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PLANT VARIETY PROTECTION

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

No. 78

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GAZETTE

EXTENSION OF PROTECTION TO FURTHER GENERA AND SPECIES

Canada

By virtue of the Order in Council of December 6, 1994, SOR/94-750, Amending the Plant Breeders' Rights Regulations (made by Order in Council of October 24, 1991), protection was extended to the following genera and species, with effect from December 28, 1994 (the Latin, English and French names appear in the Order, whereas the German names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Acer spp.	Maple	Erable	Ahorn
Begonia spp.	Begonia	Bégonia	Begonie
Brassica carinata A. Braun, B. juncea (L.) Czern. et Coss., B. nigra (L.) W. Koch, Sinapis alba L.	Mustard	Moutarde	Senf
Clematis spp.	Clematis	Clématite	Waldrebe
Festuca rubra L.	Creeping Red Fescue	Fétuque rouge traçante	Rotschwingel
Impatiens spp.	Impatiens	Impatiente	Balsamine, Springkraut
Lens culinaris Medikus	Lentil	Lentille	Linse
Pelargonium spp.	Pelargonium	Pélargonium	Pelargonie
Phleum pratense L., P. bertolonii DC.	Timothy	Fléole	Lieschgras
Poa pratensis L.	Kentucky Bluegrass	Pâturin du Kentucky	Wiesenrispen- gras
Prunus spp.	Plum (all species of plums of the Prunus spp.)	Prunier (toutes les espèces de pruniers de Prunus spp.)	Pflaume (alle Pflaumenarten von Prunus spp.)
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich
Rubus idaeus L.	Raspberry	Framboisier	Himbeere
Spiraea spp.	Spirea	Spirée	Spierstrauch
Vaccinium spp.	Blueberry (all species of blue- berries of the Vaccinium spp.)	Bleuet (toutes les espèces de bleuets de Vaccinium spp.), [Myrtille]	Heidelbeere (alle Heidel- beerarten von Vaccinium spp.)
Viburnum spp.	Viburnum	Viorne	Schneeball

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

- August 1, 1984, in the case of maple, peach, plum, raspberry, spirea, blueberry, Viburnum, and
- August 1, 1986, in the case of the other genera and species mentioned above,

provided the application is received by the Commissioner within 12 months from the entry into force of the Order, namely before December 28, 1995.

Consolidated List of Plant Taxa Covered by Plant Variety Protection Legislation in Canada (With Effect from December 28, 1994)

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Acer spp.	Maple	Erable	Ahorn
Avena spp.	Oats	Avoine	Hafer
Begonia spp.	Begonia	Bégonia	Begonie
Brassica campestris L., Brassica napus L.	Canola, Rapeseed	Canola, Colza	Raps
Brassica carinata A. Braun, B. juncea (L.) Czern. et Coss., B. nigra (L.) W. Koch, Sinapis alba L.	Mustard	Moutarde	Senf
Chrysanthemum spp.	Chrysanthemum	Chrysanthème	Chrysantheme
Clematis spp.	Clematis	Clématite	Waldrebe
Dianthus spp.	Dianthus	Oeillet	Nelke
Euphorbia pulcherrima Willd. ex Klotzsch	Poinsettia	Poinsettia	Poinsettie, Weihnachtsstern
Festuca rubra L.	Creeping Red Fescue	Fétuque rouge traçante	Rotschwingel
Fragaria L.	Strawberry	Fraisier	Erdbeere
Glycine max (L.) Merrill	Soybean	Soja	Sojabohne
Hordeum vulgare L. sensu lato	Barley	Orge	Gerste
Impatiens spp.	Impatiens	Impatiente	Balsamine, Springkraut
Lens culinaris Medikus	Lentil	Lentille	Linse

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Linum usitatissimum L.	Flax	Lin	Lein
Malus Mill.	Apple	Pommier	Apfel
Medicago sativa L. sensu lato	Alfalfa	Luzerne	Luzerne
Pelargonium spp.	Pelargonium	Pélargonium	Pelargonie
Phaseolus vulgaris L., P. coccineus L.	Bean	Haricot	Bohne
Phleum pratense L., P. bertolonii DC.	Timothy	Fléole	Lieschgras
Pisum sativum L. sensu lato	Pea	Pois	Erbse
Poa pratensis L.	Kentucky Bluegrass	Pâturin du Kentucky	Wiesenrispen- gras
Potentilla spp.	Potentilla	Potentille	Fingerkraut
Prunus spp.	Cherry (all species)	Cerisier (toutes les espèces)	Kirsche (alle Arten)
Prunus spp.	Plum (all species of plums of the Prunus spp.)	Prunier (toutes les espèces de pruniers de Prunus spp.)	Pflaume (alle Pflaumenarten von Prunus spp.)
Prunus persica (L.) Batsch	Peach	Pêcher	Pfirsich
Pyrus spp.	Pear	Poirier	Birne
Rosa spp.	Rose	Rosier	Rose
Rubus idaeus L.	Raspberry	Framboisier	Himbeere
Saintpaulia spp.	African Violet	Violette africaine	Usambara- veilchen
Solanum tuberosum L.	Potato	Pomme de terre	Kartoffel
Spiraea spp.	Spirea	Spirée	Spierstrauch
Taxus spp.	Yew	If	Eibe
Triticum aestivum L. emend. Fiori et Paol.	[Soft] Wheat	Blé [tendre]	Weichweizen
Triticum durum Desf.	[Durum] Wheat	Blé [dur]	Hartweizen
Vaccinium spp.	Blueberry (all species of blue- berries of the Vaccinium spp.)	Bleuet (toutes les espèces de bleuets de Vaccinium spp.), [Myrtille]	Heidelbeere (alle Heidel- beerarten von Vaccinium spp.)

<u>Latine</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Viburnum spp.	Viburnum	Viorne	Schneeball
Vitis L.	Grapevine	Vigne	Rebe
Zea mays L.	Corn	Maïs	Mais

Ireland

By virtue of the Plant Varieties (Proprietary Rights) (Amendment) Regulations, 1994, issued on November 29, 1994 (Statutory Instrument No. 393 of 1994), 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>
Abelia R. Br.	-	Abelia	Abelia	20
Cupressus	Cypress	Cyprès	Zypresse	20
Helianthus tuberosus L.	Jerusalem Artichoke	Topinambour	Topinambur	20
Hypericum L.	-	Millepertuis	Johanniskraut	20
Jasminum officinale L.	Common Jasmine	Jasmin blanc, Jasmin commun	Jasmin	20
Pelargonium L'Hérit.	Geranium	Pélargonium, Géranium	Pelargonie	20
Spartium junceum L.	Spanish Broom	Genêt d'Espagne	Binsenginster	20
Tagetes	Marigold	Tagète, Oeillet d'Inde, Rose d'Inde	Sammetblume	20

A list of the other taxa protected in Ireland is reproduced in "Plant Variety Protection" No. 74, starting on page 18.

Israel

By virtue of the Plant Breeders' Rights Order (Amendments to Schedule) published in Kovetz Hatakanot No. 5655 of January 22, 1995, protection was extended, with effect from the same date, to the following (the Latin and English names have been provided by the Secretariat of the Plant Breeders' Rights Council of Israel, 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>
Hemerocallis L.	Day-lily	Hémérocalle	Taglilie

A list of the other taxa protected in Israel is reproduced in "Plant Variety Protection" No. 73, starting on page 4.

Sweden

By virtue of the Law of March 17, 1994 (SFS 1994:106 of March 29, 1994), Amending the Plant Breeders' Rights Law (1971:392), protection was extended, with effect from April 1, 1994, to the following (the Latin and Swedish names appear in the Law, whereas the English, French and German common names have been added, without guarantee of concordance, by the Office of the Union):

<u>Latine</u>	<u>Svensk</u>	<u>English</u>	<u>Français</u>	<u>Deutsch</u>
Crocasmia spp.	Crocasmia	Crocasmia	Crocasmia	Crocasmia
Ficus spp.	Fikus	Fig Tree	Figuier	Feigenbaum
Impatiens spp.	Balsamin	Balsam, Busy Lizzie, Touch-me-not	Balsamine, Impatiente	Balsamine, Springkraut
Petunia spp.	Petunia	Petunia	Pétunia	Petunie
Scaevola aemula R. Br.	Scaevola	Scaevola	Scaevola	Fächerblume
Tulipa L.	Tulpan	Tulip	Tulipe	Tulpe
Verbena spp.	Verbena	Vervain	Verveine	Verbene, Eisenkraut

A list of the other taxa protected in Sweden is reproduced in "Plant Variety Protection" No. 72, starting on page 19.

EXTENSION OF PERIOD OF PROTECTION

Denmark

By virtue of Act No. 1107 of December 21, 1994, on the Amendment of the Plant Novelties Act, the period of protection for potato (Solanum tuberosum L.) was extended from 25 years to 30 years with effect from January 1, 1995.

NEWSLETTER

UPOV

The Twelfth Extraordinary Session of the Council

The Council held its twelfth extraordinary session on April 28, 1995, under the chairmanship of Mr. Bill Whitmore (New Zealand).

Pursuant to Article 32(3) of the 1978 Act of the Convention, the Council decided to give a positive advice to the Governments of Chile and Paraguay in respect of the conformity of the laws of the said States with the provisions of the said Act; the advice was qualified in the case of Paraguay.

The International Union for the Protection
of New Varieties of Plants in 1994**I. COMPOSITION OF THE UNION**

1. In 1994, three States deposited with the Secretary-General their instruments of accession to the 1978 Act of the International Convention for the Protection of New Varieties of Plants:

- (i) Austria, on June 14;
- (ii) Uruguay, on October 13;
- (iii) Argentina, on November 25.

2. The said Act entered into force with respect to those States one month after deposit of their instruments of accession, or on July 14 for Austria, November 13 for Uruguay and December 25 for Argentina.

3. As of the last-mentioned date, the Union comprises 27 member States: Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Slovakia, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uruguay. All are party to the 1978 Act, with the exception of Belgium and Spain, which are party to the 1961 Act as amended by the Additional Act of 1972.

4. Under Article 32(3) of the 1978 Act, "Any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act." A similar provision is contained in Article 34(3) of the 1991 Act.

5. In 1994, four requests were deposited on the basis of the 1978 Act:

- (i) by Ukraine, by letter dated February 21;
- (ii) by the Russian Federation, by letter dated March 3;
- (iii) by Portugal, by letter dated March 11;
- (iv) by Colombia, by letter dated April 4.

6. The request deposited by the Russian Federation was also based on the 1991 Act.

7. At its eleventh extraordinary session, held on April 22, the Council took positive decisions in respect of all the aforementioned requests for advice.

8. Under its Article 37(1), the 1991 Act enters into force "one month after five States have deposited their instruments of ratification, acceptance, approval or accession, as the case may be, provided that at least three of the said instruments have been deposited by States party to the Act of 1961/1972 or the Act of 1978." According to Article 30(2), each State or intergovernmental organization must be in a position, under its laws, to give effect to the provisions of the 1991 Act at the time of depositing its instrument. In 1994, Australia and the United States of America amended their legislation in order to give effect to the above-mentioned provisions. The Council of the European Union adopted a Regulation on Community plant variety rights based on the 1991 Act; it should be emphasized that of the 15 members of the European Union, 12 are members of the Union.

9. The table given on pages 22 to 24 summarizes the position of the various States in relation to the various Acts of the Convention as at May 31, 1995.

II. SESSIONS OF THE COUNCIL AND ITS SUBSIDIARY BODIES

Council

10. The Council held its eleventh extraordinary session on April 22 under the chairmanship of Mr. R. López de Haro y Wood (Spain) as a result of the request for advice submitted by Colombia, Portugal, the Russian Federation and Ukraine under Article 32(3) of the 1978 Act and, additionally, in the case of the Russian Federation, under Article 34(3) of the 1991 Act (see paragraphs 5 and 6, above).

11. The Council held its twenty-eighth ordinary session on November 9 under the chairmanship of Mr. R. López de Haro y Wood. The session was attended by observers from 12 non-member States¹ and nine international organizations.²

12. At that session, the Council took the following main decisions:

(i) It approved the report of the Secretary-General on the activities of the Union in 1993 and the first ten months of 1994.

¹ Brazil, Colombia, Croatia, India, Indonesia, Mexico, Morocco, Panama, Republic of Korea, Romania, Slovenia, Thailand.

² World Intellectual Property Organization (WIPO), European Community (EC), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOFORA), Association of Plant Breeders of the European Economic Community (COMASSO), Seed Committee of the Common Market (COSEMCO), International Federation of Industrial Property Attorneys (FICPI), International Federation of the Seed Trade (FIS).

(ii) It approved the report of the Secretary-General on his management during the 1992-1993 biennium and on the financial situation of the Union as at December 31, 1993, and noted the report of the auditors for that biennium.

(iii) It approved the progress reports on the work of its various subsidiary bodies and either drew up or approved their work plans for the coming year.

(iv) It unanimously elected Mr. Bill Whitmore (New Zealand) and Mr. Ryusuke Yoshimura (Japan) as President and Vice-President, respectively, of the Council for a term of three years that will expire at the end of the thirty-first ordinary session of the Council, in 1997.

Consultative Committee

13. The Consultative Committee held its forty-eighth session on November 9, under the chairmanship of Mr. R. López de Haro y Wood.

