termination, nullity and lack of title of variety protection, changes in the identity of the owner of variety protection and the publication, change or cancellation of variety denominations and ordinances issued under this Law--notwithstanding their publication in the Federal Law Gazette--in the Plant Variety Gazette.

(3) Additionally, decisions of courts and administrative authorities and information of general interest concerning variety protection matters may also be published.

#### Section 22

##### Publication of Applications

(1) The Variety Protection Office shall publish in the Plant Variety Gazette, on the basis of the particulars provided by the applicant, those applications for varieties that are not automatically to be refused or rejected. The publication shall contain the species, the variety denomination or provisional designation (Section 20(6)), the date of the application, a claim to priority, where appropriate, the name and address of the variety applicant, and the file number of the application.

(2) The Variety Protection Office shall permit any person, on request, to inspect the application documents and the test results and shall allow the growing trials to be viewed (Section 23(1)). Access shall not be afforded to documents in accordance with Section 20(3), item 2, and to data on the hereditary components in the case of varieties whose plants are produced by crossing specific hereditary components.

### Section 23

#### Variety Examination

(1) The Variety Protection Office shall examine, on the basis of its own growing trials or other suitable investigations, whether the variety meets the requirements of Section 5 (registration examination). The examination shall be carried out for as long as required to obtain a reliable assessment. The applicant shall provide to the Variety Protection Office, on demand, the propagating material of the variety needed for the examination, together with the hereditary components used in the production of the variety, free of cost, and shall further give full information on the maintenance of the variety and permit its verification. The applicant shall be required, for the purpose of verification, to permit the Variety Protection Office to visit his facilities, to take the necessary quantity of free samples of the variety and to inspect the records concerning maintenance of the variety.

Where the applicant fails to comply with these obligations, despite a written reminder and the stipulation of an appropriate additional time limit, the application shall be rejected by the Variety Protection Office.

(2) The Variety Protection Office may base its assessment on the results of other examination bodies in EEA States or in Union States in lieu of its own examinations where such examination bodies may be considered for registration examination in view of their technical facilities, their testing methods and the local growing conditions and where the results are available to the Variety Protection Office.

(3) Where the applicant may claim a priority right (Section 20(5)), the examination shall be postponed, at his request, by the Variety Protection Office for up to 5 years at most following the application in the other Union State. Withdrawal or refusal of the application in the Union State concerned shall cause the examination to be put in hand by the Variety Protection Office within a suitable period of time.

(4) After grant of variety protection, the Variety Protection Office shall verify that the continued existence of the protected variety is assured if there is any doubt whether the owner of variety protection has taken adequate steps to ensure the continued existence of the variety (Section 7(1)). The Variety Protection Office shall be entitled, for the purposes of verification, to visit facilities, take the necessary quantity of free samples of the variety and inspect the records concerning maintenance of the variety.

(5) The Variety Protection Office shall be entitled to communicate the results of variety examinations carried out by the Office itself or by other Austrian examination bodies to foreign bodies competent for the grant of variety protection or of an equivalent protective right.

## Section 24

### Objections to Variety Applications

(1) Any person may lodge a reasoned objection, in writing, with the Variety Protection Office on the grounds that

1. the variety does not satisfy the requirements of Section 5 or
2. the variety denomination is not acceptable (Section 14(2) to (4)) or
3. the applicant is not an entitled person (Section 4(1)).

(2) Objections under subsection (1), item 1, may be submitted during the whole duration of the procedure, objections under subsection (1), item 2, until expiry of three months after publication of the variety denomination in the Plant Variety Gazette and objections under subsection (1), item 3, until expiry of three months after publication of the variety application in the Plant Variety Gazette.

(3) Objections under subsection (1), items 2 and 3, must have been received at the Variety Protection Office by the last day of the time limit (subsection (2)) at the latest.

(4) The Variety Protection Office shall examine the objections lodged and take into account the result of such examination in taking its decision.

(5) The person lodging the objection shall be informed, if he so requests in writing, by the Variety Protection Office of the result of the examination under subsection (4). Where an objection under subsection (1), item 3, results in final rejection or refusal or withdrawal of a variety application, the person lodging the objection shall be informed thereof by the Variety Protection Office in writing without delay. Where the person lodging the objection files an application for the variety within one month of service of the written communication and where he proves that he is the entitled person (Section 4(1)), he may require that the filing date be the date of the earlier application.

(6) Where an objection under subsection (1), item 2, is justified, the Variety Protection Office shall proceed in accordance with Section 20(7).

## Section 25

### Grant of Variety Protection

If an acceptable variety denomination has been communicated for the filed variety (Section 14(2) to (4)) and the other requirements for the grant of variety protection have been satisfied, the Variety Protection Office shall grant variety protection by entry in the Variety Protection Register. A certificate attesting thereto shall be issued to the owner of variety protection. If no entry is made in the Variety Protection Register, the Variety Protection Office shall issue a notification of refusal.

### Section 26

#### Transfer of Variety Protection

- (1) The legal transfer of variety protection shall take effect on entry in the Variety Protection Register.
- (2) The order of precedence shall be determined by the chronological order in which requests for entry are received at the Variety Protection Office, on condition that the request results in an entry. Requests that are received at the same time shall enjoy the same precedence.
- (3) Entry in the Variety Protection Register shall be effected on a written request to the Variety Protection Office by one of the persons concerned.
- (4) The certificate on the basis of which the entry is to be effected shall be submitted, in the original, or in a duly certified copy, together with the request for entry. Where the certificate is not a public document, it shall be required to bear the duly certified signature of the person exercising his right.
- (5) The request for entry and the certificate shall be subject to formal and substantive examination by the Variety Protection Office.

### Section 27

#### Variety Protection Register

- (1) The Variety Protection Office shall keep a Variety Protection Register.
- (2) There shall be entered in the Variety Protection Register, together with the date of the entry:
  1. the registration number,
  2. the date of the application and, where appropriate, the date of priority,
  3. the species, the type of utilization if necessary, the propagation system and a note that the variety is produced in each cycle of propagation with the use of certain hereditary components,
  4. the variety denomination,
  5. the name and address of the owner of variety protection and of his representative,
  6. the day on which variety protection begins,
  7. the name and address of owners of voluntary licenses and of compulsory licenses,
  8. the right of use of the employer (Section 4(4)),
  9. the note on pending procedures before the Nullity Section of the Patent Office and the Supreme Patent and Trademark Chamber (Sections 10, 11, 13 and 16),
  10. the day and reason for termination of variety protection,

11. the declaration of nullity,
12. the declaration of lack of title and,
13. transfers.

(3) The Variety Protection Register shall be public. Inspection of the documents on which entry is based and viewing of the growing trials (Section 23(1) and (4)) shall be permitted by the Variety Protection Office to any person. Access shall not be available to documents submitted in accordance with Section 20(3), item 2, or, in the case of varieties of which the plants are produced by crossing certain hereditary components, to data concerning those hereditary components.

(4) On request, the Variety Protection Office shall issue certified extracts from the Variety Protection Register against reimbursement of costs.

(5) The capture and processing of data for the purposes of the automated keeping of the Variety Protection Register shall be permitted.

### Section 28

#### Application Fees, Examination Fees and Annual Fees

(1) When applying for a variety, the applicant shall pay an application fee to the Variety Protection Office.

(2) The application fee shall be laid down by ordinance of the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Finance, as a lump sum corresponding to the average administrative costs--with the exception of the costs of variety examination (subsection (4))--normally incurred in connection with the processing of applications.

(3) Where the application fee or an examination fee that has become due has not been paid by the applicant despite a written reminder from the Variety Protection Office and the grant of a reasonable additional time limit, the variety application shall be rejected by the Variety Protection Office.

(4) Examination fees shall be paid by the applicant for variety examinations under Section 23(1) and (2) carried out by Austrian examination bodies.

(5) The examination fees shall be laid down by ordinance in a schedule of fees issued by the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Finance, in accordance with the average costs incurred for examinations as a result of experience.

(6) The examination fees shall be prescribed by the Variety Protection Office for each growing period that has been commenced. However, they shall be prescribed by the Variety Protection Office once only if complete test results are available to the Office at the beginning of the growing period following the application for variety protection, which results satisfy the requirements of Section 5(2) to (4) and have been obtained either by an examination body of an EEA State outside a procedure under this Federal Law or on the basis of an application for entry of the variety in the Breeding Book for Cultivated Plants (Section 4(1) of the Plant Breeding Law, BGBl. No. 34/1947). The costs of

variety examinations in accordance with Section 23(2), carried out by examination bodies of Union States, shall constitute cash expenditure (Section 76 of the General Procedural Law).

(7) Annual fees shall be paid by the owner of variety protection to the Variety Protection Office for each year that has been commenced (protection year) during the term of variety protection. The annual fee for the first protection year shall be 1,000 Sch. For each further protection year up to the sixteenth year of protection, the annual fee in the case of wheat, barley, oats, rye, maize, potato, sugarbeet, peas, seed rape and sunflower shall increase by 500 Sch., and for other species by 300 Sch., as against the annual fee for the preceding protection year in each case. From the seventeenth protection year onwards, the annual fee shall remain the same.

(8) The annual fee for the first protection year shall become due two months after grant of variety protection. The annual fee for each further protection year that has been commenced shall be due in advance on the anniversary of the date of grant of variety protection. Annual fees may be paid two months before they become due.

### Section 29

#### Procedural Provisions

Where not otherwise laid down by this Federal Law, the Variety Protection Office shall apply the General Procedural Law.

## PART IV

### CIVIL LAW AND PENAL LAW PROVISIONS

### Section 30

#### Civil Law Claims

Any person who has suffered an infringement of a right belonging to him under variety protection may take action for injunction, removal, publication of judgment, appropriate compensation, damages, surrender of profit and rendering of accounts; any person who has reason to suspect such infringement may also take action for injunction. Sections 147 to 154 of the Patent Law 1970 shall apply mutatis mutandis.

### Section 31

#### Penal Infringement of Variety Protection

(1) Any person who violates variety protection (Section 6) shall be sentenced by the Court to a fine of up to 360 daily rates.

(2) The same penalty shall be imposed on the owner or director of an enterprise who does not prevent the infringement of variety protection committed by

a person working for him or on his behalf in the course of the activities of the enterprise. Where the owner of the enterprise is a legal person, this provision shall apply to the bodies of the enterprise guilty of such omission. The enterprise shall be jointly and equally liable with the guilty party for the fines inflicted on the bodies.

(3) Prosecution shall take place only at the request of the injured party.

(4) Sections 148, 149 and 160 of the Patent Law 1970 shall apply mutatis mutandis for the penal procedure.

### Section 32

#### Jurisdiction

(1) The Commercial Court of Vienna shall have exclusive jurisdiction for actions and injunctions under this Federal Law. Sections 7(2), first sentence, 7a and 8(2) of the Jurisdictional Rules shall be of application. This shall also apply to injunctions.

(2) Jurisdiction in penal matters under this Federal Law shall belong to the Provincial Courts competent to hear penal matters.

### Section 33

#### Administrative Offenses

Where the act does not constitute a punishable act within the jurisdiction of the courts or is not liable to heavier penalties under other provisions, any person who:

1. markets propagating material of a variety without using the variety denomination required by Section 15,
2. infringes the marketing prohibition under Section 15,
3. uses a variety denomination entered in the Variety Protection Register or a similar denomination for a different variety of the same or of a related species,
4. in the course of marketing, claims non-existent variety protection or
5. fails to comply with the obligation under Section 13(4) to make propagating material available,

shall have committed an administrative offense and shall be sentenced by the district administrative authority to a fine of up to 100,000 Sch.