14. At that session:

(i) it noted the progress of work on the project for a central CD-ROM database on plant variety protection and related matters and approved the continuation of the work;

(ii) it held an initial exchange of views on relations between the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement" constituting Annex 1C to the Agreement Establishing the World Trade Organization (WTO)) and plant variety protection;

(iii) it briefly examined the matter of biodiversity, plant genetic resources and plant variety protection.

Administrative and Legal Committee

15. The Administrative and Legal Committee held its thirty-fourth session on November 7 and 8 under the chairmanship of Mr. H. Kunhardt (Germany). The session was attended by observers from eight non-member States³ and from the European Community (EC).

16. At that session, the Committee examined a draft model law on plant variety protection based on the 1991 Act of the Convention, the questions referred to in paragraph 14(i) and (ii), above, in preparation for the session of the Consultative Committee, and the question of the need or desirability of revising the list of classes for variety denomination purposes (Annex I to the UPOV Recommendations on Variety Denominations).

Technical Committee

17. The Technical Committee held its thirty-first session from November 2 to 4 under the chairmanship of Mrs. J. Rasmussen (Denmark). The session was attended by observers from Argentina, India and Portugal and from the EC, the Organisation for Economic Co-operation and Development (OECD), ASSINSEL and COMASSO.

³ Argentina, Colombia, India, Mexico, Morocco, Republic of Korea, Romania, Slovenia.

18. The Committee adopted Test Guidelines for the following 14 taxa on the basis of the preparatory work done by the Technical Working Parties: African violet (revision); barley (revision); fodder beet; French bean (revision); Gentiana; Japanese pear; maize (revision); Nerine; oats (revision); Pyracantha; peas (revision); sweet pepper, hot pepper (revision); Weigela; wheat (revision). It also adopted a technical questionnaire for Kalanchoë.

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

20. At the session, the Committee took important decisions on the testing of distinctness, which will have repercussions on the concept of variety:

(i) Electrophoresis is an analytical method which, when applied to well-defined material using an exact protocol, enables varieties to be identified; it is used, for example, routinely for the identification of wheat supplied for milling or barley used in brewing. Its use is possible in testing varieties for protection (or for entry in catalogues of varieties approved for marketing), but its power of discrimination is such that inconsiderate use is likely to deprive the concept of variety of its practical significance, both for the breeder and for the user. The Committee decided to include electrophoretic characteristics in an annex to the Test Guidelines for wheat, barley and maize. That signified that the characteristics could not normally be used to establish distinctness, but only to confirm or support distinctness that was probable as a result of the differences found in "traditional" morphological and physiological characteristics.

(ii) The behavior of varieties in respect to pests and diseases in fact results from the interaction of two organisms. The testing of such behavior is therefore complicated. That means, together with other practical considerations, that resistance characteristics had always been included in the Test Guidelines without an asterisk, thus with no obligation to examine and describe each variety with respect to those characteristics. The Committee decided for the first time to place an asterisk against such characteristics.

21. The Committee also dealt with the matter of testing genetically modified varieties. It noted that testing could be subject to new constraints resulting, for example, from legislation on biosafety. Technically, it considered that as a general rule such varieties should not be subject to simplified testing since their modification was not necessarily limited to the characteristics that had been wittingly manipulated.

22. Finally, the Committee noted the information provided on the contribution that breeders could make to the testing of varieties in the various member States and the form that such a contribution could assume, depending on circumstances.

Technical Working Parties

23. The Technical Working Parties held sessions outside Geneva as follows:

(i) the Technical Working Party for Agricultural Crops (TWA) held its twenty-third session from May 17 to 19 in Seville (Spain), under the chairmanship of Mr. H. Ghijsen (Netherlands).

(ii) The Technical Working Party on Automation and Computer Programs (TWC) held its twelfth session from April 12 to 14 in Tel Aviv (Israel), under the chairmanship of Mr. S. Grégoire (France).

(iii) The Technical Working Party for Fruit Crops (TWF) held its twenty-fifth session from September 19 to 24 at Napier and Rotorua (New Zealand), under the chairmanship of Mrs. E. Buitendag (South Africa).

(iv) The Technical Working Party for Ornamental Plants and Forest Trees (TWO) held its twenty-seventh session from September 26 to October 1 in Sydney (Australia), under the chairmanship of Mrs. U. Löscher (Germany).

(v) The Technical Working Party for Vegetables (TWV) held its twenty-eighth session from September 5 to 9 in Edinburgh (United Kingdom), under the chairmanship of Mrs. E. Kristóf (Hungary).

24. The basic task of four of these working parties is to draw up test guidelines. In addition to the drafts submitted to the Technical Committee for adoption, they drew up further drafts for the following taxa, to be submitted to the professional organizations for comments: cherry (revision), strawberry (revision) (TWF); Anthurium (revision), Norway spruce, Rhododendron (revision) (TWO); broccoli, cauliflower (revision), chamomile (TWV).

25. A subgroup of the Technical Working Party for Agricultural Crops met twice, on February 22 and 23 in Budapest (Hungary) and on May 16 in Seville (Spain) to examine the Test Guidelines for maize.

26. The Technical Working Party for Fruit Crops decided that it would in future draw up Test Guidelines that would include only those key characteristics that were truly useful for testing distinctness and which were actually used in given countries. In the case of rootstock varieties, the Test Guidelines would contain only the vegetative and physiological characteristics; where distinctness is to be established in a particular case on the basis of the characteristics of the flower, fruit or seed, reference will be made to the corresponding fruit variety Guidelines insofar as they are applicable.

27. The Technical Working Party on Automation and Computer Programs proceeded with finalizing the various documents relating to the statistical processing of data collected in the course of the examination of varieties for distinctness and homogeneity. It may be noted in particular that experts from the United Kingdom have prepared a diskette containing a series of statistical tools used in variety testing. The diskette is available to the member States.

Working Group on Biochemical and Molecular Techniques, and DNA Profiling in Particular

28. The Working Group on Biochemical and Molecular Techniques, and DNA Profiling in Particular, held its second session from March 21 to 23 in Versailles (France), under the chairmanship of Mr. J. Guiard (France). The session was attended by observers from Portugal and from the EC, OECD and ASSINSEL.

29. This working group is active in a new field and, consequently, was still at the stocktaking stage. Methods for determining the DNA profiles were presented for six species (barley, citrus, maize, rapeseed, soyabean and tomato), and a document had been presented on the calculation of genetic distances. The group will continue studying the above-mentioned methods both from a general point of view and from that of their practical application to a given species; the study will cover a larger number of species (13 are on the work plan). It was unanimously considered that the juncture was too early to take a decision on the use of such methods in testing for the purpose of protection.

III. SEMINARS

30. In 1994, UPOV firstly organized, together with the National Fund for Agricultural Research (FONAIAP), an institute reporting to the Venezuelan Ministry of Agriculture, and the Autonomous Industrial Property Registration Service (SARPI), two national seminars on the nature of and rationale for the protection of plant varieties under the Convention and the common arrangements under the Andean Pact in Venezuela. The seminars were held in Maracay on June 27 and in Caracas on June 28.

31. UPOV also organized, in cooperation with the Department of Agriculture of Thailand and with the assistance of the Ministry for Trade of New Zealand, a seminar in Bangkok (Thailand) on July 28.

32. UPOV likewise organized, in cooperation on each occasion with the local authorities and with the assistance of the Ministry of Agriculture, Forestry and Fisheries of Japan, the following national seminars on the nature of and rationale for the protection of plant varieties under the Convention:

(i) a roving seminar in China, at Harbin (Heilongjiang province) on September 15, at Xi'an (Shaanxi province) on September 19 and at Nanjing (Jiangsu province) on September 22;

(ii) a seminar at Islamabad (Pakistan) on November 29;

(iii) a seminar at Kuala Lumpur (Malaysia) on December 1;

(iv) a seminar at Jakarta (Indonesia) on December 5;

(v) a seminar at Manila (Philippines) on December 8.

33. At each seminar, the visiting speakers gave lectures on the general aspects of plant variety protection, the administration and the technical criteria for protection, the 1991 Act of the Convention and plant variety protection in given member States. The local speakers gave lectures on the national situation with respect to varieties and seed and to the current situation of plant variety protection and the--encouraging--prospects for the near future.

34. In each case, the presence of outside speakers was taken as an opportunity for high level discussions with the authorities responsible for plant variety protection.

IV. RELATIONS WITH THE MEMBER STATES⁴

35. On March 7 and 8, the Vice Secretary-General, together with an official of the Union and a consultant from WIPO, visited the Federal Plant Variety Office in Hanover (Germany) to discuss the draft format for the UPOV database on plant variety protection and related matters.

⁴ See also paragraphs 47 (Germany), 64 (New Zealand), 65 to 69 (Germany and Japan), 70 (Switzerland), 71 to 75 (Japan and New Zealand), 103 (Switzerland), 109 (France), 110 (Canada), 113 (United States of America), 114 (Japan).

36. On March 9, the Vice Secretary-General, an official of the Union and a consultant from WIPO visited the Board for Plant Breeders' Rights in Wageningen (Netherlands), where they met officials concerned with the projected UPOV database on plant variety protection and related matters, and other projects of relevance to UPOV. They also met the Chairman and the Secretary of the Board.

37. On March 10 and 11, the Vice Secretary-General, an official of the Union and a consultant from WIPO visited the Plant Variety Rights Office (PVRO) and the National Institute of Agricultural Botany (NIAB) in Cambridge (United Kingdom), where they met officials interested in UPOV matters, particularly the projected UPOV database on plant variety protection and related matters.

38. On March 24, the Vice Secretary-General and an official of the Union visited the offices of the Committee for the Protection of New Plant Varieties (CPOV) in Paris (France) to discuss the proposed format to be used in connection with the UPOV database on plant variety protection and related matters.

39. On April 7, the Secretary-General and the Vice Secretary-General visited Budapest (Hungary), where they met Mr. János Szabó, Minister for Agriculture, Dr. Sándor Manninger, Deputy State Secretary in the Ministry of Agriculture, Dr. László Balla, President of the Hungarian Plant Breeders Association, Dr. Károly Neszmélyi, Director General of the National Institute for Agricultural Quality Control, Dr. Ernő Szarka, President of the National Office of Inventions, and other officials.

40. On April 8, the Secretary-General and the Vice Secretary-General addressed the members of the Hungarian Plant Breeders Association at the annual meeting of the Association held in Budapest, and subsequently visited the Martonvásár Institute, a plant breeding research institute of the Hungarian Academy of Science.

41. On May 5, the Vice Secretary-General wrote to the Vice-Director of the Department of Agricultural Production of the Ministry of Agriculture, in Warsaw (Poland), with the comments of the Office of the Union on draft provisions bringing the Polish law into conformity with the 1991 Act of the UPOV Convention.

42. On June 9 and 10, the Vice Secretary-General and an official of the Union participated in part of a seed industry seminar in Paris (France), organized by the Industrial and Economic Technical Cooperation Agency (ACTIM) of the French Ministry of Finance for representatives of the World Bank involved in seed industry projects.

43. On June 14, Austria deposited with the Secretary-General its instrument of accession to the 1978 Act of the UPOV Convention.

44. On October 13, the Secretary-General received the visit of Mr. Miguel J. Berthet, Ambassador and Permanent Representative of Uruguay at Geneva, who deposited the instrument of accession of his country to the 1978 Act of the UPOV Convention.

45. On November 25, the Secretary-General received the visit of Mr. Manuel Benítez, Minister at the Permanent Mission of Argentina at Geneva, and Mrs. María Cristina Tosonotti, Second Secretary, who deposited the instrument of accession of their country to the 1978 Act of the Convention.

V. RELATIONS WITH NON-MEMBER STATES

States of Africa

46. On April 27, the Office of the Union received from the Ministry of Agriculture, Food and Fisheries of Zambia a draft law for the protection of new plant varieties with a request for the comments of the Office on its conformity with the Convention.

47. On July 1, the Office of the Union received the visit of Mr. Walter Häge, a German national, who was to visit Egypt within the framework of the German Society for Technical Cooperation (GTZ).

48. On July 19, the Vice Secretary-General received the visit of Mr. J. Bundhoo, information scientist with the Mauritius Sugar Authority and Secretary of the Food and Agriculture Research Council of Mauritius, which had expressed interest in plant variety protection.

States of Latin America and the Caribbean⁵

49. On February 22, the Vice Secretary-General received the visit of Mrs. Luz Celeste R. de Davis, Director General of the Industrial Property Registry of Panama, who invited officials of the Union to visit her country.

50. On March 15, the Vice Secretary-General received the visit of Mr. Juan Carlos Espinosa, First Secretary in the Permanent Mission of Colombia at Geneva, and discussed the arrangements that were being made by the Colombian Government to implement Decision 345 of the Commission of the Cartagena Agreement.

51. On April 19, the Secretary-General received a request from the Permanent Mission of Colombia for the advice of the Council of UPOV on the conformity of the Colombian law with the 1978 Act of the Convention.

52. On August 10, the Vice Secretary-General wrote to Dr. Diego Montalvo Escobar, National Director of Industrial Property of Ecuador with comments on a draft decree containing implementing regulations for Decision 345 of the Commission of the Cartagena Agreement.