## PART V

## FINAL AND TRANSITIONAL PROVISIONS

Section 34Citations of Other Federal Laws

Where citation is made in this Federal Law to other Federal Laws preference shall be to the current version of such laws.

Section 35Provision on Entry Into Force

- (1) This Federal Law shall enter into force on March 1, 1993.
- (2) Ordinances under this Federal Law may already be issued on the day following its promulgation. Such ordinances may take effect at the earliest on March 1, 1993.

Section 36Transitional Provision

Varieties that, on the day of entry into force of this Federal Law, are entered in the Breeding Book for Cultivated Plants (Sections 8, 9 and 10 of the Plant Breeding Law) as elite, with or without reservation, shall be entered ex officio in the Variety Protection Register two months after entry into force of this Federal Law if the Variety Protection Office does not receive within one month of the entry into force of this Federal Law a written declaration of renunciation by the breeder. Where the variety denominations of such varieties do not comply with Section 14(2) to (4), Section 14(6) shall be of application. The period during which the variety was entered in the Breeding Book as elite, with or without reservation, shall be taken into account for the period of protection and for the calculation of the annual fees (Section 28(7)); however, calculation of the period of protection and of the annual fees shall only take into account the full years in which the variety was entered in the Breeding Book for Cultivated Plants. The expiry of the period of protection (Section 8(2), item 2, in conjunction with Subsection (1)) shall nevertheless not take place less than ten years after entry into force of this Federal Law.

Section 37Implementation

The following shall be responsible for the implementation of this Federal Law:

1. in the case of Section 16, the Federal Minister for Economic Affairs,

2. in the case of Sections 30 to 32, the Federal Minister for Justice,
3. in the case of Section 3(2), last sentence, Sections 10, 11, 13 and Section 19(1) and (3), the Federal Minister for Economic Affairs, in agreement with the Federal Minister for Agriculture and Forestry,
4. in the case of Section 14(7) and Section 19(2), the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Economic Affairs,
5. in the case of Section 28(2) and (5), the Federal Minister for Agriculture and Forestry, in agreement with the Federal Minister for Finance, and
6. in the case of all other provisions of this Federal Law, the Federal Minister for Agriculture and Forestry.

## GENERAL STUDIES

Derived Plant Varieties and Dependency  
under the Revised UPOV Convention

by Peter Lange\*

## I. PRELIMINARY REMARKS

The relationship between patents and plant breeders' rights was a basic and frequently most controversial question over a long period with respect to biological inventions.<sup>1</sup> It was not only a matter of the applicability of patent law to plant genetic inventions or of drawing a reasonable boundary between the two systems of protection, but particularly of the possible protection deficit of either form of protection in view of recent biotechnological developments. It was indeed obvious that the question of the differences or the particularities of the intellectual achievement that was to be protected (invention or plant variety) would arise particularly at the beginning of such a debate. For numerous breeding undertakings, in particular those that made increasing use of biotechnological processes and results or could themselves develop them, this debate was in no way superfluous, but was indeed fruitful since plant breeders' rights, that are much more recent and practically unknown in comparison to patent law, were able to occupy the center of the stage thus removing, to some extent, a lack of understanding for their particularities. Although it was never a matter, for the breeders, of either patent protection or plant breeders' rights, but that of obtaining optimum protection for both forms of intellectual property, nevertheless a key role was played for the breeders, despite their readiness to accept necessary reforms, by the maintenance of proven principles and of the essential fields of plant variety protection. More detail will be provided below.

This debate has come to a provisional end, at least for the area of plant breeders' rights, with the termination of the third Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants (UPOV Convention). Reference can be made in this respect to a

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\* Dr. jur., Einbeck, Chairman of the Intellectual Property Working Group of ASSINSEL (International Association of Plant Breeders for the Protection of Plant Varieties). This article was also published in the German language in GRUR INTERNATIONAL, 1993, No. 2, pp. 137-143.

<sup>1</sup> Inter alia Beier, Crespi, Straus, Biotechnologie und Patentschutz, 1986; Beier, Straus, Gentechnologie und gewerblicher Rechtsschutz, Festschrift 25 Jahre BPatG 1986, p. 133; Straus, Der Schutz biotechnologischer Erfindungen insbesondere von Pflanzenzüchtungen in: Gewerblicher Rechtsschutz und Urheberrecht in Deutschland, Festschrift zum 100-jährigen Bestehen der Deutschen Vereinigung 1991, Vol. 1 p. 363; Lukes, Das Verhältnis von Sortenschutz und Patentschutz bei biotechnologischer Erfindung, GRUR Int. 1987, p. 318; Mast, Sortenschutz, Patentschutz und Biotechnologie, 1986; Moufang, Genetische Erfindungen im gewerblichen Rechtsschutz, 1988; Neumeier, Sortenschutz und/oder Patentschutz für Pflanzenzüchtungen, 1990; Lange, Die Natur des Züchterrechts (Sortenschutzrecht) in Abgrenzung zur patentfähigen Erfindung, GRUR Int. 85, p. 88; further bibliography in Benkhard/Bruchhausen, Patentgesetz 8th ed., 1988 at para. 2, Note C (Biologische Erfindungen).

contribution by von Pechmann and Straus on the "Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants" in GRUR Int. 1991, pages 507 to 511. Altogether, I cannot but agree to the view of the authors that the revised Convention has afforded considerably strengthened protection to the breeders.

When the Contracting States implement the Convention into national legislation,<sup>2</sup> including the possibility of tabling proposals to amend other laws (e.g. removal of the prohibition on patenting for plant varieties in patent laws following removal of the prohibition on double protection),<sup>3</sup> the national associations of breeders will still have to make considerable efforts to defend the interests of their members in obtaining effective protection for their breeding achievements. I am thinking here in particular of the exception to breeders' rights that is not a compulsory requirement of Article 15(2)<sup>4</sup> of the UPOV Convention but that is optional to the Contracting States (the farm saved seed regulation that is frequently, and wrongly, referred to as "farmer's privilege").

However, the following considerations are to concentrate on the novel concept of dependency for "essentially derived varieties" under Article 14(5) of the UPOV Convention following the revision on March 19, 1991. This regulation reads as follows, in extract:

#### Article 14

##### Scope of the Breeder's Right

...

(5) [Essentially derived and certain other varieties] (a) The provisions of paragraphs (1) to (4)<sup>5</sup> shall also apply in relation to

(i) varieties which are essentially derived from the protected variety, where the protected variety is not itself an essentially derived variety,

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<sup>2</sup> Apart from which, as far as the EC is concerned, it may be mentioned that the proposed Council Regulation (EEC) on Community Plant Variety Rights (Document COM (90)346 final, OJ EC 1990/C244/01) in no way conforms to the Convention in various areas, particularly with regard to dependency.

<sup>3</sup> The German governmental delegation made it quite clear during the Diplomatic Conference in March 1991 that removal of the prohibition on double protection could only be agreed to on account of the problems arising in other member States. That removal would in no way have an effect on German law. In particular, there was no intention in Germany, in the foreseeable future, to amend Article 53(b) of the European Patent Convention or to make any amendments to domestic law in that respect (see Burr, Records of the 1991 Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants, Geneva 1991, UPOV publication No. 346(E), paragraph 253.2; see also note 14).

<sup>4</sup> Where Articles are cited without further reference they are Articles from the revised UPOV Convention.

<sup>5</sup> Paragraphs (1) to (4) of Article 14 set out the acts in respect of propagating material, harvested material, products of the protected variety and other possible acts that require the consent of the breeder.

...

(b) For the purposes of subparagraph (a)(i), a variety shall be deemed to be essentially derived from another variety ("the initial variety") when

(i) it is predominantly derived from the initial variety, or from a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety,

(ii) it is clearly distinguishable from the initial variety and

(iii) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

(c) Essentially derived varieties may be obtained for example by the selection of a natural or induced mutant, or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, or transformation by genetic engineering.

It has already been pointed out quite rightly in the literature that this regulation is extremely complicated and difficult to read, and it is to be hoped for that reason that the lawmakers in the member States of the Union will use simpler language when transferring the law of the Convention to domestic law.<sup>6</sup> The basic content of this regulation may be summarized as follows: the breeder of an essentially derived variety can obtain a plant breeder's right if the normal requirements are satisfied and can thus assert against others all the rights that derive from such protection. However, acts carried out with the derived variety require the consent of the breeder of the initial variety. On the other hand, varieties that do not even satisfy the normal requirements for protection (e.g., cannot be distinguished from an initial variety) do not receive plant breeders' rights (or may even fall directly within the scope of protection of the initial variety). From the point of view of legislative technicality, it may be pointed out that the regulation with regard to essentially derived varieties is included in Chapter V, "The Rights of the Breeder," in its Article 14 entitled "Scope of the Breeder's Right." This has certain consequences, from the point of view of the breeder, which will be detailed later.

Quite apart from the fact that ASSINSEL, as an international professional association of plant breeders and "green" biotechnologists, was involved in the discussions and reflections on the revision of the Convention from the very beginning,<sup>7</sup> the Working Group on Intellectual Property had more particular discussions on Article 14(5) once the adopted version was available. The results of those discussions is the ASSINSEL statement reproduced at the end of this article on the implementation of the new principle contained in the UPOV Convention in respect of essentially derived varieties, that was unanimously

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<sup>6</sup> von Pechmann/Straus, GRUR Int. 1991, p. 511.

<sup>7</sup> ASSINSEL was founded in 1938 as a worldwide association of private and public plant breeders (including biotechnologists) with headquarters in Nyon, Switzerland. It participated decisively in the creation of the UPOV Convention and has adopted as its particular aim the establishment of industrial property rights of all kinds for new plant varieties and for new genetic material for plants. Breeders of all important cultivated plant species (agricultural, horticultural, industrial and ornamental) are represented.

adopted by the ASSINSEL General Assembly on June 5, 1992. The formulation and adoption of this ASSINSEL statement were primarily based on the following considerations:

(i) According to a resolution adopted by the Diplomatic Conference, the Secretary-General of UPOV was requested to set in motion immediately after the closing of the Conference the establishment of draft standard guidelines on essentially derived varieties for adoption by the Council of UPOV. The profession represented by ASSINSEL wishes to exert decisive influence, in the interests of its members, on the guidelines that are to be produced by UPOV.

(ii) ASSINSEL will insert the ASSINSEL statement into the discussions on transferring the law of the Convention to the domestic laws through its national associations of breeders, particularly since the breeders represented by ASSINSEL are directly concerned.

(iii) The ASSINSEL statement may be used as a suitable aid to interpretation when applying the new concept in practice, in possible arbitration proceedings or in related court proceedings.

## II. BASIC CONTENTS OF THE ASSINSEL STATEMENT

### 1. The Introduction

The introduction contains two important basic points.

#### (a) Bridging the Gap Between Different Systems of Protection: the Patent Law and Plant Breeders' Rights

The problem that arose in view of possible patent claims to gene constructs within varietal material of protected varieties and the resultant--unilateral<sup>8</sup>--patent dependency, needed to be bridged or compensated in the interest of the breeders.<sup>9</sup> Indeed, the above-mentioned discussion had made it clear that the position advocated by the breeders--that patent protection for gene constructs did not extend to variety material or that patents should not be granted containing claims that in practice covered "variety material"--was not shared by the majority opinion and did not therefore appear to be achievable.<sup>10</sup>

This provided the incentive to search for a novel solution for the area of collision, that had initially been considered avoidable, between areas of law

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<sup>8</sup> The consent of the owner of a plant breeder's right is not in fact required under Article 5(3) of the 1978 Act of the UPOV Convention (known as breeder's exemption) if the variety is used as initial material for creating further varieties and the latter are commercially distributed.

<sup>9</sup> See also Böringer, Bundessortenamt, statement in a public hearing, Legal Committee of the Bundestag, see note 2, page 189(201).