53. On the same day, he also wrote to Mr. Eduardo Lores La Rosa, Head of the Office of New Technology of the National Institute for the Defense of Competition and Intellectual Property Protection (INDECOPI) in Peru, commenting on draft implementing regulations for the above-mentioned Decision 345 in Peru.

54. On August 18, the Office of the Union received the visit of Miss Mazina Kadir of the Registrar General's Department, who informed the Office that the Government of Trinidad and Tobago had decided to introduce a new plant variety protection law and to join UPOV.

55. On October 20, the Vice Secretary-General received the visit of Mr. Pablo Romero, Counsellor and Head of the Department of Specialized Agencies in the Ministry of Foreign Affairs of Chile, and Mr. Alejandro Rogers, Counsellor in the Permanent Mission of Chile at Geneva, and discussed with them the steps to be taken by Chile with a view to its accession to the 1978 Act of the UPOV Convention.

⁵ See also paragraph 97 (Cartagena Agreement).

56. On November 7, the Vice Secretary-General received the visit of Mrs. Mónica Blanco Valverde, Deputy Minister for Justice of Costa Rica, and Mrs. Lilibana Alfaro Rojas, Director of the Intellectual Property Office.

57. On November 8, the Vice Secretary-General received the visit of Mr. Eduardo Benítez Paulin, Director of the National Seed Inspection and Certification Service of the Secretariat for Agriculture and Hydraulic Resources of Mexico, and Mr. Agustín Lopez-Herrera, Counsellor in the Phytotechnical Department of that Secretariat. He was handed a draft plant variety protection law.

58. On November 11, the Vice Secretary-General received the visit of Mr. Antonio Ricarte, Second Secretary at the Permanent Mission of Brazil at Geneva, who announced the intention of the Brazilian Government to proceed in the matter of plant variety protection.

59. On November 25, the Vice Secretary-General communicated observations on the draft plant variety protection law of Mexico to Mr. Eduardo Benítez Paulin.

States of Asia and the Pacific⁶

60. On May 4, the Secretary-General and officials of the Office of the Union received the visit of Mr. Wang Shaoqi, Director General of the Department of International Cooperation of the State Science and Technology Commission of China, who discussed preparations for the roving seminar which was to be held in China in September.

61. On June 17, the Vice Secretary-General met Mr. Peter P.T. Cheung, Deputy Representative to GATT of the Hong Kong Economic and Trade Office in Geneva, who was interested in the steps Hong Kong might need to take to comply with its obligations to protect plant varieties under Article 27 of the TRIPS Agreement.

62. On June 22, the Vice Secretary-General received the visit of Mr. Sun Mengxin, Program Officer in the Department of International Cooperation of the State Science and Technology Commission of China, and Dr. Zhang Zhiqin, member of the Permanent Mission of China at Geneva, who discussed outstanding details of the roving seminar organized jointly by the Office of the Union and the above-mentioned Commission, to be held in China in September 1994.

63. On July 27, in connection with the national seminar in Thailand mentioned in paragraph 31, above, the Vice Secretary-General called upon Mr. Vichitr Benjasil, Deputy Director General of the Department of Agriculture of the Ministry of Agriculture and Cooperatives of Thailand, and met other officials of that Department.

64. On July 29, the Vice Secretary-General and Mr. Bill Whitmore, Commissioner of Plant Variety Rights of New Zealand, participated in a working group, convened by the Department of Agriculture, which was concerned with the introduction of plant variety protection in Thailand. On the same day, they visited the offices of the Department of Intellectual Property, within the Ministry of Commerce of Thailand, where they met Mr. Yonyong Phuangrach, Deputy Director General of the Department, which has an interest in the introduction of plant variety protection in Thailand.

⁶ See also paragraphs 96 and 107 (Asia and Pacific Seed Association), 111 (India).

65. On September 12, in connection with the national seminar in China referred to in paragraph 32, above, the Vice Secretary-General, Mr. Henning Kunhardt, Deputy Commissioner, Federal Plant Variety Office of Germany, Mr. Hiroki Tanaka, Deputy Director, Seeds and Seedlings Division, Ministry of Agriculture, Forestry and Fisheries of Japan, and an official of the Union visited the Ministry of Agriculture of China in Beijing, where they met Vice-Minister Hong Fuzeng and officials of the Ministry interested in plant variety protection.

66. On September 13, the Vice Secretary-General and the aforementioned persons met Dr. Wang Shaoqi, Director General of the Department of International Cooperation of the State Science and Technology Commission of China, and visited the Patent Office of the People's Republic of China, where they were received by Mr. Gao Lulin, Director General of that Office, and by officials of the Office. They subsequently visited the Ministry of Forestry, where they met Mr. He Shuyun, Director of the Department of Science and Technology.

67. On September 16, the Vice Secretary-General and the aforementioned persons visited the Department of Agriculture, Animal Husbandry and Fisheries of Heilongjiang province in Harbin, where they were received by its Deputy Director, Mr. Li Hay, and Mr. Yu Hongbin, Director of the Committee for Agricultural Crop Varieties and Vice Director of the Seeds Management Bureau of Heilongjiang province. They subsequently visited the North-East Agricultural University, the North-East Forestry University and the Heilongjiang Academy of Agricultural Science.

68. On September 20, the Vice Secretary-General and the aforementioned persons visited the Department of Agriculture of Shaanxi province, where they were received by Mr. Shi Zhicheng, Deputy Director of the Department. They subsequently visited the Department of Forestry of Shaanxi province in Xi'an.

69. On September 23, the Vice Secretary-General and the aforementioned persons visited officials of the Science and Technology Commission of Jiangsu province, the Academy of Agricultural Science of Jiangsu province and of the Department of Agriculture of Jiangsu province and answered questions on plant variety protection.

70. On November 21, the Vice Secretary-General received the visit of Mr. Ian Hunter of the Department of Agriculture and Fisheries of Hong Kong, which has been instructed to draw up a draft plant variety protection law. The following day, Mr. Hunter, accompanied by an official of the Office of the Union, visited the Swiss Plant Variety Protection Office in Berne.

71. On November 28, in connection with the national seminar in Pakistan referred to in paragraph 32, above, the Vice Secretary-General, Mr. Hiroki Tanaka (Japan), Mr. Bill Whitmore (New Zealand) and an official of the Office of the Union met a group of senior officials responsible for varieties and seed, particularly Mr. Syed Irfad Ahmad, Director of the Federal Department of Seed Certification, and Mr. Akhlaq Hussain, Director of the National Department of Seed Registration. They also visited the Institute for Plant Genetic Resources of the National Research Center.

72. On November 30, in connection with the national seminar in Malaysia referred to in paragraph 32, above, the Vice Secretary-General and the aforementioned persons met a group of senior officials led by Mr. Y. Bhg. Dato' Abdul Jamil Mohd. Ali, Director General for Agriculture.

73. On December 2, the Vice Secretary-General and the aforementioned persons visited Mr. Hamzah Chin, Deputy Director General (Production Development) in the Department of Agriculture and Chairman of the Organizing Committee of the Seminar, and Mr. Ramli Modiran, Director of Production Development.

74. On December 6, in connection with the national seminar in Indonesia referred to in paragraph 32, above, the Vice Secretary-General and the aforementioned persons met Mr. Achmid Saubari Prasodjo, Secretary of the Directorate General of Food Plants and Horticulture, and other senior officials of that Directorate. They also met Mr. H.A. Soedarsan, Chairman of the Indonesian Committee for Plant Genetic Resources and also of "P.T. Aneka Pionirperkasa Perkebunan," a body that coordinates research activities in plantation species.

75. On December 9, in connection with the national seminar in the Philippines referred to in paragraph 32, above, the Vice Secretary-General and the aforementioned persons met Mr. Manuel Lantin, Under Secretary in the Department of Agriculture, a group of senior officials and the legal assistant of a senator.

States of Europe and Central Asia⁷

Countries in Transition to Market Economy

76. On January 27, the Secretary-General wrote to Mr. David Gabunia, Chairman of the Georgian Patent Office, concerning the procedure for accession to the UPOV Convention.

77. On February 14, the Office of UPOV despatched to Mr. Eugen M. Stashkov, Director General of the State Office for the Protection of Industrial Property (AGEPI) its comments on a draft law for the protection of new plant varieties in the Republic of Moldova.

78. On February 18, Mr. Tolesh E. Kaudyrov, Chairman of the National Patent Office of Kazakhstan, visited the Office of the Union and was given the comments of the Office on a draft law for the protection of plant varieties in Kazakhstan.

79. On the same day, the Office of the Union received a draft law for the protection of new plant varieties of Uzbekistan.

80. On February 21, the Vice Secretary-General received the visit of Mr. Valery I. Kudashov, Head of the State Patent Office of Belarus.

81. On February 25, the Office of the Union received a letter dated February 21, from the Government of Ukraine requesting the advice of the Council of UPOV on the conformity of the law on plant variety protection of Ukraine with the 1978 Act of the Convention.

82. On March 2, the Vice Secretary-General met the Chairman of the All-Russia State Commission for Agricultural Crop Variety Testing at the Ministry of Agriculture and also senior officials of the Commission. He was handed a letter signed by Mr. A.G. Efremov, Vice-Minister of Agriculture, requesting the advice of the Council of UPOV on the conformity of the laws of the Russian Federation with both the 1978 and the 1991 Acts of the Convention.

⁷ See also paragraphs 99 (European Community), 103 (Belarus), 108 (Russian Federation and CIS countries).

83. On April 11 and 12, the Vice Secretary-General received the visit of Dr. Stanislav I. Grib, Vice Director, Scientific Research Institute of Arable Farming and Fodder of Belarus, and Mrs. Natalia A. Barkoun, Deputy Head of Division at the State Patent Office, who discussed with him the draft law of Belarus for the protection of plant varieties.

84. On April 18, the Office of the Union received a letter from Mr. Roland Nymann, Director of the Estonian Seed and Variety Testing Inspection in Tallinn, enclosing a copy of a law for the protection of plant varieties and asking for the advice of the Office of the Union on its conformity with the Convention.

85. On May 18, the Secretary-General wrote to Mr. Rimvydas Naujokas, Director of the State Patent Bureau of the Republic of Lithuania, concerning the preparation of a law on plant variety protection in his country.

86. On September 29, the Vice Secretary-General received the visit of Mr. Roman Omorov, Head of the Patent Department of the State Committee for Science and New Technologies of Kyrgyzstan, who handed to him a draft of the proposed plant variety protection law of his country.

87. On October 12, the Vice Secretary-General met Mr. Georgy Poliakov, Deputy Director of the Patent Office of the Republic of Latvia, and discussed the plant variety protection situation in his country.

88. On October 13, the Vice Secretary-General received the visit of Mr. Alexandru Cristian Strenc, Deputy Director General of the State Office for Inventions and Trademarks of Romania, and Dr. Kristo Iliev, President of the Patent Office of Bulgaria, and discussed with them the plant variety protection situation in their countries.

89. On October 24, the Vice Secretary-General received the visit of Mr. Pyotr V. Zeleny, Vice-President of the Patent Office of Belarus, who informed him of the progress of the draft plant variety protection law.

90. On October 27, the Vice Secretary-General received the visit of Mr. Rimvydas Naujokas, Director of the Patent Office of Lithuania, who informed him of the adoption by Parliament of a plant variety protection law. That protection was the responsibility of the Ministry of Agriculture.

91. Also on October 27, the Vice Secretary-General received the visit of Mr. Eugen M. Stashkov, Director General of the State Office for the Protection of Industrial Property of the Republic of Moldova (AGEPI), and discussed with him possible technical assistance by one of the member States.

92. On October 28, the Vice Secretary-General communicated to Mr. Akil A. Azimov, Director of the State Patent Office of Uzbekistan, comments on the draft plant variety protection law.

93. On November 8, the Vice Secretary-General received the visit of Mrs. Adriana Paraschiv, Head of Division in the State Office for Inventions and Trademarks of Romania, and discussed with her the measures to be taken to further the draft plant variety protection law.

Other States

94. On October 20, the Office of the Union sent a letter to the Industrial Property Organization of Greece concerning the conditions for acceding to the Union.

VI. RELATIONS WITH ORGANIZATIONS

Intergovernmental Organizations⁸

95. On May 17, the Vice Secretary-General gave a lecture on plant variety protection and the UPOV Convention to participants at the WIPO Academy for Spanish speakers.

96. On June 16, the Vice Secretary-General gave a lecture on plant variety protection and biotechnology to participants at the WIPO Academy for English speakers of the Asian and Pacific region.

97. On June 30 and July 1, the Vice Secretary-General participated in the first meeting of the Subregional Committee for the Protection of Plant Varieties established under Article 38 of Decision 345 of the Commission of the Cartagena Agreement, in Lima (Peru). The Office of the Union was given adviser status by the Committee.

98. On October 12, the Secretary General received the visit of Mr. Ismail Serageldin, Vice-President of the World Bank, responsible for environmentally sustainable development and Chairman of the Consultative Group for International Agricultural Research (CGIAR), and discussed intellectual property questions related to plant varieties and CGIAR's policies on the subject.

99. On November 8, the Vice Secretary-General received the visit of Mr. Dieter Obst, Deputy Head of Unit, Directorate General for Agriculture of the Commission of the European Communities, and Mr. Jürgen A. Tiedje, administrator in that unit, and discussed with them several matters of joint interest.

100. From November 7 to 11, an official of the Union participated in the first extraordinary session of the Commission for Plant Genetic Resources of the Food and Agriculture Organization of the United Nations (FAO) in Rome (Italy).