<sup>10</sup> Thus the author in GRUR Int. 85, 93, 94; patent grant practice in particular and the frequently heard statement that the provisions on exclusion of patentability were to be given a narrow interpretation make this quite clear (see Straus, GRUR 1992, p. 262; Moufang, loc. cit., p. 190). More correct, on the other hand, Bruchhausen, Patentgesetz, p. 202, "the statement that the provisions excluding patentability are to be given a narrow interpretation--BGHZ 88, 209, 21 SH, Hydropyridin--loses some of its weight in a demarcation between two systems of protection (patent or plant breeders' rights)."

that were constructed in very differing ways (patent law and plant breeders' rights); the novel solution was to correspond to the objectives of both systems of law and to solve not only this interdisciplinary problem situation, but also problems that arose in the area of plant breeders' rights itself. This solution consists of the now introduced plant breeders' rights dependency<sup>11</sup> under Article 14(5) of the UPOV Convention. This means that the scope of protection of plant breeders' rights has been harmonized, for the area of collision referred to, with that of patent law. Since the area of application of Article 14(5) goes beyond the example of genetic transformation (see Article 14(5)(c), imitations ("cosmetic breeding results") that were not hitherto pursuable--particularly in the breeding of ornamentals, but also increasingly in other sectors of breeding--are now also covered.

(b) No Restriction of the Key Area of the Breeder's Exemption

When introducing the plant breeders' rights dependency, which was of course to be welcomed in view of the considerably strengthened breeders' rights for original breeding work, great attention had to be paid--also from the point of view of breeders who worked with biotechnology--to the fact that the key area of the old Convention--that is to say the breeder's exemption--should not be affected.<sup>12</sup>

Since the significance of this principle is still called into question<sup>13</sup> in patent-oriented cycles and, after revision of the UPOV Convention, the demand that the provisions on exclusion in Article 53(b) of the EPC should be cancelled and that the prohibition on patentability for plant varieties should be deleted,<sup>14</sup> was heard again more strongly, I should like to once more set out the following facts:

Breeders' rights are granted for a new plant variety and not for an invention (technical teaching). Such a result of a most expensive and time-consuming breeding work basically consists in making available a unique combination of genes--in the form of a new complex genome. The starting point and the basic requirement for any successful plant breeding is to produce the broadest possible variation and then to combine in a unique manner the desired properties in the new plant variety, for instance by crossing, selection and other breeding measures. Each new variety therefore bases--contrary to an invention--in every case on existing living material and therefore demands the

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<sup>11</sup> This term will be used to distinguish it from the dependency used in patent law.

<sup>12</sup> Now Article 15(1)(iii) "the breeder's right shall not extend to ... acts done for the purpose of breeding other varieties, and, except where the provisions of Article 14(5) apply, acts referred to in Article 14(1) to (4) in respect of such other varieties."

<sup>13</sup> See for instance Moufang, p. 396 "a questionable attribute of plant variety protection law" or Hans Neumeier, p. 243 "an obstacle to effective protection"; Beier, GRUR Int. 1990, p. 220.

<sup>14</sup> Thus Straus, GRUR 1991, p. 266, "there exists no further legal necessity for this question following the UPOV revision. Indeed, it was never justified in substance"; or von Pechmann, Straus, GRUR Int. 1991, p. 511. "... will be the task of AIPPI ... to take action to ensure that the ... exclusion provisions in patent law, that still present an obstacle, be removed."

broadest and freest possible use of material--particularly including other protected genotypes, i.e. plant varieties, that are of interest. This is made possible by the breeder's exemption that in fact very carefully balances the ambivalent interest of breeders in the most extensive possible protection and in the free use of plant varieties, including competing plant varieties, for subsequent breeding work. A dependency provision as in patent law<sup>15</sup>, on the other hand, would make dependency the rule in plant breeding.<sup>16</sup> This is also one of the decisive reasons why, from the point of view of the breeders, Article 53(b) of the European Patent Convention and the prohibition of patents for plant varieties contained in the patent laws must be maintained.

This key area of the breeder's exemption has therefore, in the opinion of ASSINSEL, not been restricted by the newly introduced plant breeders' rights dependency for the good reason that it is only of application for a clearly defined area of exemption, that will be set out in more detail below, and indeed does not cover the "classical" cases of plant breeding--such as crossing and selection.

It may be pointed out here already that the cases under this area of exemption may be together defined by the fact that creative breeding is simply exploited in the form of the genotype made available and that, therefore, no genuine creative act of breeding is involved.

The further wording of the introduction to the ASSINSEL statement contains demands of a more political nature and the demand of the breeders to assume responsibility themselves for asserting their rights--and therefore also assessing whether a variety represents an essentially derived variety--and not to be dependent on an assessment by official offices (see also ad. A(5)).

2. The main part of the ASSINSEL statement is divided into three sections:

- A. General Aspects
- B. Special Interpretation of Article 14(5), and
- C. General Rules for the Burden of Proof

Although the comments made in those sections should basically be obvious from the text itself, the following explanations could be of help:

#### Ad A(1) - Genotype - Phenotype

As already mentioned, the formulation in Article 14(5)--particularly in (b)(i) and (b)(iii)--is not very clear. It was therefore all the more important for ASSINSEL to highlight the difference of principle between testing of

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<sup>15</sup> See Bruchhausen, p. 405, "where the content of a patent with more recent priority requires the use of an invention under a patent with earlier priority, one speaks of dependency ... the prerequisite for dependency is that a later patent makes use of essential features of an invention under an earlier patent and cannot be exploited without making such use."

<sup>16</sup> The research exemption under patent law is in fact in no way the same as the breeder's exemption. A patentable plant variety can only be "used" in breeding with the consent of the patentee--see also Lukes, loc. cit., p. 328 "without the breeder's exemption--that is to say with the effect of patent law--a patent for any new variety would be a dependent patent."



distinctness under Article 7 and the consideration of a genotype under Article 14(5), which takes place at a quite different level:

In this case the forefront question is whether the essentially derived variety essentially corresponds to the genotype of the initial variety (although the essential characteristics of the initial variety must be expressed).

This clarification is important from the point of view of the breeders particularly since the problems of plagiarism breeding could not be solved on the level of distinctness testing.<sup>17</sup> Further, even a slight difference in genotype can lead to a considerable differentiation in the phenotype; conversely, a very slight difference in the phenotype does not exclude a clear difference in the genotype.

#### Ad A(2) - Thresholds and Methods of Derivation

The thresholds that may be tolerated with respect to genetic conformity are to be assessed, from the point of view of ASSINSEL, specifically for each species and may therefore quite possibly be different (even within one species: e.g. hybrids and non-hybrids). This specific assessment or determination of thresholds has only recently begun within ASSINSEL and will certainly require some time yet. However, it already appears that in most cases a genotype conformity of at least more than 60%, and in the normal case of at least 95%, on the basis of the overall genome to be assessed (and not on the basis of individual essential, genetically determined properties) will have to be required.

Even if not all of the derivation methods listed in Article 14(5)(c) play a part in the cultivated plant species represented in ASSINSEL, they may nevertheless all lead to essentially derived varieties. In the case of backcrossing, however, it is required that there be a multiple (i.e. at least double) backcrossing. Since this list does not represent an exclusive enumeration, further derivation methods may well become relevant in future; for instance, the example of chromosome modification has been referred to in a number of ASSINSEL Sections.

#### Ad A(3), A(4) and A(5) - Scientific Methods, Specialists, Responsibility of Plant Variety Offices

The question whether a variety has been essentially derived from another variety or whether there is genetic conformity, will have to be assessed, as appropriate, with the help of special scientific methods. The methods mentioned as examples (particularly RFLP) are basically suitable, according to a general inquiry taken by ASSINSEL, for the most significant agricultural crops (e.g. maize, cereals, potatoes, beets); further mention was made, in particular, of the isozyme marker method. What is important, however, is that the breeders and biotechnologists represented within ASSINSEL are of the opinion that much simpler methods--e.g. verification of the phenotype--at least at the first stage should be sufficient,<sup>18</sup> particularly where reliable scientific

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<sup>18</sup> See at B(1), (2) and (3).

<sup>17</sup> The years of discussion on what constitutes an "important" characteristic have shown that important for distinctness must not necessarily be the same as important functionally or economically (different opinion: Wuesthoff/Lessmann, Sortenschutzgesetz-Kommentar, 2nd ed., p. 49).

methods are not yet available. Experts in the species concerned would have to be involved.

The examination of such questions, however, is not a task of the plant variety offices since plant breeders' rights are granted irrespective of whether a variety is essentially derived or not.

This is also shown by the fact that the regulation under Article 14(5) has been included in Chapter V "The Rights of the Breeder" and in Article 14 "Scope of the Breeder's Right."

#### Ad A(6) and A(7) - Derivation/Dependency

The question whether a variety has been essentially derived from another variety is a simple matter of fact, so that even where very close genetic conformity exists, derivation from another variety is not present if no material of that variety has been used for breeding purposes. The records in breeding books will play a big part in this context.

The legal consequences of plant breeders' rights dependency are based on this determination of fact and are limited in such a way that there is no dependency on an essentially derived variety.

The reason for this limitation, and quite justifiably so for ASSINSEL, is that the plant breeders' rights dependency regulation (contrary to a dependency regulation based on patent law) is to apply only in favor of "original" plant breeders and not in favor of breeders who simply develop essentially derived varieties.<sup>19</sup> Thus, this regulation does not contain a defect,<sup>20</sup> but in fact represents a balanced solution--as also in the interest of avoiding the so-called dependency pyramids.<sup>21</sup>

#### Ad B(1), (2) and (3) - Requirements for Dependency or Derivation

The principle of plant breeders' rights dependency extends the scope of protection of "originally" bred varieties and therefore applies only in favor of protected "initial varieties."

This dependency can only exist in relation to one protected variety (see Article 14(5)(a)(i)).<sup>22</sup> Here again the key area of the breeder's exemption is maintained since, otherwise, a product of crossing could be doubly dependent, for instance.

The irrefutable presumption (praesumptio juris et de jure) of the existence of an essentially derived variety depends, stated simply, on three conditions:

- (i) predominant derivation
- (ii) clear distinctness within the meaning of Article 7
- (iii) genetic conformity

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<sup>19</sup> See above at II (a)(2) in fine.

<sup>20</sup> As claimed by Straus, von Pechmann, GRUR Int. 1992, p. 214.

<sup>21</sup> See Lukes, GRUR Int. 1987, p. 328.

<sup>22</sup> Which reads "... from the protected variety."

If any one of these requirements is lacking, there exists no derivation in the above-mentioned meaning and thus no dependency. If there is already a lack of clear distinctness from another protected variety, one requirement is already lacking: the non-distinct variety thus falls within the scope of protection of the other variety.

#### Ad C - Burden of Proof

In its comments stated here regarding the burden of proof, ASSINSEL wishes to influence future legal practice towards a uniform, that is to say harmonized, application of the law. In doing so, various rules on facilitating the furnishing of proof recognized in various legal systems will be referred to, such as reference to what is known as prima facie evidence, which can indeed be basically acceptable for individual factual findings,<sup>23</sup> even though it is a principle that the plaintiff has to prove the facts on which his claim is based.<sup>24</sup>

The attempt to obtain a harmonized application of the law internationally will certainly be very difficult to achieve in view of the differing rules on evidence in the various countries. However, this is a particularly urgent concern for ASSINSEL to ensure that the plant breeders' rights dependency regulation that has now been created will exist not only on paper, but also can be applied in practice in the individual dispute. It is therefore most important to ASSINSEL that prima facie evidence can operate in favor of the original breeder when he is capable of proving genetic conformity within the determined thresholds against another variety. In such cases, a phenotypical conformity should already be sufficient at the first stage. It should then be the task of the other breeder to refute the genetic conformity or--and which is likely to be simpler in the individual case--to prove that he has not used any material of the initial variety for his breeding work.