101. On November 28, an official of the Union participated in the twenty-sixth session of the Wine Breeding Expert Group of the International Vine and Wine Office (OIV), in Paris (France), before which he gave a brief presentation.

102. On December 19, the Vice Secretary-General wrote to Mr. Ismail Serageldin, Vice-President of the World Bank and Chairman of CGIAR, to inform him that UPOV was prepared to discuss with CGIAR the terms of a possible program of cooperation for the benefit of developing countries.

Non-governmental Organizations

103. On April 13, an official of the Union visited Mr. Bernard Le Buanec, Secretary General of the International Federation of the Seed Trade (FIS) and of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) in Nyon (Switzerland), and also visited the Federal Agricultural Research Station at Changins near Nyon together with the delegation from Belarus.

⁸ See also paragraphs 42 (World Bank), 113 (Provisional Secretariat of the Convention on Biological Diversity).

104. On May 11, the Vice Secretary-General received the visit of Mr. Bernard Le Buanec, Secretary General of FIS and ASSINSEL.

105. From May 30 to June 3, the Vice Secretary-General participated in the World Congresses of FIS and ASSINSEL, which were held in Ostend (Belgium).

106. From September 5 to 7, the Vice Secretary-General participated in a symposium on the prospects of cereal breeding in Europe organized on behalf of the European Association for Research in Plant Breeding (EUCARPIA), at Landquart (Switzerland), by the Swiss Federal Agricultural Research Station and gave a presentation on developments in protection under the UPOV Convention.

107. On September 27, the Vice Secretary-General was a guest participant in "Asian Seed 1994," a conference held in Chiangmai (Thailand) on current markets and technical developments in the Asian and Pacific region, which incorporated the foundation meeting of the Asia and Pacific Seed Association.

VII. OTHER EXTERNAL RELATIONS

108. From March 1 to 3, the Vice Secretary-General participated in an International Seminar on the Eurasian Patent Convention and the Legal Protection of Industrial Property in the Countries of the Community of Independent States (CIS) in Moscow (Russian Federation) and gave a paper on the subject of the UPOV Convention.

109. On March 23, the Vice Secretary-General and an official of the Union attended a reception in Paris (France) to mark the presentation of the Cross of Knight of the Legion of Honor to Mr. Roland Petit-Pigeard, Director General of the Caisse de gestion des licences végétales.

110. On March 31, the Vice Secretary-General received the visit of Mr. R.M.A. Loyns, Professor of Marketing in the Department of Agricultural Economics of the University of Manitoba at Winnipeg (Canada), and Mr. Maurice Kraut, President of the Agricultural Consulting Company Limited of Winnipeg, and Mrs. Karla Funk, of the same firm, who were working on a consultancy project for the Canadian Government.

111. On June 2, the Office of the Union received the visit of Professor Anil K. Gupta, of the Center for Management in Agriculture of the Indian Institute of Management.

112. On June 20, the Vice Secretary-General participated in a session of the Fourth International Congress of Plant Molecular Biology in Amsterdam (Netherlands), organized by the International Society for Plant Molecular Biology, at which he gave a lecture on the 1991 Act of the Convention.

113. On November 17, the Vice Secretary-General received the visit of Mr. Lyle Glowka, a lawyer from the United States of America, who was working with the Provisional Secretariat of the Convention on Biological Diversity.

114. On December 14, the Japanese television organization NHK recorded at the Office of the Union part of a special program on recent developments in molecular biology; the program also concerned varieties obtained by genetic engineering and plant variety protection.

VIII. PUBLICATIONS

115. The Office of the Union published:

(i) the 1978 and 1991 Acts of the UPOV Convention in Chinese and the 1991 Act in Dutch;

(ii) a new 1994 edition of the information leaflet on UPOV and plant variety protection in Arabic, English, French, German, Russian and Spanish;

(iii) three issues of the periodical "Plant Variety Protection;"

(iv) one supplement to Part I of the Collection of Important Texts and Documents in English, French, German and Spanish and one trilingual supplement to Part II (Test Guidelines);

(v) one supplement and an index to the Collection of Laws and Treaties;

(vi) the records, in English and Spanish, of the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention held in Buenos Aires (Argentina), on November 26 and 27, 1991;

(vii) the records, in English, of the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention held in Nairobi (Kenya), on May 28 and 29, 1993;

(viii) the records, in Chinese and English, of the Seminar on the Nature of and Rationale for the Protection of Plant Varieties under the UPOV Convention held in Beijing (China), from September 15 to 17, 1993.

MEMBERSHIP OF THE UNION (as at May 31, 1995)

State	Date of Signature ¹	Date of Deposit of Instrument ^{1,2}	Date Upon Which State Became Bound ¹
Argentina	-	-	-
	-	-	-
	-	November 25, 1994	December 25, 1994
	-	-	-
Australia	-	-	-
	-	-	-
	-	February 1, 1989	March 1, 1989
	-	-	-
Austria	-	-	-
	-	-	-
	-	June 14, 1994	July 14, 1994
	-	-	-
Belgium	December 2, 1961	November 5, 1976	December 5, 1976
	November 10, 1972	November 5, 1976	February 11, 1977
	October 23, 1978	-	-
	March 19, 1991	-	-
Canada	-	-	-
	-	-	-
	October 31, 1979	February 4, 1991	March 4, 1991
	March 9, 1992	-	-
Czech Republic	-	-	-
	-	-	-
	-	-	January 1, 1993
	-	-	-
Denmark	November 26, 1962	September 6, 1968	October 6, 1968
	November 10, 1972	February 8, 1974	February 11, 1977
	October 23, 1978	October 8, 1981	November 8, 1981
	March 19, 1991	-	-
Finland	-	-	-
	-	-	-
	-	March 16, 1993	April 16, 1993
	-	-	-

[continued]

¹ First line: International Convention for the Protection of New Varieties of Plants of December 2, 1961
Second line: Additional Act of November 10, 1972
Third line: Act of October 23, 1978
Fourth line: Act of March 19, 1991

² of ratification where the State has signed the Convention or the Additional Act, as the case may be; of ratification, acceptance or approval if the State has signed the Act of 1978; of accession where it has not signed the text concerned.

MEMBERSHIP OF THE UNION (as at May 31, 1995)

State	Date of Signature ¹	Date of Deposit of Instrument ^{1,2}	Date Upon Which State Became Bound ¹
France	December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991	September 3, 1971 January 22, 1975 February 17, 1983 -	October 3, 1971 February 11, 1977 March 17, 1983 -
Germany	December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991	July 11, 1968 July 23, 1976 March 12, 1986 -	August 10, 1968 February 11, 1977 April 12, 1986 -
Hungary	- - - -	- - March 16, 1983 -	- - April 16, 1983 -
Ireland	- - September 27, 1979 February 21, 1992	- - May 19, 1981 -	- - November 8, 1981 -
Israel	- - - October 23, 1991	November 12, 1979 November 12, 1979 April 12, 1984 -	December 12, 1979 December 12, 1979 May 12, 1984 -
Italy	December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991	June 1, 1977 June 1, 1977 April 28, 1986 -	July 1, 1977 July 1, 1977 May 28, 1986 -
Japan	- - October 17, 1979 -	- - August 3, 1982 -	- - September 3, 1982 -
Mexico (not yet member)	- - July 25, 1979 -	- - - -	- - - -
Netherlands	December 2, 1961 November 10, 1972 October 23, 1978 March 19, 1991	August 8, 1967 January 12, 1977 August 2, 1984 -	August 10, 1968 February 11, 1977 September 2, 1984 -
New Zealand	- - July 25, 1979 December 19, 1991	- - November 3, 1980 -	- - November 8, 1981 -

[continued]

MEMBERSHIP OF THE UNION (as at May 31, 1994)

State	Date of Signature ¹	Date of Deposit of Instrument ^{1,2}	Date Upon Which State Became Bound ¹
Norway	-	-	-
	-	-	-
	-	August 13, 1993	September 13, 1993
	-	-	-
Poland	-	-	-
	-	-	-
	-	October 11, 1989	November 11, 1989
	-	-	-
Slovakia	-	-	-
	-	-	-
	-	-	January 1, 1993
	-	-	-
South Africa	-	October 7, 1977	November 6, 1977
	-	October 7, 1977	November 6, 1977
	October 23, 1978	July 21, 1981	November 8, 1981
	March 19, 1991	-	-
Spain	-	April 18, 1980	May 18, 1980
	-	April 18, 1980	May 18, 1980
	-	-	-
	March 19, 1991	-	-
Sweden	-	November 17, 1971	December 17, 1971
	January 11, 1973	January 11, 1973	February 11, 1977
	December 6, 1978	December 1, 1982	January 1, 1983
	December 17, 1991	-	-
Switzerland	November 30, 1962	June 10, 1977	July 10, 1977
	November 10, 1972	June 10, 1977	July 10, 1977
	October 23, 1978	June 17, 1981	November 8, 1981
	March 19, 1991	-	-
United Kingdom	November 26, 1962	September 17, 1965	August 10, 1968
	November 10, 1972	July 1, 1980	July 31, 1980
	October 23, 1978	August 24, 1983	September 24, 1983
	March 19, 1991	-	-
United States of America	-	-	-
	-	-	-
	October 23, 1978	November 12, 1980	November 8, 1981
	October 25, 1991	-	-
Uruguay	-	-	-
	-	-	-
	-	October 13, 1994	November 13, 1994
	-	-	-

D E N M A R K

PLANT NOVELTIES ACT*

No. 866 of December 23, 1987,
as Amended by Act No. 1107 of December 21, 1994

CHAPTER 1

Scope of the ActSection 1

1. A variety of cultivated plant may be protected as a plant novelty if it
 - (1) belongs to a species or genus for which the Minister for Agriculture has specified that this Act shall apply to it,
 - (2) is distinguishable by one or more features from any other variety whose existence is a matter of common knowledge at the date of application,
 - (3) is sufficiently homogeneous,
 - (4) is stable in its particular features (essential characteristics) when propagated, provided that such propagation is carried out in accordance with the system which the breeder has indicated,
 - (5) has not been offered for sale or sold with the consent of the variety owner
 - (a) in this country prior to the making of the application or
 - (b) abroad for longer than four years or, in the case of grapevines, trees and their rootstocks, for longer than six years, and
 - (6) satisfies at the time of the granting of protection the conditions therefor.
2. To be entitled to obtain protection for a variety, the breeder or any person who has acquired the rights in the variety (variety owner) must
 - (1) have his place of residence or his registered office in this country or in a member State of the European Communities, or
 - (2) be a national of, or have his place of residence or his registered office in a State which is a member of the International Union for the Protection of New Varieties of Plants (UPOV).

* Danish Title: Lov om Plantenyheder

English translation prepared by the Office of the Union.

Section 2

1. The Minister for Agriculture may, in exceptional cases, approve the protection of a variety which does not satisfy the condition laid down in Section 1, subsection 1, paragraph (5), if it is found to be in the interest of the agricultural economy.

2. Notwithstanding the provisions of Section 1, subsection 2, a variety may be protected if

- (1) an agreement for reciprocity has been entered into with the State in which the variety owner has his place of residence or his registered office, with respect to the protection of varieties of the relevant species,
- (2) a variety bred in this country may be protected in the relevant State to the same extent as a variety bred in that State, or
- (3) the variety is otherwise found to be of interest to the agricultural economy.

CHAPTER 2

The Application

Section 3

1. An application for entry of a variety in the Register of Plant Novelties shall be made to the Board for Plant Novelties by the variety owner. Where the variety owner does not have his place of residence or his registered office in a member State of the European Communities, the application shall be made by an agent having his place of residence or his registered office in this country and appointed by the variety owner.

2. The applicant shall substantiate his entitlement to make an application in respect of the variety with the Board for Plant Novelties (see Section 22). Where the applicant is the agent on behalf of the variety owner, the applicant shall produce evidence of his authority to represent the variety owner in all matters relating to the application and the registration.

3. The Board may request from the applicant all information deemed necessary for entertaining the application and may prescribe a time limit in that respect. The Board may also request that material for use in the examination (see Section 9) be furnished by a prescribed date.

4. An application fee shall be paid at the time of the making of the application.

Section 4

1. The application shall be recorded, upon receipt, in the Journal kept by the Board for Plant Novelties, and a copy of the application bearing a mention by the Board for Plant Novelties of its recording shall be sent back forthwith to the applicant. The Board for Plant Novelties shall publish a notice of the application.

2. The Journal shall be open to the public. This shall not apply to information concerning the genealogical components of hybrid varieties and their description if the applicant has requested that the information be treated as confidential.

Section 5

The Board for Plant Novelties may remove an application from the Journal if the applicant does not submit the information or the testing material requested by the Board pursuant to Section 3, subsection 3, within the time limit prescribed by the Board.

Section 6

1. As from the date of application the applicant shall have priority in respect of the securing of protection for the variety in relation to any other person who subsequently makes an application for the protection of the same variety.

2. At the request of the applicant, the Board for Plant Novelties may set the priority of the application at the date of the first application for the protection of the variety made in a member State of the International Union for the Protection of New Varieties of Plants (UPOV), if the first application has been filed within the preceding 12 months. The request shall be made with the application in this country and shall be accompanied by evidence of the receipt of the first application.