The whole profession represented by ASSINSEL will further be endeavored to extend to the arbitration board already set up within its ranks to cover this area of application, to establish suitable rules and to offer to its members a first, but not necessarily final, instance for settling disputes.

It is interesting to note that in the USA there is apparently a corresponding initiative to supplement the Plant Variety Protection Act<sup>25</sup> to the effect that disputes between owners of variety protection concerning matters of essential derivation will be required to submit to an arbitration board for its findings, which are not binding, prior to taking civil action.<sup>26</sup>

### III. PROSPECTS AND REMAINING QUESTIONS

ASSINSEL has set itself the aim of determining, initially in its Sections, scientific methods for assessing "essential derivation" or "genetic conformity"

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<sup>23</sup> See Kommentar zum Patentgesetz, Benkert/Rogge, 8th rev. ed., 1988 ad para. 139 Rdn. 116.

<sup>24</sup> See Hesse, Die Beweislast im Patentverletzungsprozess, GRUR 1972, p. 675 and Hesse, Die Behauptungs- und Beweislast im sortenschutzrechtlichen Verletzungsprozess, GRUR 1975, p. 455.

<sup>25</sup> Plant Variety Protection Act of 1970 for sexually propagated varieties, 7 USC 2321 - 2583, see Public Law 91-577.

<sup>26</sup> Source: American Seed Trade Association.

specifically for each species and where necessary to lay down supplements to the non-exhaustive list of derivation methods as also threshold values for the individual species. As already mentioned, the last task will be the most difficult one.

Additionally, ASSINSEL has already concerned itself with the question of the varieties that should be covered when implementing the plant breeders' rights dependency regulation into the domestic laws--whether all varieties already protected or only varieties protected following national implementation, or again whether in this question of permissible retroactivity the "ready establishment" of the derived variety plays a part.

However, discussions on this last question have not yet been completed.<sup>27</sup> The above-mentioned extension of ASSINSEL arbitration to disputes arising out of the new plant breeders' rights dependency constitutes a further highly important area of activity for ASSINSEL in this field.

Altogether, all of the professional plant breeders and biotechnologists represented in ASSINSEL are satisfied with the new regulation set out here in detail, due in particular to its balance and its adaptation to the breeding and biotechnological needs of up-to-date plant breeding. However, importance will now attach to the necessary implementation to national plant breeders' rights laws as rapidly as possible and in the least complicated manner. I trust that the following ASSINSEL statement will be helpful in that context and, moreover, the principles contained therein may enjoy the broadest possible application in the settlement of any disputes.

**ASSINSEL STATEMENT REGARDING THE IMPLEMENTATION OF THE NEW PRINCIPLE  
OF ESSENTIALLY DERIVED VARIETIES IN THE UPOV CONVENTION**

adopted by the General Assembly in Toronto on June 5, 1992

At the UPOV Diplomatic Conference in Geneva in March 1991, new conditions in relation to essentially derived varieties (e.d.v.) were introduced into a revised Convention. The following Resolution was adopted:

"The Diplomatic Conference for the Revision of the International Convention for the Protection of New Varieties of Plants, held from March 4 to March 19, 1991, requests the Secretary-General of UPOV to set in motion immediately after the closing of the Conference the establishment of draft standard guidelines, for adoption by the Council of UPOV, on essentially derived varieties."

In response ASSINSEL presents the following statement.

After careful consideration of the new text [Article 14(5)] it is concluded that the implementation of this new concept should take the following points into consideration.

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<sup>27</sup> In the meantime, during the ASSINSEL Congress of Nairobi, Kenya, May 27 and 28, 1993, the General Assembly has adopted a Statement for the question of entry into force of the new concept of essential derivation (A 93.55a)

## INTRODUCTION

In all previous statements ASSINSEL has strongly approved the introduction of the essentially derived varieties (e.d.v.) concept. With respect to the very recent developments in the field of plant breeding and biotechnology and the resulting lack of clarity between the fields respectively covered by patents and plant breeders' rights and the degree of protection which they offer, ASSINSEL considers that the new principle builds a bridge between the two protection systems in the interest of the affected industries. This new principle will also decrease drastically the possibility of plagiarism in plant breeding.

ASSINSEL plant breeders are convinced that this new principle brings about an important strengthening of plant breeders' rights without any real restrictions of the key issue of the so-called breeders' exemption.

It has to be appreciated that the introduction of this new principle into the UPOV Convention represents a step into new territories. As usual with such situations there are uncertainties and doubts. Therefore, at this stage, the national legislators--as well as the UPOV Council--should restrict their statements to general formulation of this new principle and should not go too far into detailed regulations. A too detailed regulation would run the risk that omissions will subsequently become apparent or that future developments will be hampered or not provided for. Furthermore the implementation should be practical and not too complicated.

As will be shown in the following, this principle mainly involves questions of scope of protection and enforcement of the rights of the breeder. It is, therefore, left to the initiative of the breeder to enforce these rights.

#### A. General Aspects

1. In its principle, the concept of e.d.v. deals with the genotype rather than with the phenotype. Contrary to the principle of "clear distinctness" of Article 7 of the UPOV Convention being judged on the basis of the expression of certain morphological or physiological characteristics, Article 14(5) has to do with the question whether the essence of the genotype of the initial variety (i.v.) has been taken over--that means whether it retains virtually the totality of the genome of the i.v.--retaining the expression of the essential characteristics. In this respect, "... essential characteristics that result from the genotype..." include only inheritable characteristics.

Furthermore, depending on the given genetic constitution of a given plant species and established breeding technology the required threshold of the quantity of conformity can be different for different species.