Section 7

As soon as possible after the recording of the application in the Journal, the Board for Plant Novelties shall carry out a provisional examination to check whether the variety may be deemed to satisfy the conditions for protection. Where it finds upon such examination that the conditions for protection may be deemed to be satisfied, the Board shall publish a notice of the application together with a request to all interested parties to submit their objections to the registration of the variety within a certain period.

Section 8

1. The Board for Plant Novelties shall refer any objection to the applicant's entitlement to make an application in respect of the variety to the ordinary courts of law for decision. Where the Board is notified of such legal proceedings, it shall make the appropriate annotation on the application.

2. Where the Board decides by reason of other objections to remove the application from the Journal and to discontinue the examination, it shall publish a notice thereon.

CHAPTER 3

Examination and RegistrationSection 9

1. Before a variety which is the subject of an application can obtain protection (see, however, Section 21), the Board for Plant Novelties shall cause an examination to be made to ascertain whether the variety satisfies the conditions therefor, and whether it has the particular features mentioned in the application.
2. The Board may decide that the examination of a variety may be shortened or omitted if the variety has previously been examined by an official testing authority.
3. The applicant may be required to pay a fee to cover the cost of the examination.

Section 10

1. Where, after completion of the examination, the Board for Plant Novelties finds that the variety satisfies the conditions for protection, the Board shall enter the variety into the Register of Plant Novelties under a variety denomination that will have been approved by the Minister for Agriculture, and shall publish a notice thereon.
2. Where legal proceedings are pending (see Section 8, subsection 1), a note thereto shall be made in the Register of Plant Novelties.

Section 11

1. The plant novelty shall be designated by the approved variety denomination. This shall apply even after the expiration of protection.
2. It shall be permitted to use a supplementary designation for the plant novelty in association with the variety denomination.
3. At the request of the variety owner, the Board for Plant Novelties may, in special cases, permit that the plant novelty be given another denomination than the one originally approved.
4. The Minister for Agriculture shall lay down regulations concerning the naming of plant novelties.

Section 12

1. Simultaneously with the publication of the registration, the Board for Plant Novelties shall draw up a certificate of protection, which shall be issued to the applicant against payment of a registration fee. The certificate of protection shall be valid for a period of one year, and the period of validity may be extended by one year at a time for up to 25 years, and for potato varieties up to 30 years, reckoned from the date of issue of the certificate of protection (see, however, Section 21, subsection 1).

2. The period of validity of the certificate of protection may be extended upon payment of an annual registration fee to the Board for Plant Novelty.

Post-control

Section 13

1. The Board for Plant Novelty may carry out post-control to ascertain whether the plant novelty is satisfactorily maintained by the variety owner.

2. The variety owner shall make available, within the time limit prescribed by the Board for Plant Novelty, the plant material necessary for the post-control to be carried out by the Board.

Removal

Section 14

1. The Board for Plant Novelty shall remove a plant novelty from the Register of Plant Novelty if

- (1) it is shown that at the time of registration, the plant novelty did not satisfy the conditions for entry laid down in Section 1,
- (2) the Board finds during its post-control that the plant novelty has not been satisfactorily maintained,
- (3) the variety owner requests it from the Board in writing, or
- (4) the annual registration fee has not been paid.

2. The Board for Plant Novelty may further remove a plant novelty from the Register of Plant Novelty if, at the expiration of the time limit prescribed by the Board, the variety owner has not complied with the Board's request that he make available the material necessary for the purposes of post-control.

3. The removal shall take place two months after the receipt by the variety owner of a notification of the decision of the Board for Plant Novelty, unless the matter is brought before the courts of law by the variety owner before the expiration of that period.

Section 15

Once removed from the Register of Plant Novelty, a plant novelty cannot be re-entered into the Register. The Board for Plant Novelty shall publish a notice of the removal and the reason therefor.

CHAPTER 4

Scope of Protection**Section 16**

1. A plant novelty may be used for the purpose of commercial propagation with a view to selling propagating material only with the permission of the variety owner, and only under the terms and conditions specified by him, including terms and conditions concerning payment of a royalty.
2. Any person who propagates a plant novelty commercially with a view to selling propagating material, or sells propagating material thereof, shall give to the variety owner all information that is needed to compute and collect the royalty due to the latter.
3. The Minister for Agriculture may prescribe by regulations that any person propagating plant novelties of specified species for commercial use in his own business shall pay a royalty to the variety owner.

Section 17

Plant novelties may be freely used for breeding activities.

The Duty of the Variety Owner in Respect of Supplies, Etc.**Section 18**

To the extent that is necessary to ensure that the agricultural sector is supplied with plant material, the variety owner shall execute, either himself or through others, orders for suitable propagating material of the plant novelty within a reasonable time.

Section 19

1. The terms and conditions stipulated by the variety owner (see Section 16, subsection 1) may only concern the commercial propagation of the plant novelty, the offers for sale and the sale of propagating material thereof, including the royalty. The terms and conditions shall be reasonable and identical for all producers.
2. Any dispute as to whether the terms and conditions stipulated by the variety owner are reasonable may be referred to the Terms Board for Plant Novelties (see Section 22, subsection 1). Where the Board finds that the terms and conditions are unreasonable, it may order the variety owner to alter them.
3. The variety owner may not demand a royalty for the use of a supplementary designation (see Section 11, subsection 2) registered as a trademark until after the expiration of a period of 25 years reckoned from the date of issue of the certificate of protection for the plant novelty, irrespective of whether the registration is maintained throughout the period.

4. Subsection 3 shall not apply to propagating material of a variety protected in this country if the propagating material originates from a State which has not protected the variety.

Section 20

1. Where the variety owner refuses a request for permission to propagate or an order for propagating material, the matter may be referred to the Terms Board for Plant Novelties. Where the Board finds that the refusal was unjustified, it may order the variety owner to grant the desired permission and to supply suitable propagating material to anyone who, in the judgment of the Board, may be deemed to be able to propagate or use the plant novelty in a satisfactory manner.

2. Where the Minister for Agriculture considers it necessary to ensure the wide distribution of a plant novelty or to prevent substantial deterioration of the conditions for a branch of industry, he may, after consultation with the Terms Board for Plant Novelties, order the variety owner to give anyone who is found by the Board to be qualified, permission to commercially propagate and sell propagating material of a plant novelty and order him to execute, either himself or through others, orders from the person concerned for suitable propagating material of the plant novelty within a reasonable time.

Use During the Period of Application

Section 21

1. The terms and conditions referred to in Section 16, subsection 1, may be asserted by the variety owner in the period between the making of the application in respect of a variety and the latter's entry in the Register of Plant Novelties (period of application), provided the variety owner notifies the Board for Plant Novelties thereof and complies as from the time of such notice to the obligation set out in Section 18. In that case, the period of protection referred to in Section 12 shall be reckoned from the date of entry of the notice in the Journal kept by the Board for Plant Novelties. The provisions of Sections 11 and 20 shall apply mutatis mutandis during the period of application.

2. Any royalty collected during the period of application shall be deposited by the producer in a blocked account with a financial institution in favor of the variety owner. The amount shall be released if the variety is entered in the Register of Plant Novelties. Otherwise the deposited amount, including accrued interest, shall be repaid to the producer.

3. If the application with respect to a variety is withdrawn, or if the entry of the variety in the Register of Plant Novelties is refused, the variety can be used freely for propagation. A producer who has used the variety for propagation during the period of application shall be in the same position as if an unprotected variety had been used.

CHAPTER 5

Administration

Section 22

1. The Minister for Agriculture shall set up a board, the Board for Plant Novelties, to administer the provisions of Chapters 2 and 3, and a board, the Terms Board for Plant Novelties, to deal with disputes concerning terms and conditions of licences (see Chapter 4).
2. The Board for Plant Novelties shall consist of a chairman, who shall be appointed by the Minister, and up to 6 members, who shall be appointed by the Minister after consultation with the Government Committee for Crop Husbandry and the Forestry Research Commission.
3. The Terms Board for Plant Novelties shall consist of a chairman, a graduate in law, who shall be appointed by the Minister, and up to 5 members, who shall be appointed by the parties to the dispute concerned.
4. The Minister for Agriculture may lay down regulations concerning the publication of notices from the Board for Plant Novelties pursuant to Section 4, subsection 1, Section 7, Section 8, subsection 2, Section 10, subsection 1, Section 15 and Section 21, subsection 1, and concerning the making of applications pursuant to Section 3.

Complaints

Section 23

The decisions made by the Board for Plant Novelties pursuant to Chapters 2 and 3 and the decisions made by the Terms Board for Plant Novelties pursuant to Chapter 4 cannot be the subject of an action before any other administrative authority.

Notifications, etc.

Section 24

Where the variety owner does not have his place of residence or his registered office in this country, notifications, etc. may be served on an agent having his place of residence or his registered office in this country. In all other cases notifications, etc. shall be served in accordance with Section 159 of the Administration of Justice Act.

Fees

Section 25

The Minister for Agriculture shall fix the amount of the fees to be collected pursuant to Section 3, subsection 4, and Section 12, subsection 2, and may further fix fees to cover, in whole or in part, the cost of the examination pursuant to Section 9, subsection 3.

CHAPTER 6

OffencesSection 26

1. Any person who contravenes Section 16, subsection 1 or 2, shall be liable to a fine. Contravention of the said provisions shall be subject to private prosecution.

2. Any person who

(1) contravenes Section 11, subsection 1, or

(2) fails to comply with an order under Section 19, subsection 2, second sentence, or Section 20, subsection 1, second sentence

shall likewise be liable to a fine.

3. Any regulations issued pursuant to Section 11, subsection 4, and Section 16, subsection 3, may provide for contravention of the provisions of the regulations to be punished with a fine.

4. Where offences are committed by joint stock companies, private limited companies, cooperative societies, or the like, the liability to pay a fine may be imposed on the company, etc. as such. Where an offence is committed by a local authority or by an intermunicipal enterprise (see Section 60 of the Local Government Administration Act), the liability to pay a fine may be imposed on such local authority or intermunicipal enterprise.

Entry Into Force, etc.Section 27

1. This Act shall enter into force on January 1, 1988.¹

2. At the same time Law No. 205 of June 16, 1962, on the Protection of Plant Breeders' Rights shall be repealed.

3. The provisions laid down under the Law referred to in subsection 2 shall remain in force until repealed by the Minister for Agriculture. Contravention of the provisions shall be punishable by a fine.

Section 28

1. The provisions of Section 19, subsection 3, shall apply to

(1) plant novelties registered on or after January 1, 1988, and

¹ The amendment entered into force on January 1, 1995.

- (2) registered plant novelties where, after the entry into force of this Act, the variety owner asserts the right to an extended period of protection as set out in Section 12 of this Act.

Section 29

This Act shall not extend to the Faroe Islands and Greenland.

NEW ZEALAND

Plant Variety Rights Act 1987*

Number 5 of 1987

as amended by the Plant Variety Rights Amendment Act 1990 of August 1, 1990,
and the Plant Variety Rights Amendment Act 1994 of July 1, 1994

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Section 1**Short Title and Commencement**

1. This Act may be cited as the Plant Variety Rights Act 1987.
2. This Act shall come into force on a day to be fixed by the Governor-General by Order in Council.¹

* Full title: An Act to Consolidate and Amend the Law Relating to the Granting of Proprietary Rights in Respect of Plant Varieties [21 February 1987].

¹ Date of entry into force: June 16, 1988.

Section 2

Interpretation

In this Act, unless the context otherwise requires,--

"Applicant", in relation to any application, means the person by whom or on whose behalf that application is made:

"Application", except in section 12 of this Act, means an application for a grant:

"Assistant Commissioner" means an Assistant Commissioner of Plant Variety Rights appointed under section 30(1)(b) of this Act:

"Commissioner" means the Commissioner of Plant Variety Rights appointed in accordance with section 30(1)(a) of this Act; and includes an Assistant Commissioner:

"Denomination", in relation to any protected variety, or any variety that was a protected variety until the grant made in respect of it expired, means the distinguishing name or identification approved for that variety by the Commissioner under section 10(2)(a) of this Act:

"Grant" means a grant of plant variety rights under this Act:

"Grantee" means the holder of a grant; and, in relation to a protected variety, means the holder of a grant in respect of that variety:

"International agreement" means any bilateral or multilateral treaty, convention, or agreement, to which New Zealand is a party, and any understanding concluded by the Government of New Zealand and the government of any other country:

"Journal" means the Plant Variety Rights Journal required to be published by section 34(1) of this Act:

"Minister" means the Minister of the Crown for the time being responsible for the administration of this Act:

"Ministry" means the department of State for the time being responsible for the administration of this Act:

"Office" means the Plant Variety Rights Office established under section 28(1) of this Act:

"Owner", in relation to any variety, means a person who bred or discovered that variety, and includes a successor of that person:

"Plant" --

(a) Includes a fungus; but

(b) Does not include an alga or a bacterium:

"Protected variety" means a variety in respect of which a grant is in force:

"Publication" means public notification; and includes publication in the Journal:

"Reproductive material", in relation to any variety, means any portion of a plant of that variety by means of which plants of that variety may be reproduced or propagated; and includes spores, seeds, and whole plants:

"Sale" includes any disposition for valuable consideration and any offer for sale; and "sell" and "sold" have corresponding meanings:

"Secretary" means the chief executive of the Ministry:

"UPOV country" means an overseas country that is a member State of the International Union for the Protection of New Varieties of Plants, constituted pursuant to the international agreement called the International Convention for the Protection of New Varieties of Plants:

"Variety" means a cultivar, or cultivated variety, of a plant, and includes any clone, hybrid, stock, or line, of a plant; but does not include a botanical variety of a plant.

Section 3

[Repealed]

Section 4

Act to Bind the Crown

This Act shall bind the Crown.

Part I

GRANTS OF PLANT VARIETY RIGHTS

Section 5

Applications

- (1) Every application shall be made on a form provided by the Commissioner; and shall--
 - (a) Be accompanied by the quantity of seed (if any) prescribed in respect of varieties of the kind concerned; and
 - (b) Be completed and signed by or on behalf of the applicant; and
 - (c) Nominate an address for service in relation to that application (being an address within New Zealand); and
 - (d) Be accompanied by the prescribed application fee.
- (2) Within the prescribed period after making an application, the applicant shall give to the Commissioner--
 - (a) In such detail as the Commissioner requires, a description--
 - (i) Of the origin and breeding of the variety concerned; and
 - (ii) On a form provided by the Commissioner for the purpose, of the botanical features of that variety; and
 - (iii) Of those aspects of that variety that, in the opinion of that applicant, distinguish it from those other varieties whose existence was a matter of common knowledge at the time of that application; and
 - (b) A proposed denomination for that variety; and
 - (c) The prescribed trial or examination fee.

(3) Within the prescribed period after being requested by the Commissioner to do so, an applicant shall give to the Commissioner either or both of the following in relation to the application concerned:

(a) Such reproductive material of the variety concerned as the Commissioner specifies:

(b) Any other information that the Commissioner thinks relevant to that application and requests from that applicant.

(4) An application that complies with subsection (1) of this section at the time it is received at the Office shall, for the purposes of this Act, be deemed to be made at that time.

(5) An application that does not comply with subsection (1) of this section at the time it is received at the Office shall, for the purposes of this Act, be deemed to be made at the time at which it first complies with that subsection while being held at the Office.

(6) If satisfied that an application complies with subsection (1) of this section, the Commissioner shall--

(a) Notify in the Journal the making of that application; and

(b) Advise the applicant accordingly.

(7) The Commissioner shall notify in the Journal every proposed denomination for a variety given to the Commissioner by any applicant that, in the opinion of the Commissioner, complies with the prescribed requirements.

Section 6

Objections Before Grant

(1) Any person who considers that the Commissioner should not approve a proposed denomination notified in the Journal may, within three months of its notification, by notice in writing to the Commissioner, object to the approval of that name.

(2) Any person who considers that an application has been made by or on behalf of an applicant who is not an owner of the variety concerned may, at any time before a grant is made to the applicant in respect of that variety, by notice in writing to the Commissioner, object to the making of a grant in respect of that variety to the applicant.

(3) Any person who considers that an application has been made in respect of a variety that is not new, distinct, stable, and homogeneous (as required by section 10 of this Act) may, at any time before a grant is made in respect of that variety, by notice in writing to the Commissioner, object to the making of a grant in respect of that variety.

(4) If an objection is made under this section, the Commissioner shall not make a grant in respect of the variety concerned before giving the applicant concerned and the objector a reasonable opportunity to be heard.

Section 7

Withdrawal or Lapse of Applications

- (1) Any application may be withdrawn by the applicant at any time before a grant is made in respect of it.
- (2) The withdrawal of an application shall not affect the liability of the applicant for any fees that may have become payable up to the date of that withdrawal.
- (3) If any information or material required to be given to the Commissioner under subsection (2) or subsection (3) of section 5 of this Act is not supplied within the prescribed period, the application concerned shall lapse upon the expiration of that period.

Section 8

Inspection of Applications

After an application is made, the Commissioner shall hold it and any document or instrument accompanying it or supplied subsequently pursuant to subsection (2) or subsection (3) of section 5 of this Act (or a copy of that document or instrument, certified by the Commissioner to be a true copy) available for public inspection during ordinary business hours of the Office.

Section 9

Provisional Protection

- (1) Subject to subsection (2) of this section, on and after the day on which an application is made, the applicant shall have the same rights to take proceedings under this Act as if on that day a grant had been made to the applicant in respect of the variety concerned.
- (2) The rights conferred by subsection (1) of this section shall be deemed never to have been conferred if--
 - (a) The application concerned is withdrawn or lapses; or
 - (b) The Commissioner declines to make a grant in respect of that application.

Section 10

Making of Grants

- (1) The Commissioner shall--
 - (a) Subject to sections 11 and 31(2) of this Act, make a grant in respect of every application that is eligible for the making of a grant; and

- (b) Decline to make a grant in respect of every application that is not eligible for the making of a grant.
- (2) An application shall be eligible for the making of a grant if, and only if, the applicant has given the Commissioner all reproductive material of the variety concerned requested by the Commissioner, and the Commissioner--
- (a) Has approved for that variety a denomination proposed by the applicant; and
 - (b) Is satisfied that that applicant is an owner of that variety; and
 - (c) Has received the prescribed fee; and
 - (d) Is satisfied that that variety is new, distinct, homogeneous, and stable.
- (3) The Commissioner shall approve a proposed denomination for a variety if, and only if, in the opinion of the Commissioner, it complies with the prescribed requirements.
- (4) For the purposes of subsection (2)(d) of this section,--
- (a) Subject to subsection (6) of this section, a variety is new if there has been no sale of that variety with the agreement of any relevant owner of that variety--
 - (i) In New Zealand, for more than 12 months before the date on which that application was made; and
 - (ii) Overseas, for more than six years before that date in the case of a woody plant, or for more than four years before that date in every other case:
 - (b) A variety is distinct if it is distinguishable by one or more characteristics from any other variety whose existence was a matter of common knowledge when the application concerned was made:
 - (c) A variety is stable if, in its essential characteristics, it remains true to its description--
 - (i) Where the applicant concerned has described particular cycles of reproduction or multiplication for that variety, at the end of each such cycle; and
 - (ii) In every other case, after repeated propagation or reproduction.
- (5) In determining, for the purposes of subsection (2)(d) of this section, whether or not the Commissioner is satisfied that a variety is homogeneous, the Commissioner shall have regard to the particular features of its sexual reproduction or vegetative propagation (whichever is applicable to it).
- (6) Where, to increase the stock of a variety or for evaluation trials or tests of a variety, its owner makes arrangements under which--
- (a) Reproductive material of that variety is to be sold to or used by some other person; and
 - (b) Any unused portion of that reproductive material, and all the material of any sort produced from that reproductive material, is--
 - (i) To be sold to that owner, by that other person; or
 - (ii) Otherwise to become the property of that owner,--

for the purposes of subsection (4)(a) of this section, no account shall be taken of any sale under that arrangement of--

(c) Reproductive material of that variety by that owner to that other person; or

(d) Material of any sort of that variety by that other person to that owner.

(7) For the purposes of subsection (2)(d) of this section, a variety does not cease to be new by virtue only of the sale at any time of--

(a) Material that is not reproductive material; or

(b) Reproductive material disposed of for purposes other than reproduction,--

that, having been produced during the breeding, increase of stock, tests, or trials, of that variety, is not (or no longer) required for any of those activities.

(8) For the purposes of subsection (4)(b) of this section, the characteristics by which a variety may be distinguished from others may be morphological, physiological, or of any other kind or description, so long as those characteristics are capable of precise description and recognition.

Section 11

Varieties Bred or Discovered by Two or More Persons Independently

Subject to section 12 of this Act, where--

(a) Before a grant is made in respect of a variety, two or more applications in respect of that variety have been made; and

(b) The Commissioner is satisfied that the two or more applicants concerned are persons who, or successors of persons who, bred or discovered that variety independently; and

(c) The Commissioner is satisfied that, but for this section, each of those two or more applicants is or would be entitled to a grant in respect of that variety,--

the Commissioner shall make a grant to that one of those two or more applicants whose application in respect of that variety was made first.

Section 12

Priorities Resulting From Earlier Overseas Applications

(1) Where--

(a) Any person makes an application for a grant in New Zealand in respect of a variety in respect of which that person has earlier in a UPOV country made an equivalent application under the law of that country that has been accepted; and

(b) That application for a grant in New Zealand is made not more than 12 months after that equivalent application (or, if more than one equivalent application has been made, whether in one or in several countries, the earliest of them) was made; and

(c) A claim for priority in relation to that equivalent application accompanies the application for a grant in New Zealand; and

(d) Within three months of the making of that application for a grant in New Zealand, a copy of any documents constituting that equivalent application, certified as correct by the authority to which it was made, is submitted to the Commissioner,--

sections 10(4)(b) and 11 of this Act shall apply to that application for a grant in New Zealand as if it had been made when that equivalent application was accepted.

Section 13

Cancellation of Grants Because of Earlier Overseas Applications

Where--

(a) After a grant is made to any person in respect of a variety, another person makes an application in respect of that variety; and

(b) The Commissioner is satisfied that, if that grant had not already been made, that other person would, by virtue of section 12 of this Act, be entitled to a grant in respect of that application,--

the Commissioner shall cancel that grant, and shall make a new grant to the person who would be entitled to it if the cancelled grant had never been made.

Section 14

Date and Term of Grants

(1) The Commissioner shall seal every grant with the seal of the Office, and endorse it with the date of its making.

(2) Except as otherwise provided in this Act, every grant shall be in force for a term (commencing on the day it is made)--

(a) Of 23 years, or any longer period specified in that behalf by the Governor-General by Order in Council (made before, on, or after the day that grant is made, but before that grant expires), in the case of a woody plant or its rootstock; and

(b) Of 20 years in every other case;--

and, unless sooner cancelled, shall then expire.

(3) The Commissioner shall keep a register, and record in it the date and other prescribed particulars (if any) of every grant.

Section 15

Objections After Grant

- (1) Any person who considers that a grant has been made in respect of a variety that is not new, distinct, stable, and homogeneous (as required by section 10 of this Act) may at any time, by notice in writing to the Commissioner, object to the continuation in force of that grant.
- (2) Any person who considers that a grant was made to a person who was not an owner of that variety may, by notice in writing to the Commissioner, object to the continuation in force of that grant.
- (3) An objection under subsection (2) of this section may be accompanied by an application in respect of the variety concerned.

Section 16

Cancellation of Grants

- (1) The Commissioner may cancel a grant before the end of its term if so requested in writing by the grantee.
- (2) Subject to subsection (3) of this section, the Commissioner shall cancel a grant at any time during its term if satisfied--
 - (a) That any information supplied in the application concerned or in relation to that application was incorrect and that if the correct information had been known before that grant was made, the Commissioner would have declined to make that grant; or
 - (b) That the variety concerned was not, at the time of the application concerned, new and distinct within the meaning of section 10 of this Act; or
 - (c) That that variety is not stable and homogeneous within the meaning of section 10 of this Act; or
 - (d) That the grantee was not, at the time that grant was made, an owner of that variety; or
 - (e) That the grantee of that variety, after being requested by the Commissioner to provide the Commissioner (within a period specified by the Commissioner) with reproductive material capable of producing that variety with its characteristics as described when the grant was made, has failed to do so; or
 - (f) That that grantee, after being requested by the Commissioner to allow the Commissioner (within a period specified by the Commissioner) to inspect the measures taken for the maintenance of that variety, or to provide documents or information in relation to that variety, has failed to do so; or
 - (g) That any annual grant fee in relation to the grant has not been paid within the prescribed period; or
 - (h) That that grantee has failed to comply with any compulsory licence or compulsory sale order made against that owner under section 21 of this Act in relation to that variety.

(3) Before cancelling a grant under subsection (2) of this section, the Commissioner shall give the grantee written notice of intention to do so and, unless that grantee shows sufficient cause within 28 days of the date of the notice why that grant should not be cancelled, shall cancel that grant on the expiration of that period.

(4) Where--

(a) The Commissioner has cancelled a grant under subsection (2)(d) of this section; and

(b) Any application (other than the application in respect of which that grant was made) has at any time (whether before or after the making of that grant) been made in respect of the variety concerned,--

the Commissioner shall deal with all applications in respect of that variety as if that grant had never been made.

Section 17

Rights of Grantees

(1) Subject to section 19 of this Act, a grantee shall have the exclusive right--

(a) To produce for sale, and to sell, reproductive material of the variety concerned:

(b) If that variety is a plant of a type specified by the Governor-General by Order in Council for the purposes of this paragraph, to propagate that variety for the purposes of the commercial production of fruit, flowers, or other products, of that variety:

(c) Subject to any terms and conditions that grantee specifies, to authorise any other person or persons to do any of the things described in paragraph (a) or paragraph (b) of this subsection.

(2) Notwithstanding subsection (1) of this section the Minister may, by notice in the Journal, and after ensuring that the grantee under the grant concerned will be adequately compensated, impose such restrictions on the exercise of the rights of that grantee in respect of any specified variety as the Minister thinks necessary in the public interest during a national emergency.

(3) A grant may be assigned, mortgaged, or otherwise disposed of; and may devolve by operation of law.

(4) The rights of a grantee under a grant are proprietary rights, and their infringement shall be actionable accordingly; and in awarding damages (including any exemplary damages) or granting any other relief, a Court shall take into consideration--

(a) Any loss suffered or likely to be suffered by that grantee as a result of that infringement; and

(b) Any profits or other benefits derived by any other person from that infringement; and

(c) The flagrancy of that infringement.