2. The "genetic distance/conformity" should be judged on a species-by-species or even within-a-species basis. The methods of derivation may be used as a tool to help to establish or to define an e.d.v.

The given list of examples for methods of derivation [selection of a natural or induced mutant or of a somaclonal variant, selection of variant individual from plants of the i.v., multiple backcrossing, transformation by genetic engineering: see Article 14(5)(c)] is not an exhaustive list.

3. Whether or not a plant variety is an e.d.v. may need to be based upon scientifically reliable methods. This may start with the judgment of essential characteristics and be completed by methods of genome identification in so far

as adequate methods are available. Depending on the given species, this assessment can vary in relation to different methods of derivation used and also by different genetic distances. Scientific and reliable methods for the proof of genetic distances might be e.g. RFLP (Restricted Fragment Length Polymorphism), RAPD (Random Amplification of Polymorphic DNA), PCR (Polymerase Chain Reaction), combining ability.

4. This assessment should be made by species-specific experts skilled in the art, including breeders, molecular geneticists, etc.

5. The plant variety offices have only a duty to prove whether a plant variety having been entered for protection fulfills the requirements for protection (DUS-test), regardless of the question of whether it is an e.d.v. or not. Thus for ASSINSEL it is important and obvious that the determination of the existence of an e.d.v. should not be a part of the procedure for granting plant breeders' rights. However, registration data of the variety based on UPOV guidelines should be available after granting of rights.

6. The determination as to whether a plant variety is an e.d.v., is mainly a question of whether it has been derived from a given variety (see 2). Where a plant variety has been developed without using that variety, there cannot be essential derivation. However, the general rules of burden of proof have to be considered (see C. below).

7. Essential derivation is a matter of fact whereas dependency resulting herefrom is a possible legal consequence. Therefore, if an e.d.v. has been claimed and proved as such with legal validity it remains an e.d.v. On the other hand, one variety which first has been assumed to be independently developed can be later on claimed and proved to be an e.d.v. with all the consequences that that proof implies, for the variety itself and for those essentially derived from it.

An e.d.v. remains an e.d.v. for ever. Even if the protection period of the i.v. has been exhausted, a variety derived from the first variety in a chain of essentially derived varieties remains an e.d.v. and the remaining varieties in the chain will still be essentially derived from the i.v. The reason for this lies in the spirit of the concept of dependency. This very new principle has mainly been introduced to protect more efficiently the initial breeder and not those who make derivation from his work.

#### **B. Special Interpretations of Article 14(5)**

1. The principle of dependency only exists in favour "of the protected variety" [see Article 14(5)(a)(i)].

This means:

- (a) The initial variety must be a protected one.
- (b) Dependency can only exist from one protected variety alone.
- (c) A dependent variety can be directly derived from the i.v. or from a variety that is itself predominantly derived from the i.v. [see Article 14(5)(b)(i)]. As already mentioned under A.7, dependency only exists in relation to the i.v.

2. ASSINSEL interprets Article 14(5)(b) ("a variety should be deemed to be essentially derived from the i.v.") in that the e.d.v. effectively has to meet the following three requirements in relation to the initial variety while retaining the expression of its essential characteristics:

- (a) clear distinction in the sense of Article 7;
- (b) predominant derivation;
- (c) genetic conformity.

If one requirement is not fulfilled, there will be no essential derivation.

3. The methods of breeding which can be regarded as leading to an e.d.v. may differ from species to species, or even within a species. This will result in different thresholds being required to characterize dependency.

#### C. General Rules for Burden of Proof

- (a) According to the general rules of burden of proof, each party has the burden of proof for those requirements of the legal provision which is favourable to him. That means that the owner of the i.v. has to prove all requirements of dependency.
- (b) If the owner of the i.v. can prove the requirement of "genetic conformity" his burden of proof regarding "predominant derivation" is facilitated by the so-called "prima facie" proof (proof by evidence). The existence of "genetic conformity" gives the presumption that the second breeder has predominantly derived his variety from the i.v. On the other hand, if the owner of the i.v. can prove the requirements of "predominant derivation," the existence of "genetic conformity" can be also presumed.

For the proof of evidence to justify essential derivation, the following elements should be sufficient:

- genetic conformity or
  - close relationship e.g. in phenotypical characteristics or
  - only small differences in some simply inherited characteristics.
- (c) If the owner of the i.v. has fulfilled the above requirements, then the second breeder has to prove:
    - no genetic conformity or
    - no predominant derivation.

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#### MISCELLANEOUS INFORMATION

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#### **ICARDA, IAC: International Course on Plant Variety Testing: Description, Performance, and Release**

The International Center for Agricultural Research in the Dry Areas (ICARDA) and the International Agricultural Center (IAC) of the Netherlands will jointly hold the above-mentioned course from April 17 to 28, 1994, at the Headquarters of ICARDA, Aleppo, Syria. The course will address VCU (value for cultivation and use) and DUS (distinctness, uniformity and stability) testing. The concept of plant variety protection will also be discussed in this context.

Further information can be obtained from Mr. A.J.G. van Gastel, ICARDA, P.O. Box 5466, Aleppo, Syria (Phone: 963-21-21.34.33, 21.34.77 or 23.48.90; Fax: 963-21-22.51.05 or 21.34.90; Telex: 0492-331.206 or 331.263 ICARDA SY).

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CALENDAR

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UPOV Meetings in 1994

March 21 to 23 (near Paris, France)	Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular
April 12 to 14 (Kiryat Anavim, Israel)	Technical Working Party on Automation and Computer Programs
September 5 to 9, (Edinburgh, United Kingdom)	Technical Working Party for Vegetables
September 19 to 24 (Napier, New Zealand)	Technical Working Party for Fruit Crops
September 26 to October 1 (Canberra, Australia)	Technical Working Party for Ornamental Plants and Forest Trees
November 2 to 4	Technical Committee
November 7 and 8	Administrative and Legal Committee
November 9 (morning)	Consultative Committee
November 9 (afternoon)	Council

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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:

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