(5) Where there is imported into New Zealand any reproductive material of a protected variety, any propagation, sale, or use, of that material--

(a) As reproductive material; and

(b) Without the authority of the grantee concerned,--

constitutes an infringement of the rights of that grantee under this section.

(6) The importation into New Zealand--

(a) From a country that is not a UPOV country of produce of a protected variety; or

(b) From a UPOV country of produce of a protected variety in respect of which, under the law of that country, it is not possible to make the equivalent of a grant,--

without the consent of the grantee is an infringement of the grantee's rights under this section.

(7) The sale under the denomination of a protected variety of reproductive material of some other variety constitutes an infringement of the rights under this section of the grantee of that protected variety, unless the groups of plants to which those varieties belong are internationally recognised as being distinct for the purposes of denomination.

(8) Where, in any proceedings for the infringement of the rights under this section of a grantee, it is proved or admitted that an infringement was committed but proved by the defendant that, at the time of that infringement, the defendant was not aware and had no reasonable grounds for supposing that it was an infringement, the plaintiff shall not be entitled under this section to any damages against the defendant in respect of that infringement, but shall be entitled instead to an account of profits in respect of that infringement.

(9) Nothing in subsection (8) of this section affects any entitlement of a grantee to any relief in respect of the infringement of that grantee's rights under this section other than damages.

Section 18

Exceptions to Grantees' Rights

Notwithstanding section 17 of this Act, any person may--

(a) Propagate, grow, or use a protected variety, for non-commercial purposes; or

(b) If the production of the hybrid or new variety concerned does not require repeated use of that variety,--

(i) Hybridise, or produce a new variety from, a protected variety; or

(ii) Sell any hybrid of, or new variety produced from, a protected variety; or

(c) Use reproductive material from a protected variety for human consumption or other non-reproductive purposes.

Section 19

Licences

The holder of a licence from a grantee shall have the same rights as that grantee to take proceedings in respect of any infringement of the rights of that grantee in respect of the variety concerned affecting the rights given under that licence and committed after it was granted.

Section 20

Notice of Protection

(1) Any person who--

(a) Has acquired rights in respect of a variety under section 9(1) or section 17 of this Act; and

(b) Sells any reproductive material of that variety,--

shall take all reasonable steps, by means of suitable labelling or other identification of that material, to inform the purchaser concerned of those rights.

(2) In determining, for the purposes of section 17(8) of this Act, whether or not any person had reasonable grounds for supposing that any action was an infringement of the rights of a grantee, a Court may take into account the extent (if any) to which that grantee or, as the case requires, the licensee concerned had complied with subsection (1) of this section in respect of any material in respect of which, or in respect of material propagated from which, that infringement occurred.

Section 21

Compulsory Licences and Sales

(1) Any person may at any time after the expiration of three years from the making of a grant, on payment of the prescribed fee request the Commissioner to consider whether or not reasonable quantities of reproductive material of a reasonable quality of the variety concerned are available for purchase by members of the public at a reasonable price.

(2) Where a request is made under subsection (1) of this section, the Commissioner shall give the grantee concerned notice of it and a reasonable time to be heard in relation to it, and if, after considering any submissions made to the Commissioner by that grantee within that time, the Commissioner is satisfied there are not available for purchase by members of the public at a reasonable price reasonable quantities of reproductive material of reasonable quality of the variety concerned, the Commissioner shall issue to the person who made that request one or both of the following:

(a) A compulsory licence for the reproduction and sale of reproductive material of that variety:

(b) An order requiring that grantee to sell to that person reproductive material of that variety.

(3) In considering whether or not there are available to members of the public at a reasonable price reasonable quantities of reproductive material of reasonable quality of a variety, the Commissioner shall not take into account any reproductive material that is available only subject to the condition that all or any of the produce from that material must be sold or offered to a specified person, or to one of a specified group of persons, or to a member of a specified class or description of person.

(4) A licence or order issued under subsection (2) of this section shall be in writing, and sealed with the seal of the Office.

(5) When issuing a licence or order under subsection (2) of this section, the Commissioner shall specify a royalty or payment, or a means of calculating a royalty or payment, payable by the licensee or purchaser concerned to the grantee concerned (being, in the opinion of the Commissioner, a royalty or payment that is, or a means that will produce a royalty or payment that is, in all the circumstances, equitable) and--

(a) It shall be a condition of that licence or order that that licensee or purchaser shall pay to that grantee that royalty or payment or a royalty or payment so calculated (as the case requires); and

(b) That licence or order shall be subject to any other terms and conditions the Commissioner thinks fit.

(6) A licence or order issued under subsection (2) of this section shall have effect according to its tenor as if it were a contract voluntarily entered into by the grantee and the other person concerned.

(7) Subject to the provisions of this Act, the Commissioner may at any time--

(a) On the application of any person; and

(b) If the Commissioner thinks it appropriate,--

limit, vary, extend, or revoke, a licence or order issued under subsection (2) of this section.

(8) As soon as is possible after issuing a licence or order under subsection (2) of this section, or limiting, varying, extending, or revoking, any such licence or order, the Commissioner shall publish in the Journal brief details of the action taken.

Section 22

Use of Denomination

Any person who sells reproductive material of--

(a) A protected variety; or

(b) A variety that was a protected variety until the grant made in respect of it expired,--

shall use its denomination, and shall not associate any trade mark, trade name, or other similar indication with that denomination unless that denomination is clearly recognisable.

Part II

APPEALSSection 23**Rights of Appeal**

(1) Any person affected by a decision of the Commissioner to decline to make a grant may, within 28 days after being given notice of that decision by the Commissioner, appeal against that decision.

(2) Any person affected by a grant may, at any time, appeal against the making of that grant upon the ground that that grant was made in contravention of this Act.

(3) Where the Commissioner cancels a grant under section 13 of this Act, the grantee may, within 28 days after being given notice of the cancellation by the Commissioner, appeal against that cancellation on the ground that it has not been established that, if that grant had not already been made, some other person making an application in respect of the variety concerned would, by virtue of section 12 of this Act, be entitled to a grant in respect of that application.

(4) Any person affected by any decision of the Commissioner (not being a decision referred to in any of subsections (1) to (3) of this section)--

(a) Relating to an application or the cancellation of a grant; or

(b) Imposing any condition in respect of a grant; or

(c) Declining to modify any aspect of a grant; or

(d) Refusing to issue a licence or order under section 21(2) of this Act,--

may, within 28 days after being given notice of that decision by the Commissioner, appeal against that decision.

(5) Subject to subsection (7) of this section, the owner of a protected variety may appeal against any decision of the Commissioner to issue a licence or order under section 21(2) of this Act in respect of that variety, or to extend or vary any such licence or order.

(6) Subject to subsection (7) of this section, the person to whom a licence or order was issued under section 21(2) of this Act may appeal against any decision of the Commissioner to limit, vary, or revoke that licence or order, or to issue it subject to any terms or conditions.

(7) No appeal under subsection (5) or subsection (6) of this section shall lie after the 28th day after the earlier of the following days:

(a) The day on which the appellant is served with notice, or otherwise becomes aware, of the issue, extension, limitation, variation, or revocation, concerned:

(b) The day on which notice of that issue, extension, limitation, variation, or revocation was first published in the Journal under section 21(8) of this Act.

Section 24

Appeals to be Made to District Court

Every appeal under section 23 of this Act shall be made to a District Court by--

- (a) Filing a notice of appeal in the prescribed form in the District Court nearest the Office; and
- (b) Servicing a copy of that notice on the Commissioner.

Section 25

Assessors

(1) If a District Court Judge is satisfied (whether or not on the application of any party to that appeal) that any appeal under section 23 of this Act involves the consideration of technical or specialised matters, and that it would be desirable for a person with expert knowledge of those matters to be an assessor in relation to that appeal, the following provisions shall apply:

- (a) The Judge shall consult the parties to the appeal as to a suitable person to be an assessor in relation to the appeal:
- (b) If the Judge and those parties agree on a suitable person, the Judge shall appoint that person to be an assessor in relation to that appeal:
- (c) If the Judge and those parties do not agree on a suitable person, the Judge may appoint to be an assessor in relation to that appeal any person the Judge thinks suitable:
- (d) An assessor appointed under this subsection shall sit with the Judge during the appeal, but shall have no power of decision in relation to the appeal.

(2) A District Court Judge may appoint two or more assessors under subsection (1) of this section in respect of a single appeal if satisfied that the nature of the technical or specialised matters concerned so warrants.

(3) No appointment of an assessor under subsection (1) of this section shall, in any proceedings, be called into question on the grounds that the occasion for that appointment had not arisen or had ceased.

(4) Every assessor appointed under subsection (1) of this section is entitled to receive--

- (a) Remuneration by way of fees, salary, or allowances, for that assessor's services as assessor; and
- (b) Payment of travelling allowances or expenses in respect of time spent travelling in connection with undertaking services as assessor,--

as if a District Court is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(5) Subject to subsection (6) of this section, a District Court, after hearing an appeal under section 23 of this Act, may--

- (a) Confirm the decision appealed against; or

- (b) Modify or reverse that decision or any part of it.
- (6) Nothing in subsection (5) of this section authorises a District Court to review any decision of the Commissioner, or any part of a decision of the Commissioner, if no appeal has been made against that decision or part.

Section 26

Procedure

In dealing with an appeal under section 23 of this Act,--

- (a) A District Court may hear all evidence tendered and representations made by or on behalf of any party to that appeal that that Court considers relevant to that appeal, whether or not that evidence would be otherwise admissible in that Court:
- (b) Subject to section 24 of this Act and to paragraph (a) of this section, the District Courts Rules 1948 shall apply to that appeal:
- (c) Except as provided in this Act, a District Court shall determine its own procedure in relation to the determination of that appeal.

Section 27

Suspension of Decision While Appeal Pending

Where any person has appealed against any decision of the Commissioner, the operation of that decision shall be suspended until the appeal concerned has been finally disposed of.

Part III

PLANT VARIETY RIGHTS OFFICE

Section 28

Plant Variety Rights Office

- (1) The Secretary may from time to time, by notice in the Gazette, appoint a place to be the Plant Variety Rights Office.
- (2) The Secretary may from time to time, by notice in the Gazette, fix the hours during which the Office shall be open for the transaction of public business under this Act, and may authorise the closing of the Office for the transaction of public business on any day.
- (3) Where the time prescribed for doing any act or taking any proceeding under this Act expires on a day on which the Office is not open and the act or proceeding cannot therefore be done or taken on that day, that act or proceeding shall be deemed to be in time if it is done or taken on the next day on which the Office is open.

Section 29

Seal of Office

- (1) There shall be a seal of the Office, whose affixing to any document shall be authenticated by the signature of the Commissioner.
- (2) Every Court and person acting judicially shall take judicial notice of--
 - (a) The seal of the Office; and
 - (b) The appointment and signature of the Commissioner and every Assistant Commissioner.
- (3) For the purposes of subsection (2) of this section, the terms "Court" and "person acting judicially" shall have the meanings assigned to them by the Evidence Act 1908.

Section 30

Commissioner, Assistant Commissioners, and Officers

- (1) There may from time to time be appointed under the State Services Act 1962--
 - (a) A Commissioner of Plant Variety Rights;
 - (b) One or more Assistant Commissioners of Plant Variety Rights, who shall be under the control and direction of the Commissioner.
- (2) All persons appointed under subsection (1) of this section shall be officers or employees of the Ministry, and any such appointment under that subsection may be held either separately or in conjunction with any other office in the Ministry.
- (3) The Secretary may from time to time designate any officer or employee of the Ministry an officer of the Office; and any person so designated may hold any other office in the Ministry at the same time.

Section 31

Officers and Employees not to Acquire Interests in Grants

- (1) This subsection applies to every person who is, or during the previous 12 months was, the Commissioner, an Assistant Commissioner, or a person designated under section 30(3) of this Act.
- (2) No person to whom subsection (1) of this section applies shall apply under this Act for a grant, or acquire any right or interest in any grant directly or indirectly, except under a will or on an intestacy.

Section 32

Advisory and Technical Committees, and Technical Advisors

- (1) The Secretary may from time to time appoint advisory or technical committees of one or more persons as the Secretary thinks fit to advise or assist the Commissioner for such purposes and during such periods as the Secretary thinks desirable.
- (2) A person may be appointed to be a member of any committee appointed under this section whether or not that person is an officer or employee of the Ministry or otherwise holds an appointment under the State Services Act 1962.
- (3) Any person appointed under subsection (1) of this section who has an interest directly or indirectly connected with any application or matter to be considered by the committee of which that person is a member shall, as soon as is possible after the relevant facts have come to that person's knowledge, disclose the nature of that interest to the Commissioner and, except as otherwise allowed by the Commissioner, shall not take part after the disclosure in any deliberation or decision relating to that application or matter.
- (4) The Secretary may appoint, or may authorise the Commissioner to appoint, persons who are not officers or employees of the Ministry as technical advisors to assist the Commissioner in carrying out any test or trials that the Commissioner considers necessary for the purposes of this Act or in assessing the results of any tests or trials (whether carried out by the Commissioner or not) that the Commissioner considers relevant to those purposes.
- (5) The Secretary may, from money appropriated by Parliament for the purpose, pay to the member or members of any committee, or to any technical advisor, appointed under this section such fees, salary, allowances, and expenses as the Minister from time to time approves.

Section 33

Delegations

- (1) The Commissioner may from time to time, by writing under the Commissioner's hand, generally or particularly or subject to conditions, delegate to such officer or officers or employee or employees of the Ministry for the time being designated under section 30(3) of this Act as the Commissioner thinks fit all or any of the powers conferred on the Commissioner by or under this Act or any other Act, including any powers delegated under any other Act, but not including any power to appoint technical advisors under section 32(4) of this Act or this present power of delegation.
- (2) Every delegation under this section shall be revocable, and no such delegation shall prevent the exercise of any power by the Commissioner.
- (3) A delegation under this section shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Commissioner; but if the holder of a specified office to whom any such delegation has been made ceases to hold office, it shall expire.

(4) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of that delegation.

Section 34

Plant Variety Rights Journal

(1) The Commissioner shall from time to time, as circumstances require, issue a journal, to be called the Plant Variety Rights Journal.

(2) The Commissioner shall publish in the Journal--

(a) Notice of every decision of the Commissioner to make or decline to make a grant, and all prescribed particulars relating to applications and grants; and

(b) Any other matters and information relating to plant varieties or plant variety rights whose publication appears to the Commissioner to be important or useful.

Part IV

MISCELLANEOUS PROVISIONS

Section 35

Service of Notices, etc.

(1) Where any notice has to be given or any document has to be served under this Act, it may be given or served by--

(a) Delivering it to the person to whom it has to be given or on whom it has to be served; or

(b) Leaving it at the usual or last known place of abode or address for service in New Zealand of that person; or

(c) Sending it by post in a registered letter addressed to that person at that person's usual or last known place of abode or address for service in New Zealand.

(2) Where a notice or document is sent by post in the manner described in subsection (1)(c) of this section, it shall be deemed to have been given or served at the time at which the letter would have been delivered in the ordinary course of post.

Section 36

Fees and Refunds

(1) Subject to this Act, there shall be paid in respect of grants and applications, and in respect of other matters relating to grants arising under this Act, the fees (if any) from time to time prescribed; and all such fees shall be paid into the Public Account to the credit of the Consolidated Account.

(2) Any sum paid to the Commissioner in error or in excess of the sum properly payable may be refunded by the Commissioner, and all money so refunded shall be paid out of the Consolidated Account without further appropriation than this Act.

Section 37

Offences and Penalties

(1) Every person who, in an application or in an attachment to an application, supplies with intent to deceive any false or misleading information commits an offence.

(2) Every person who falsely represents that any person is the owner of a protected variety or that any person has applied for a grant in respect of any variety, commits an offence.

(3) Every person selling material of a variety who falsely represents--

(a) That that variety is a protected variety or a variety in respect of which an application has been made; or

(b) That that variety is material of some other variety (being a variety that is a protected variety or a variety in respect of which an application has been made)--

commits an offence.

(4) Every person who wilfully or negligently sells reproductive material in contravention of section 22 of this Act commits an offence.

(5) Every person who, by using on that person's place of business or on any document issued by that person or otherwise the words "Plant Variety Rights Office" or any other words, suggests that that person's place of business is or is officially connected with the Office commits an offence.

(6) Every person who acts in contravention of section 31(2) of this Act commits an offence.

(7) Every person who commits an offence against this Act shall be liable on summary conviction to a fine not exceeding \$1,000.

(8) Part II of the First Schedule to the Summary Proceedings Act 1957 (as amended by section 35(6) of the Plant Varieties Act 1973) is hereby consequentially amended by repealing the item that relates to the Plant Varieties Act 1973.

Section 38

Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Regulating the business of the Office:

- (b) Regulating any matters placed under the direction or control of the Commissioner by this Act:
- (c) Prescribing the form and manner of applications and the form of diagrams, photographs, and other documents that may be filed in the Office; and requiring copies to be furnished of any such applications, surrenders, diagrams, photographs, and documents; and authorising the rectification or amendment of any of them:
- (d) Prescribing the quantity of seed required to accompany an application; and--
- (i) Different quantities may be prescribed in respect of applications in respect of varieties of different kinds; and
 - (ii) Quantities may be prescribed in respect of applications in respect of varieties of some kinds and not in respect of applications in respect of varieties of other kinds:
- (e) Regulating the procedure to be followed in connection with any application or request to the Commissioner or in connection with any proceeding before the Commissioner, and authorising the rectification of irregularities of procedure:
- (f) Providing for the forfeiture of any priority given in respect of an application:
- (g) Prescribing any requirements for the entry of particulars in the register kept under section 14(3) of this Act, and for corrections of recorded details:
- (h) Prescribing a form for appeals under section 23 of this Act:
- (i) Authorising the preparation, publication, sale, and exchange of copies of diagrams, photographs, and documents in the Office, and of indexes to and abridgments of them:
- (j) Prescribing the mode of publishing any matters required by this Act to be published:
- (k) Prescribing fees and charges for anything authorised by this Act:
- (l) Providing for the testing and treatment of varieties to which applications relate:
- (m) Prescribing the requirements to be met in selecting the denomination of varieties, and providing for the approval, rejection, or amendment of any denomination by the Commissioner:
- (n) Giving effect to the terms of any international agreement to which New Zealand is a party:
- (o) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Section 39

Transitional Provisions

- (1) The place appointed by the Minister as the Plant Varieties Office under the Plant Varieties Act 1973 shall be deemed to have been appointed the Office under section 28 of this Act on the commencement of this Act.

(2) The person who, immediately before the commencement of this Act, was the Registrar of Plant Varieties under the Plant Varieties Act 1973 shall be deemed to have been appointed as the Commissioner on the commencement of this Act.

(3) Every grant of plant selectors' rights made under the Plant Varieties Act 1973 and in force immediately before the commencement of this Act shall remain in force in all respects as if this Act had been in force when it was made.

(4) For the purposes of any action or proceedings taken in relation to a grant subsisting pursuant to subsection (3) of this section, or any amendment or cancellation of such grant, the provisions of this Act shall apply as if that grant were a grant of plant variety rights under this Act.

(5) Every application for a grant of plant selectors' rights made under the Plant Varieties Act 1973 and not determined before the commencement of this Act, shall be deemed to be an application under this Act, and shall be dealt with accordingly.

(6) Every grant of protective direction made under the Plant Varieties Act 1973 and in force immediately before the commencement of this Act shall be deemed to be provisional protection given under section 9(1) of this Act, and shall be subject to the provisions of that section.

Section 40

Consequential Amendment

The Schedule to the Ministry of Agriculture and Fisheries Act 1953 (as substituted by section 4(1) of the Ministry of Agriculture and Fisheries Amendment Act 1972 and from time to time thereafter amended) is hereby amended by omitting the item "The Plant Varieties Act 1973" (as inserted by section 36 of that Act), and substituting the item "The Plant Variety Rights Act 1987".

Section 41

[Repealed]

SCHEDULE

[Repealed]

MEMBER STATES

Austria: Modification of Fees

Pursuant to the Ordinance of the Federal Minister for Agriculture and Forestry No. 1036/1994 on the Application Fee and Examination Fees under the Variety Protection Law, a new tariff of fees was set, with effect from January 1, 1995, as follows (in Austrian Schillings):

	<u>Amount</u>
1. Application fee	2,140
2. Examination fees	
(1) if the examination is carried out by the Variety Protection Office or other testing centers in the country	
(i) for cereals, maize, potato, sugar beet, pea, oilseed rape and sunflower	3,750
(ii) for forestry species	540
(iii) for all other plant species	2,680
(2) if the Variety Protection Office is provided, at the beginning of the cultivation period following the application, 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	2,140

Germany: Modification of Fees

By virtue of the Order of November 7, 1994, for the Amendment of the Order Concerning Procedures Before the Federal Plant Variety Office, the main fees were set, as follows (in DM):

Type of Fee	Group*	1	2	3	4	5	6
<u>Application for protection</u> (with effect from December 16, 1994)		750	750	750	750	750	80

Type of Fee	Group*	1	2	3	4	5	6
<u>Examination of the variety</u> (with effect from December 16, 1994)							
Examination by the Federal Plant Variety Office		1,050	1,050	750	750	750	80
Taking over of earlier examination results carried out by the Federal Plant Variety Office		300	300	300	300	300	300
Taking over of earlier examination results carried out by another testing center		500	500	500	500	500	500
<u>Annual fees</u> (with effect from January 1, 1995)							
Year 1		300	200	100	100	100	20
Year 2		400	200	200	100	100	20
Year 3		500	300	200	200	200	20
Year 4		600	300	300	200	200	30
Year 5		700	400	300	300	300	30
Year 6		800	500	400	300	300	30
Year 7		1,100	500	400	300	300	30
Year 8		1,400	600	500	400	400	30
Year 9		1,700	700	600	400	400	30
Year 10		2,000	800	700	500	500	30
Year 11		2,000	1,000	900	600	500	60
Year 12		2,000	1,200	1,100	700	500	60
Year 13		2,000	1,400	1,200	800	600	60
Year 14		2,000	1,600	1,200	900	600	60
Year 15		2,000	1,600	1,200	1,000	700	60
Year 16		2,000	1,600	1,200	1,000	700	60
Year 17		2,000	1,800	1,300	1,000	800	60
Year 18		2,000	1,800	1,300	1,000	800	60
Year 19		2,000	1,800	1,300	1,000	800	60
Year 20 <u>et seq.</u>		2,000	1,800	1,300	1,000	800	60

* Group 1: cereals excluding ornamental maize, popcorn, sugar maize, perennial ryegrass, field pea, field bean, rape seed, sunflower, fodder beet, sugar beet, potato.

Group 2: agricultural species included in the list of species to the Law on the Marketing of Seeds, as far as not belonging to Group 1.

Group 3: ornamental species excluding the following perennials and summer flowers:

perennials: Achillea L., Aster L., Astilbe Buch.-Ham. ex D. Don, Aubrieta Adans., Bergenia Moench, Convallaria majalis L., Crassula schmidtii Regel, Crocosmia Planch., Delphinium L., Dicentra Bernh., Eriophorum vaginatum L., Fragaria x Potentilla, Galtonia candicans (Bak.) Decne., Gentiana scabra Bunge, Geranium L., Gladiolus L., Gypsophila L., Hemerocallis-Hybrids, Heuchera L., Iris L., Lavandula L., Lilium L., Limonium Mill., Lysimachia L., Polemonium L., Polygonum L., Rudbeckia L., Tulipa L., Viola L.;

summer flowers: Ageratum L., Antirrhinum L., Begonia-Semperflorens-Hybrids, Begonia x tuberhybrida Voss, Bellis L., Calceolaria L., Callistephus chinensis (L.) Nees, Myosotis L., Tagetes L., Viola-Wittrockiana-Hybrids.

- Group 4: vegetable species included in the list of species to the Law on the Marketing of Seeds.
- Group 5: other species, as far as the marketing of propagating material of the variety is not regulated by the Law on Forestry Seeds and Planting Material.
- Group 6: species, of which the marketing of propagating material is regulated by the Law on Forestry Seeds and Planting Material.

Spain: Modification of Fees

By virtue of Article 85 of Law No. 41/1994 of December 30, 1994, Concerning the General Budgets for 1995 (Boletín Oficial del Estado of December 31, 1994), a new tariff of plant variety protection fees was laid down with effect from January 1, 1995. The main fees are now as follows (in pesetas):

Type of Fee	Group*	1	2	3	4
1. Application fee		13,990	13,990	13,990	13,990
2. Examination fee (per year)		32,645	32,645	23,318	18,654
3. Grant fee		13,990	13,990	13,990	13,990
4. Maintenance fee					
- first year		11,658	6,997	4,663	4,663
- second year		16,321	11,658	9,328	6,997
- third year		23,318	18,654	13,990	11,658
- fourth year		27,979	23,318	18,654	13,990
- fifth and subsequent years		32,645	27,979	23,318	18,654
5. Fee for priority claim, change of denomination, sending copies, certificates and duplicates of documents as well as the registration of licences		4,663	4,663	4,663	4,663
6. Fee for reregistration of a cancelled title		13,990	13,990	13,990	13,990
7. Fee for sending copies of titles and certificates of rejection		2,331	2,331	2,331	2,331

- * Group 1: cereals, oil seeds, lucerne, cotton, sugar and fodder beet, vetch, potato, pea, broad bean and French bean.
- Group 2: fruit trees, rose, carnation and strawberry.
- Group 3: lettuce, tomato, onion, melon, sainfoin, red and white clover.
- Group 4: all other species.

CALENDAR

UPOV Meetings in 1995

June 7 to 9 (Slupia Wielka, Poland)	Technical Working Party on Automation and Computer Programs
June 20 to 22 (Hanover, Germany)	Technical Working Party for Agricultural Crops
June 26 to July 1 (Roelofarendsveen, Netherlands)	Technical Working Party for Vegetables
September 4 to 9 (Wageningen, Netherlands)	Technical Working Party for Ornamental Plants and Forest Trees
September 11 to 15 (Canterbury, United Kingdom)	Technical Working Party for Fruit Crops
September 19 to 21 (Wageningen, Netherlands)	Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular
October 11 to 13	Technical Committee
October 16	Consultative Committee
October 17	Council

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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